

ACTS
OF THE
FIFTY-FIRST
LEGISLATURE
OF
WEST VIRGINIA



REGULAR SESSION
1953
FIRST EXTRAORDINARY SESSION
1953



FOREWORD

Included in this volume are the Acts of the 1953 Regular Session of the Fifty-first Legislature, and Resolutions of general interest adopted by the Legislature and the two Houses thereof during this session; and the Budget passed by the first Extraordinary Session.

The regular session convened on January 14 and adjourned sine die March 14, 1953. There was a total of 868 bills introduced—522 House Bills and 346 Senate Bills. The Legislature passed 125 House Bills and 77 Senate Bills.

Of the 202 enactments of the session, the Governor approved 200. One bill, Com. Sub. for H. B. No. 43, charges for legal publications in newspapers, was vetoed by the Governor. The Budget Bill does not require executive action.

During this session there were 26 House Concurrent, 17 House Joint and 27 House Resolutions offered, of which 10 House Concurrent, one House Joint and 24 House Resolutions were adopted. While House Joint Resolution No. 3, proposing an amendment to the State Constitution providing for jury service by women, was adopted by the Legislature, it will not appear on the ballot at the next general election due to failure of the Legislature to pass an act providing for submission of the proposed amendment to the voters. Thirteen Senate Concurrent, 5 Senate Joint and 19 Senate Resolutions were offered, of which 4 Senate Concurrent, one Senate Joint and 16 Senate Resolutions were adopted. The only Constitutional amendment to be submitted to the voters is the "Legislative Amendment," proposed by Senate Joint Resolution No. 4.

Seventy-nine House Bills, passed by the House, failed of passage by the Senate; and 21 Senate Bills, passed by the Senate, failed of passage by the House.

This volume may be purchased from the State Department of Purchases, State Capitol, Charleston 5, W. Va.

J. R. ALIFF, Clerk
House of Delegates

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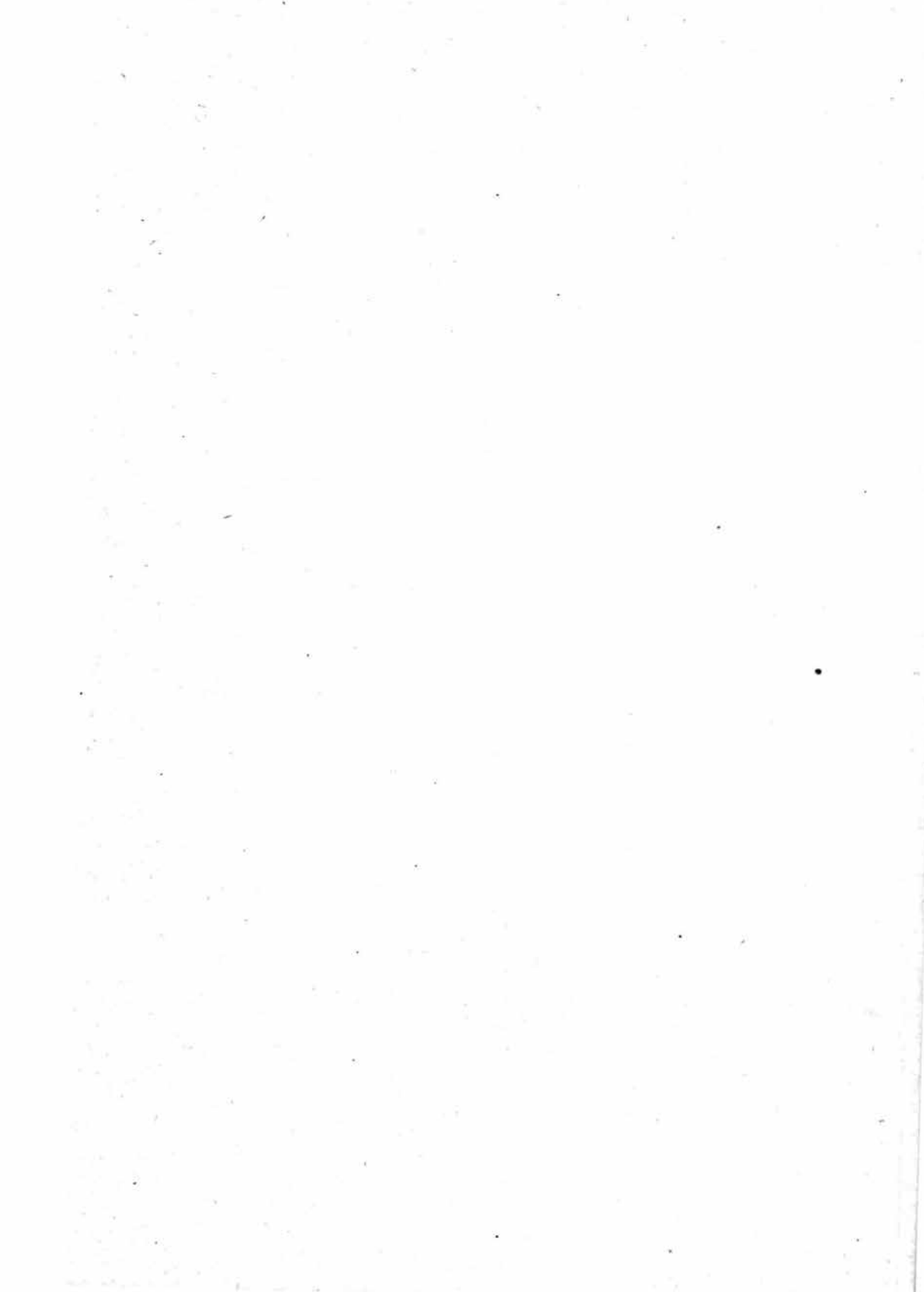
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LEGISLATURE OF WEST VIRGINIA
MEMBERS, OFFICERS AND STANDING COMMITTEES

REGULAR SESSION, 1953

SENATE

OFFICERS

President—RALPH J. BEAN, Moorefield

President Pro Tempore—FRED C. ALLEN, Marlinton

Clerk—J. HOWARD MYERS, Martinsburg

Sergeant-at-arms—HOMER PELFREY, Wayne

Doorkeeper—CLARENCE C. ELMORE, Princeton

District	Name	Address
First.....	William A. Hannig (R)..... *Herbert Traubert (D).....	Wheeling Follansbee
Second.....	*Theodore M. Bowers (R)..... John E. Carrigan (R).....	New Martinsville Moundeville
Third.....	*Harry E. Moats (R)..... Andy Swearingen (R).....	Harrisville Walker
Fourth.....	*Bartow Jones (R)..... E. Ray Reed (R).....	Point Pleasant Clay
Fifth.....	*C. H. McKown (D)..... Andrew R. Winters (D).....	Wayne Huntington
Sixth.....	*William Mitchell (D)..... Glenn Taylor (D).....	Welch Matewan
Seventh.....	*Glenn Jackson (D)..... Lloyd G. Jackson (D).....	Logan Hamlin
Eighth.....	*John E. Amos (D)..... Charles M. Love (D).....	Charleston Charleston
Ninth.....	Jack A. Nucklos (D)..... *Ward Wylie (D).....	Beckley Mullens
Tenth.....	*O. H. Ballard (D)..... J. Lynn Swiger (D).....	Princeton Hinton
Eleventh.....	John H. Bowling (D)..... *J. Alfred Taylor, Jr. (D).....	White Sulphur Springs Fayetteville
Twelfth.....	*Fred C. Allen (D)..... Henry J. McKinley (D).....	Marlinton Elkins
Thirteenth.....	Walter A. Holden (D)..... *Raymond J. Vassar (R).....	Salem Weston
Fourteenth.....	Don K. Marchand (D)..... *O. G. Hedrick (D).....	Morgantown Fairmont
Fifteenth.....	*A. L. Reed (R)..... Dayton R. Stemple (R).....	Newburg Philippi
Sixteenth.....	*Ralph J. Bean (D)..... Clarence E. Martin, Jr. (D).....	Moorefield Martinsburg

(D) Democrats..... 22
(R) Republicans..... 10

Total..... 32

*Hold-over Senators, elected in 1952, who will be members of the 1955 Legislature.

HOUSE OF DELEGATES

OFFICERS

Speaker—W. E. FLANNERY, Man

Clerk—J. R. ALIFF, Fayetteville

Sergeant-at-arms—OKEY A. MILLS, Beckley

Doorkeeper—CECIL W. WILSON, Welch

County	Name	Address
Barbour.....	G. F. Row (R).....	Junior
Berkeley.....	Stewart A. Wright (D).....	Martinsburg
Boone.....	E. E. White (D).....	Madison
Braxton.....	Doyle F. McLaughlin (D).....	Sutton
Brooke.....	W. R. Curtis (D).....	Wellsburg
Cabell.....	David M. Baker (R).....	Huntington
	J. Shelby Christian (R).....	Huntington
	T. E. Holderby (R).....	Huntington
	T. E. Miller (R).....	Huntington
	G. Y. Neal (R).....	Huntington
Calhoun.....	Don Yoak (D).....	Grantsville
Clay.....	Sylvester Mullins (D).....	Clay
Doddridge.....	Clay D. Hammond (R).....	West Union
Fayette.....	Hobart Booth, Jr. (D).....	Oak Hill
	P. H. Kelly (D).....	Montgomery
	J. Alex Tinsley (D).....	Montgomery
	Mrs. Nell W. Walker (D).....	Winona
Gilmer.....	Jack V. Stalnaker (D).....	Glenville
Grant.....	Ralph P. Welton (R).....	Petersburg
Greenbrier.....	John A. Lile (D).....	Lewisburg
	Lester W. Watts (D).....	East Rainelle
Hampshire.....	William L. Thompson (D).....	Romney
Hancock.....	Richard Herron (D).....	Chester
Hardy.....	James M. Miley (D).....	Moorefield
Harrison.....	Ralph A. Gawthrop (D).....	Clarksburg
	Frank J. Maxwell, Jr. (D).....	Clarksburg
	Fred H. Scanes, Jr. (D).....	Clarksburg
	W. Guy Tetrick (D).....	Clarksburg
Jackson.....	Vernon McCoy (R).....	Milwood, R.F.D.
Jefferson.....	William P. C. Perry (D).....	Charles Town
Kanawha.....	Pat Board, Jr. (D).....	Charleston
	Martin C. Bowles (D).....	Charleston
	W. T. Brotherton, Jr. (D).....	Charleston
	W. E. Chilton (D).....	Charleston
	J. Henry Francis, Jr. (D).....	Charleston
	John L. Gosborn (D).....	Charleston
	Paul Heydrick (R).....	Charleston
	Edward D. Knight, Jr. (D).....	Charleston
	James W. Loop (D).....	Charleston
	H. L. Snyder, Jr. (D).....	Charleston
	John L. Thomas (R).....	Charleston
Lewis.....	James H. Hall (R).....	Weston, Rt. 1
Lincoln.....	L. E. Thompson (D).....	Hamlin
Logan.....	H. T. Elliott (D).....	Logan
	W. E. Flannery (D).....	Man
	Earl B. Hager (D).....	Logan
	Charles L. Williams (D).....	Man
Marion.....	Okey H. Hall (D).....	Fairmont
	Harry W. Hamilton, Sr. (D).....	Fairmont
	J. E. Watson (D).....	Fairmont

HOUSE OF DELEGATES—(Continued)

XTX

County	Name	Address
Marshall.....	Arch A Moore, Jr. (R)..... Gordon W. Sammons (R).....	Moundsville Moundsville
Mason.....	George A. Rairden (R).....	Beon
McDowell.....	Vernon Q. Callaway (D)..... Mrs. Elizabeth Drewry (D)..... W. G. Morgan (D)..... Harry R. Pauley (D)..... Irvine Saunders (D).....	Welch Northfork Davy Jaeger Welch
Mercer.....	W. McKay Fanning (D)..... G. T. Johnston (D)..... Robert M. Richardson (D).....	Princeton Bluefield Bluefield
Mineral.....	John I. Rogers (R).....	Keyser
Mingo.....	Toney E. Cline (D)..... William A. Hatfield (D).....	Baisden Williamson
Monongalia.....	Charles H. Ambler (D)..... George Fumich, Jr. (D)..... William A. Moreland (D).....	Morgantown Purglove Morgantown
Monroe.....	Sherman H. Ballard (R).....	Peterstown
Morgan.....	Ward M. Dawson, Sr. (R).....	Berkeley Springs
Nicholas.....	Jake Neal (D).....	Fenwick
Ohio.....	George F. Beneke (R)..... Chester R. Hubbard (R)..... George H. Seibert, Jr. (R).....	Wheeling Wheeling Wheeling
Pendleton.....	William McCoy, Jr. (D).....	Franklin
Pleasants.....	J. C. Powell (R).....	St. Marys
Pocahontas.....	Richard F. Currence (D).....	Marlinton
Preston.....	Richard Whetsell (R).....	Kingwood
Putnam.....	Judson D. McCormick (R).....	Red House
Raleigh.....	W. A. Burke (D)..... Roy Lee Harmon (D)..... H. L. Knapp, Jr. (D)..... Paul J. Vennari (D).....	Beckley Beckley Crab Orchard Beckley
Randolph.....	W. W. Barron (D).....	Elkins
Ritchie.....	Aubrey E. Ferguson (R).....	Harrisville
Roane.....	R. L. McCulty (R).....	Spencer
Summers.....	C. D. McCormick (D).....	Hinton
Taylor.....	Gough Ridenour (R).....	Grafton
Tucker.....	Joseph R. Gilmore (D).....	Parsons
Tyler.....	Cecil H. Underwood (R).....	Sistersville
Upshur.....	Richard L. Young (R).....	Buckhannon
Wayne.....	Epison A. Cole (D)..... H. T. Tucker (D).....	Ceredo Huntington
Webster.....	E. H. McCourt (D).....	Webster Springs
Wetzel.....	Herbert Schupbach (D).....	New Martinsville
Wirt.....	G. R. West (R).....	Elisabeth
Wood.....	Spencer K. Creel (R)..... Malcolm B. Loudon (R)..... W. M. Parker (R).....	Parkersburg Parkersburg Vienna
Wyoming.....	Paul Bower (D)..... J. Paul England (D).....	Mullens Baileysville

(D) Democrats..... 67

(R) Republicans..... 33

Total.....100

STANDING COMMITTEES OF THE SENATE

AERONAUTICS

Messrs. Nuckols (*Chairman*), Winters, Love, Stemple and Hannig.

AGRICULTURE

Messrs. Bowling (*Chairman*), Martin, McKinley, Allen, Wylie, Taylor (of Fayette), Jones, Stemple and Vassar.

BANKS AND CORPORATIONS

Messrs. Love (*Chairman*), Taylor (of Mingo), Bowling, McKinley, Allen, Ballard, Carrigan, Reed (of Preston) and Bowers.

CLAIMS AND GRIEVANCES

Messrs. McKinley (*Chairman*), Love, Mitchell, Holden, Bowling, Wylie, Reed (of Clay), Swearingen and Moats.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Martin (*Chairman*), Mitchell, Hedrick, Marchand, Nuckols, Winters, Swearingen, Hannig and Jones.

EDUCATION

Messrs. McKown (*Chairman*), Taylor (of Mingo), Holden, Martin, Love, McKinley, Jackson (of Logan), Traubert, Allen, Swiger, Taylor (of Fayette), Bowers, Reed (of Preston), Carrigan and Moats.

EXAMINE CLERK'S OFFICE

Messrs. Swiger (*Chairman*), Taylor (of Mingo) and Reed (of Preston).

FEDERAL RELATIONS

Messrs. Marchand (*Chairman*), Nuckols, Holden, Winters, Jackson (of Lincoln), Taylor (of Fayette), Carrigan, Jones and Bowers.

FINANCE

Messrs. Jackson (of Logan) (*Chairman*), Love, Martin, Traubert, Allen, Bowling, Winters, Ballard, Taylor (of Mingo), Mitchell, Holden, Wylie, Marchand, Reed (of Preston), Bowers, Hanning, Swearingen and Jones.

FORESTRY AND CONSERVATION

Messrs. Bowling (*Chairman*), Traubert, Jackson (of Lincoln), Allen, Hedrick, Amos, Jackson (of Logan), Nuckols, Martin, Reed (of Clay), Carrigan, Stemple and Swearingen.

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Jackson (of Lincoln) (*Chairman*), Amos, Taylor (of Fayette), Winters, Marchand, Love, Jones, Vassar and Moats.

INSURANCE

Messrs. Martin (*Chairman*), Nuckols, Ballard, Jackson (of Lincoln), Swiger, McKinley, Reed (of Preston), Bowers and Vassar.

INTERSTATE COOPERATION

Messrs. Taylor (of Mingo) (*Chairman*), Traubert, Swiger, Bowers and Moats.

THE JUDICIARY

Messrs. Amos (*Chairman*), McKown, Martin, Love, Taylor (of Fayette), Traubert, Allen, Hedrick, Swiger, McKinley, Mitchell, Nuckols, Jackson (of Lincoln), Stemple, Vassar, Moats, Reed (of Clay) and Carrigan.

LABOR

Messrs. Hedrick (*Chairman*), Taylor (of Fayette), Marchand, Martin, Allen, Mitchell, Stemple, Swearingen and Bowers.

MEDICINE AND SANITATION

Messrs. Wylie (*Chairman*), Traubert, Allen, Love, Nuckols, McKown, Vassar, Moats and Reed (of Clay).

MILITIA

Messrs. Mitchell (*Chairman*), Allen, Winters, Jackson (of Lincoln), Martin, Holden, Moats, Hannig and Vassar.

MINES AND MINING

Messrs. Jackson (of Lincoln) (*Chairman*), Hedrick, Taylor (of Fayette), Taylor (of Mingo), Love, Allen, Reed (of Preston), Moats and Carrigan.

PENITENTIARY

Messrs. Mitchell (*Chairman*), Holden, Wylie, McKinley, Hedrick, Love, Jones, Reed (of Clay) and Carrigan.

PRIVILEGES AND ELECTIONS

Messrs. Ballard (*Chairman*), McKown, Wylie, Amos, Hedrick, Holden, Jones, Reed (of Clay) and Moats.

PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Wylie (*Chairman*), Nuckols, Jackson (of Lincoln), Holden, Bowling, Jackson (of Logan), Taylor (of Fayette), McKown, Traubert, Hedrick, Swearingen, Reed (of Clay), Moats, Carrigan and Vassar.

PUBLIC LIBRARY

Messrs. Holden (*Chairman*), McKown, Nuckols, Hedrick, Ballard, Marchand, Bowers, Stemple and Vassar.

PUBLIC PRINTING

Messrs. Taylor (of Fayette) (*Chairman*), Taylor (of Mingo), Winters, Holden, Marchand, Ballard, Reed (of Clay), Hannig and Jones.

ROADS AND NAVIGATION

Messrs. Winters (*Chairman*), Allen, Amos, Marchand, Ballard, Bowling, Martin, Swiger, Jackson (of Lincoln), Holden, Taylor (of Mingo), Wylie, Reed (of Preston), Bowers, Hannig, Swearingen and Stemple.

RAILROADS

Messrs. Love (*Chairman*), Bowling, Martin, McKinley, Taylor (of Mingo), Jackson (of Lincoln), Reed (of Preston), Swearingen and Bowers.

REDISTRICTING

Messrs. Amos (*Chairman*), Mitchell, Jackson (of Logan), McKown, Ballard, McKinley, Reed, (of Preston), Carrigan and Hannig.

RULES

Messrs. Bean (*President*), Jackson (of Logan), Amos, McKown, Allen, Traubert, Stemple, Bowers and Hanning.

TEMPERANCE

Messrs. Traubert (*Chairman*), Martin, Love, Mitchell, Marchand, Jackson (of Logan), Reed (of Preston), Hannig and Swearingen.

VETERANS AFFAIRS

Messrs. Allen (*Chairman*), Nuckols, Hedrick, McKinley, Swiger, Mitchell, Hannig, Jones and Reed (of Clay).

**JOINT COMMITTEE ON GOVERNMENT AND FINANCE ON THE PART
OF THE SENATE**

Messrs. Bean (*President*), Love, Jackson (of Logan), Stemple and Reed (of Preston).

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE
Messrs. Bean (*President*), Amos and Stemple.**JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE**

Messrs. McKinley (*Chairman*), Wylie, Winters, Swearingen and Vassar.

STANDING COMMITTEES OF THE HOUSE OF DELEGATES

AGRICULTURE

Messrs. McCormick (of Summers) (*Chairman*), Knight (*Vice Chairman*), Maxwell, McCoy (of Pendleton), Miley, Neal (of Nicholas), Perry, Snyder, Thompson (of Hampshire), Watts, Wright, Yoak, Dawson, Ferguson, Hall (of Lewis), McCormick (of Putnam), McCoy (of Jackson), McCulty, Miller, Rogers and Welton.

BANKING

Messrs. White (*Chairman*), Stalnaker (*Vice Chairman*), Barron, Bower, Currence, Hamilton, Knight, Maxwell, Mullins, Pauley, Richardson, Tucker, Vennari, Watts, Yoak, Ballard, Beneke, Hammond, Heydrick, McCulty, Moore, Seibert, Underwood and Young.

CLAIMS

Messrs. Lile (*Chairman*), Watson (*Vice Chairman*), Ambler, Bower, Brotherton, Cline, Currence, Elliott, Fanning, Francis, Fumich, Gawthrop, Goshorn, Hager, Hammond, McCourt, Morgan, Thompson (of Hampshire), Tinsley, Ballard, Hall (of Lewis), Hubbard, McCormick (of Putnam), Miller and Parker.

COUNTIES, DISTRICTS AND MUNICIPALITIES

Messrs. Tucker (*Chairman*), Curtis (*Vice Chairman*), Bowles, Burke, Callaway, Cole, Goshorn, Johnston, Knapp, Maxwell, McCormick (of Summers), Snyder, Holderby, Hubbard, Loudon, McCormick (of Putnam), Neal (of Cabell), Parker, Ride-nour, Row and Sammons.

DELINQUENT LANDS

Messrs. Moreland (*Chairman*), Tetrick (*Vice Chairman*), Board, Bower, Brotherton, McCormick (of Summers), Richardson, Saunders, Thompson (of Lincoln), Watson, Watts, Wright, Baker, Hammond, Loudon, McCoy (of Jackson), Moore, Rogers, Row, Seibert, Thomas, Welton, West and Whetsell.

EDUCATION

Messrs. Loop (*Chairman*), Mullins (*Vice Chairman*), Ambler, Chilton, Cole, Cline, Curtis, Mrs. Drewry, Messrs. England, Hager, Johnston, Kelly, McCormick (of Summers), Schupbach, Thompson (of Hampshire), Vennari, Mrs. Walker, Messrs. Hammond, Hubbard, Miller, Powell, Ridenour, Thomas, Underwood and Young.

ELECTIONS

Messrs. Neal (of Nicholas) (*Chairman*), Vennari (*Vice Chairman*), Chilton, Francis, Knapp, Loop, McCormick (of Summers), Moreland, Morgan, Scanes, Tetrick, Thompson (of Lincoln), Williams, Yoak, Christian, Heydrick, McCoy (of Jackson), Miller, Moore, Parker and Thomas.

FINANCE

Messrs. Perry (*Chairman*), Barron (*Vice Chairman*), Ambler, Booth, Burke, Callaway, Curtis, Francis, Goshorn, Hatfield, Saunders, Scanes, Schupbach, Thompson (of Lincoln), Watts, White, Williams, Christian, McCulty, Parker, Powell, Rairden, Rogers, Welton and Whetsell.

FORESTRY AND CONSERVATION

Messrs. Mullins (*Chairman*), Cole (*Vice Chairman*), Chilton, Currence, Fanning, Fumich, Gawthrop, Gilmore, Hatfield, Knapp, Knight, McCourt, McCoy (of Pendleton), Miley, Neal (of Nicholas), Yoak, Creel, Ferguson, Loudon, McCoy (of Jackson), McCulty, Neal (of Cabell) and Thomas.

GAME AND FISH

Messrs. Booth (*Chairman*), Hager (*Vice Chairman*), Callaway, Cole, Fanning, Fumich, Gilmore, Hall (of Marion), Harmon, Kelly, Knight, McCourt, McCoy (of Pendleton), Miley, Tinsley, Wright, Ballard, Beneke, Creel, Neal (of Cabell), Parker, Row, Welton and West.

HEALTH

Mrs. Walker (*Chairman*), Messrs. Elliott (*Vice Chairman*), Bowles, Brotherton, Burke, Mrs. Drewry, Messrs. Hatfield, Kelly, Maxwell, McCormick (of Summers), Mullins, Saunders, Thompson (of Hampshire), Vennari, Watson, Baker, Beneke, Holderby, Rogers, Row, Thomas, Welton and Whetsell.

HUMANE INSTITUTIONS

Messrs. Watts (*Chairman*), Saunders (*Vice Chairman*), Barron, Board, Cole, Mrs. Drewry, Messrs. England, Gawthrop, McLaughlin, Miley, Moreland, Mullins, Stalnaker, Thompson (of Lincoln), Williams, Christian, Dawson, Ferguson, Hall (of Lewis), Heydrick, Holderby, Hubbard, McCormick (of Putnam), Neal (of Cabell) and Row.

INSURANCE

Messrs. Barron (*Chairman*), Board (*Vice Chairman*), Bower, Brotherton, Callaway, Curtis, England, Gilmore, Goshorn, Hall (of Marion), Lile, McCourt, McLaughlin, Richardson, Snyder,

Stalnaker, Thompson (of Lincoln), Baker, Beneke, Heydrick, Moore, Neal (of Cabell), Ridenour, Seibert and Young.

INTERSTATE COOPERATION

Messrs. McLaughlin (*Chairman*), Burke, Mrs. Walker, Messrs. Underwood and Whetsell.

JUDICIARY

Messrs. Bowles (*Chairman*), Cline (*Vice Chairman*), Currence, Mrs. Drewry, Messrs. Elliott, Harmon, Loop, Maxwell, McLaughlin, Moreland, McCoy (of Pendleton), Richardson, Snyder, Thompson (of Hampshire), Tucker, Mrs. Walker, Messrs. Watson, Baker, Ballard, Hubbard, Loudon, Moore, Ridenour, Seibert and Underwood.

LABOR AND INDUSTRY

Messrs. Scanes (*Chairman*), Burke (*Vice Chairman*), Barron, Board, Booth, Mrs. Drewry, Messrs. Hall (of Marion), Harmon, Kelly, Knapp, Knight, Loop, McCourt, McLaughlin, Morgan, Neal (of Nicholas), Pauley, Vennari, Christian, Creel, Loudon, Ridenour, Sammons, Underwood and Young.

MILITARY AFFAIRS

Mrs. Drewry (*Chairman*), Messrs. Hatfield (*Vice Chairman*), Bower, Brotherton, Callaway, Francis, Fumich, Gawthrop, Goshorn, Hager, Harmon, Moreland, Vennari, Wright, Baker, Creel, Hall (of Lewis), Row, Seibert, West and Whetsell.

MINING

Messrs. Cline (*Chairman*), Williams (*Vice Chairman*), Booth, Mrs. Drewry, Messrs. Elliott, Hall (of Marion), Hamilton, Harmon, Loop, Morgan, Saunders, Scanes, Tetrick, Tinsley, Vennari, Mrs. Walker, Messrs. Watts, Christian, Creel, Dawson, Loudon, Moore, Ridenour, Sammons and Thomas.

PENAL AND CORRECTIONAL INSTITUTIONS

Messrs. Schupbach (*Chairman*), Miley (*Vice Chairman*), Brotherton, Chilton, Cole, Curtis, Elliott, England, Fanning, Hager, Herron, Johnston, McLaughlin, Thompson (of Hampshire), Tinsley, White, Yoak, Baker, Heydrick, Holderby, Moore, Powell, Seibert, Underwood and Young.

RAILROADS

Messrs. Wright (*Chairman*), Tinsley (*Vice Chairman*), Board, Fanning, Herron, Knight, Lile, McCoy (of Pendleton), Pauley, Richardson, Tetrick, Thompson (of Hampshire), Tucker, White, Yoak, Ballard, Christian, Creel, Dawson, Holderby, Miller, Ridenour, Rogers and Whetsell.

REDISTRICTING

Messrs. Ambler (*Chairman*), Hamilton (*Vice Chairman*), Francis, Loop, Morgan, Schupbach, Snyder, Stalnaker, Tetrick, Thompson (of Lincoln), Tinsley, Tucker, Vennari, Mrs. Walker, Messrs. Watson, Watts, White, Williams, Rogers, Seibert, Welton and West.

ROADS

Messrs. Pauley (*Chairman*), Johnston (*Vice Chairman*), Board, Brotherton, Chilton, Curtis, Gawthrop, Gilmore, Herron, Lile, Maxwell, McCormick (of Summers), McCourt, Mullins, Neal (of Nicholas), Stalnaker, Tetrick, West, Yoak, Dawson, Ferguson, Hall (of Lewis), McCormick (of Putnam), Sammons and Young.

RULES

Messrs. Flannery (*Chairman ex officio*), Bowles (*Vice Chairman*), Cline, Perry, Schupbach, Tucker, Mrs. Walker, Messrs. Beneke, Rairden and Underwood.

TEMPERANCE

Messrs. Harmon (*Chairman*), Francis (*Vice Chairman*), Barron, Booth, Chilton, Curtis, England, Hall (of Marion), Hamilton, Herron, Knight, Lile, Perry, Scanes, Schupbach, Snyder, Williams, Wright, Ballard, Beneke, McCoy (of Jackson), Miller, Neal (of Cabell), Powell and Rairden.

VETERANS AFFAIRS

Messrs. Johnston (*Chairman*), Chilton (*Vice Chairman*), Fumich, Gilmore, Hamilton, Herron, Kelly, Knapp, McCoy (of Pendleton), Miley, Perry, Stalnaker, White, Christian, Creel, Ferguson, Hammond, Loudon, McCulty, Powell, Row, Sammons, West and Young.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. Ambler (*Chairman*), Maxwell (*Vice Chairman*), Mrs. Walker, Messrs. Dawson and Rairden.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Flannery, (*Speaker*), (*Chairman ex officio*), Bowles and Underwood.

JOINT COMMITTEE ON GOVERNMENT AND FINANCE ON THE PART OF THE HOUSE

Messrs. Flannery (*Chairman ex officio*), Loop, Perry, McCulty and Powell.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1953

REGULAR SESSION

CHAPTER 1

(Senate Bill No. 19—By Mr. Love)

AN ACT to amend and reenact section one, article six, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to the affidavit and bond to be filed by plaintiff in detinue actions.

[Passed February 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 6. Detinue.

Section

1. Plaintiff's affidavit and bond in detinue actions; contents thereof.

Be it enacted by the Legislature of West Virginia:

That section one, article six, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

- Section 1. *Plaintiff's Affidavit and Bond in Detinue Actions; Contents Thereof.*—If the plaintiff in an action of detinue shall desire to have immediate possession of the property for the recovery of which such action is brought, he may, at the commencement of the action, or at any time thereafter and before judgment, file with the clerk

7 of the court in which the action is brought, or, if the ac-
8 tion is brought before a justice, with the justice before
9 whom the same is brought or is pending, an affidavit
10 stating the kind, quantity, and value of the property
11 claimed by the plaintiff in such action, and that the af-
12 fiant verily believes the plaintiff is entitled to recover the
13 same therein. He shall also, in such case, execute a bond,
14 with good security, to be approved by the clerk or justice,
15 in a penalty at least double the value of the property
16 claimed, payable to the defendant with condition to pay
17 all costs and damages which may be awarded against
18 him, or sustained by any person by reason of such suit,
19 and to have the property so claimed forthcoming to an-
20 swer any judgment or order of the court or justice re-
21 specting the same made at any time during the pendency
22 of the action, and shall file such bond with the clerk or
23 justice.

CHAPTER 2

(House Bill No. 59—By Mr. Snyder)

AN ACT to amend article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen, relating to the duties of visual or sound broadcasting stations or networks to prevent defamatory utterances and the liability therefor.

[Passed February 16, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7. Actions for Injuries.

Section

14. Liability of visual or sound broadcasting stations in libel cases.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended by adding thereto a new section, designated section fourteen to read as follows:

Section 14. *Liability of Visual or Sound Broadcasting*

2 ***Stations in Libel Cases.***—The owner, licensee or operator
3 of a visual or sound radio broadcasting station or network
4 of stations, and the agents or employees of any such owner,
5 licensee or operator, shall not be liable for any damages
6 for any defamatory statement published or uttered in or
7 as a part of a visual or sound radio broadcast, by one
8 other than such owner, licensee or operator, or agent or
9 employee thereof, unless it shall be alleged and proved
10 by the complaining party, that such owner, licensee, op-
11 erator or such agent or employee, has failed to exercise
12 due care to prevent the publication or utterance of such
13 statement in such broadcast.

14 In no event, however, shall any owner, licensee or op-
15 erator or the agents or employees of any such owner,
16 licensee or operator of such a station or network of sta-
17 tions be held liable for any damages for any defamatory
18 statement uttered over the facilities of such station or
19 network by any legally qualified candidate for public
20 office.

CHAPTER 3

(Senate Bill No. 15—By Mr. Love)

AN ACT to amend and reenact section thirteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to affidavit showing heirs, distributees, devisees and legatees of decedent.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Personal Representatives.

Section

13. Affidavit showing heirs, distributees, devisees and legatees of decedent.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 13. *Affidavit Showing Heirs, Distributees, Devisees and Legatees of Decedent.*—At the time of the qualification of an executor or administrator, the court or clerk before whom he qualifies shall require such executor or administrator to file his own affidavit, or the affidavit of some credible person, showing the names and, as far as possible, the addresses of the persons who would take any part of the estate of the decedent as heirs or distributees in case of the intestacy of the decedent and of the persons who are devisees and legatees under the will, if any, of the decedent, and their relationship to decedent, and the clerk of the court shall record such affidavit in the fiduciary record, which affidavit and the record thereof shall be prima facie evidence of what is contained therein. The personal representative shall not receive any compensation for his services until such names and addresses be furnished by affidavit as aforesaid, unless he shows by affidavit that such heirs, distributees, devisees and legatees and their addresses are unknown to him and that after diligent inquiry he has been unable to ascertain their names and addresses.

CHAPTER 4

(Senate Bill No. 16—By Mr. Love)

AN ACT to amend and reenact section one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to proceedings on reference of an estate of a decedent to a commissioner of accounts.

[Passed February 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 2. Proof and Allowance of Claims Against Estates of Decedents.

Section

1. Reference of decedents' estates; proceedings thereon.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Reference of Decedents' Estates; Proceedings*

- 2 *Thereon.*—Upon the qualification of any personal repre-
3 sentative, the estate of his decedent shall, by order of the
4 county court to be then made, be referred to a commis-
5 sioner of accounts for proof and determination of debts
6 and claims, establishment of their priority, determina-
7 tion of the amount of the respective shares of the legatees
8 and distributees, and any other matter necessary and
9 proper for the settlement of the estate: *Provided*, That in
10 counties where there are two or more such commis-
11 sioners, the estates of decedents shall be referred to such
12 commissioners in rotation, in order that, so far as pos-
13 sible, there may be an equal division of the work: *Pro-*
14 *vided further*, That, if and when, the personal represent-
15 ative shall file with the clerk of the county court an ap-
16 praisement of the estate, showing its value to be one
17 thousand dollars or less, then proceedings before the com-
18 missioner of accounts shall not be necessary, but the
19 personal representative shall, within two months from
20 his appointment, file with the county clerk his report of
21 receipts and disbursements, and, unless some creditor or
22 heir shall within thirty days thereafter show good cause
23 why the report is not correct, the personal representative
24 and his bondsman shall be discharged.

3

CHAPTER 5

(House Bill No. 280—By Mr. Goshorn)

AN ACT to amend and reenact section one, article three, chapter forty-four of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to commissioners of accounts.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 3. Commissioners of Accounts; Their Powers and Duties Generally.

Section

1. Commissioners of accounts.

Be it enacted by the Legislature of West Virginia:

That section one, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Commissioners of Accounts.*—The county court of each county shall appoint not more than four commissioners of accounts, except that in counties in which there exists a separate tribunal for police and fiscal purposes, such tribunal shall appoint such commissioners of accounts: *Provided*, That in Barbour county there shall be appointed as aforesaid four commissioners of accounts, not more than two of whom shall be from the same political party: *Provided further*, That in Kanawha county there shall be appointed as aforesaid eight commissioners of accounts, not more than four of whom shall be from the same political party.

CHAPTER 6

(Com. Sub. for Senate Bill No. 17—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section one, article eight, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to sale, conveyance and management of decedent's real estate by executor or administrator with will annexed.

[Passed February 17, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8. Real Estate of Decedents.**Section**

1. Sale, conveyance and management of decedent's real estate; powers of executor and administrator with will annexed.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. *Sale, Conveyance and Management of Decedent's Real Estate; Powers of Executor and Administrator with Will Annexed.*—Real estate devised to be sold shall, if no person other than the executor be appointed for the purpose, be sold and conveyed by the executor, and the proceeds of sale, or the rents and profits of any real estate which the executor is authorized by the will to receive, shall be received by the executor who qualifies, or by his successor. If none qualify, or the one qualifying shall die, resign, or be removed before the trust is executed or completed, the administrator with the will annexed shall sell or convey the lands so devised to be sold, and receive the proceeds of sale, or the rents and profits aforesaid, as an executor might have done.

CHAPTER 7

(House Bill No. 346—By Mr. Moreland)

AN ACT to amend and reenact section fourteen, article fifteen, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the commitment of veterans to the veterans administration for medical treatment or care.

[Passed March 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 15. Veterans' Guardianship and Commitment.

Section

14. Commitment to veterans administration or other agency of United States Government.
-

Be it enacted by the Legislature of West Virginia:

That section fourteen, article fifteen, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 14. *Commitment to Veterans Administration or Other Agency of United States Government.*—When-
ever it appears that a veteran of any war, military occupation or expedition is eligible for care or treatment by the veterans administration or other agency of the United States government, and commitment thereto is necessary for the proper treatment and care of such veteran, the county court, the county mental hygiene commission, or other tribunal or commission in lieu of either thereof, of the county in which such person is found, upon receipt of a certificate from the veterans administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to the veterans administration or other agency of the United States government for care or treatment. Thereafter, such person, upon admission to any such facility, shall be subject to the rules and regulations of the veterans administration or other agency of the United States government. The chief officer of any such facility or institution to which such person is committed under the provisions of this section shall be vested with the same powers now exercised by officials of state hospitals for mental diseases within this state with respect to the retention, transfer, parole or discharge of persons so committed. Notice of such pending commitment proceedings shall be furnished the person whose commitment is sought, and his right to appear and defend shall not be denied. The judgment or order of commitment by a court of competent jurisdiction of another state committing a person to the veterans administration or other agency of the United States government for care or treatment, shall have the same force and effect as to

33 such person while in this state as in the state in which
34 is situated the court entering such judgment or making
35 such order.

36 Upon receipt of a certificate of the veterans adminis-
37 tration or other agency of the United States government
38 that facilities are available for the care or treatment of
39 any person heretofore or hereafter committed to any
40 hospital for the insane or other institution in this state
41 for the care of persons similarly afflicted; and that such
42 person is eligible for care or treatment by the veterans
43 administration or other agency of the United States, the
44 superintendent of any such hospital or institution in this
45 state is hereby authorized to cause the transfer of any
46 such person to the veterans administration or other
47 agency of the United States government for care or treat-
48 ment. Upon effecting any such transfer, the committing
49 court, commission or tribunal shall be notified thereof
50 by the transferring agency: *Provided, however,* That no
51 person shall be transferred if he be confined pursuant to
52 conviction of any crime or misdemeanor, or if he shall
53 have been acquitted of any such charge solely on the
54 ground of insanity, unless prior to such transfer the court
55 originally committing such person shall enter an order
56 for such transfer after appropriate motion and hearing.

57 Any person transferred as provided in this section shall
58 be deemed to be committed to the veterans administra-
59 tion or other agency of the United States government
60 pursuant to the original commitment the same as if he
61 had been originally so committed.

CHAPTER 8

(Com. Sub. for House Bill No. 110—Originating in the House Committee on
Agriculture)

AN ACT to amend and reenact article eight, chapter nineteen
of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to county agricultural
agents.

[Passed March 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8. County Agricultural Agents.

Section

1. County agricultural extension service committee; memorandum of agreement for employment of county agricultural extension agents, associate and assistant agents; home demonstration agents, associate and assistant agents; four-H club agents, associate and assistant agents and clerical workers; salary and expenses.
2. Appropriations to be expended in conformity to "Smith-Lever Act."
3. Duties of county agricultural extension workers; extension division to cooperate.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *County Agricultural Extension Service Committee; Memorandum of Agreement for Employment of County Agricultural Extension Agents, Associate and Assistant Agents; Home Demonstration Agents, Associate and Assistant Agents; Four-H Club Agents, Associate and Assistant Agents and Clerical Workers; Salary and Expenses.*—The county agricultural extension service committee shall be composed of (a) president of the county farm bureau; (b) president of the county farm women's council; (c) president of the county Four-H leaders' association; (d) one member who is a resident of the county, to be appointed by the board of governors of West Virginia university; in making this appointment, the board of governors shall give consideration to any other active farm organization in the county not already represented under the provisions of this section; this member of the committee shall be appointed each year for the fiscal year beginning July first; (e) county commissioner designated by the president of the county court; (f) a member of the county board of education, designated by the president of the county board of education; (g) the master of the county grange. The committee shall annually elect from its membership a chairman and a secretary. If any

24 of the above named organizations do not exist in the
25 county, the board of governors of West Virginia univer-
26 sity may appoint additional members to the committee
27 for each vacancy that shall exist.

28 It shall each year be the duty and responsibility of the
29 county agricultural extension service committee:

30 (1) To enter into a memorandum of agreement with
31 the agricultural extension division of the college of agri-
32 culture, forestry and home economics of West Virginia
33 university for the employment of county agricultural ex-
34 tension workers.

35 (2) Prepare memorandum of agreement with the
36 county court and the county board of education for their
37 financial support for extension work in agriculture and
38 home economics in the county.

39 (3) Give guidance and assistance in the develop-
40 ment of the county agricultural extension service pro-
41 gram and in the preparation of the annual plan of work
42 for the county.

43 Such county agricultural extension service committee
44 may on or before the first day of July of each year file
45 with the county court a written memorandum of agree-
46 ment with the extension division of the college of agri-
47 culture, forestry and home economics of West Virginia
48 university for the employment of county agricultural
49 agents, associate or assistant agents; home demonstration
50 agents, associate or assistant agents, and clerical workers
51 for the next succeeding fiscal year.

52 The county agricultural extension service committee
53 may also file on or before the first day of July of each year
54 with the county board of education a written memoran-
55 dum of agreement with the extension division of the col-
56 lege of agriculture, forestry and home economics of West
57 Virginia university for the employment of Four-H club
58 agents, associate or assistant agents and clerical workers
59 for the next succeeding fiscal year.

60 If such agreement or agreements are so filed, the county
61 court and the county board of education of such county,
62 or either of them, may annually enter into such agree-
63 ment or agreements for the employment of such county
64 agricultural agents, associate or assistant agricultural

65 agents; home demonstration agents; associate or assistant
66 agents; Four-H club agents, associate or assistant agents,
67 and clerical workers, or any of them, as may be nominated
68 by the extension division of the college of agriculture,
69 forestry and home economics of West Virginia university,
70 and approved in writing by at least two-thirds vote of the
71 members of the county agricultural extension service com-
72 mittee for the next succeeding fiscal year.

73 Salary and expenses of county agricultural agents, as-
74 sociate or assistant agents; home demonstration agents,
75 associate or assistant agents; Four-H club agents, associate
76 or assistant agents and clerical workers are to be paid
77 according to the approved memorandum of agreement by
78 the extension division, the county court, the board of edu-
79 cation or jointly out of such appropriations as are made
80 by the Legislature, county courts or boards of education,
81 separately or in conjunction with such federal acts as do
82 now, or may hereafter provide funds for such purpose.
83 That part of salaries, travel, officers and general office
84 expense to be provided by the county court according to
85 the approved memorandum shall be paid from general
86 county funds.

Sec. 2. *Appropriations to Be Expended in Conformity*
2 to "Smith-Lever Act."—All moneys levied or appropriated
3 by the county court or the county board of education
4 under this article shall be expended upon orders of such
5 court or board of education as other county funds are ex-
6 pended, and a duplicate of all salary vouchers and expense
7 accounts shall be filed with the extension division of the
8 college of agriculture, forestry and home economics of
9 West Virginia university in such form as will comply
10 with the provisions of the act of Congress approved May
11 eighth, one thousand nine hundred fourteen known as the
12 "Smith-Lever Act", or any act of Congress amendatory
13 thereof or supplementary thereto, but no part of any
14 money so appropriated shall be used to compensate any
15 representative of West Virginia university or any other
16 persons, except the persons employed under this article.

Sec. 3. *Duties of County Agricultural Extension Work-*
2 *ers; Extension Division to Cooperate.*—It shall be the duty
3 of any person so employed as a county agricultural exten-

4 sion worker to encourage demonstrations of improved
5 methods of the farm and in the home and to give free
6 advice and practical instruction in agriculture and home
7 economics in such county, in cooperation with and under
8 the supervision of the extension division of the college of
9 agriculture, forestry and home economics of West Vir-
10 ginia university. It shall be the duty of the extension
11 division of the college of agriculture, forestry and home
12 economics of West Virginia university to cooperate with
13 each county court and each county school board appro-
14 priating money under this article.

CHAPTER 9

(Senate Bill No. 162—By Mr. Swiger)

AN ACT to amend and reenact sections two, twenty-nine, thirty and thirty-three, article nine, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to diseases among domestic animals.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9. Disease Among Domestic Animals.

Section

2. Duties and powers of commissioner.
30. Appraisal of diseased animals; amount; arbitration; fees of arbitrators.
33. Payment of indemnity.

Be it enacted by the Legislature of West Virginia:

That sections two, twenty-nine, thirty and thirty-three, article nine, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. Duties and Powers of Commissioner.—(a)

- 2 To prevent, suppress, control and eradicate any communi-
- 3 cable diseases of animals or poultry;

4 (b) To make and enforce such rules and regulations
5 as may be necessary to effectuate the provisions of this
6 article;

7 (c) To collect and disseminate information and sta-
8 tistics by means of circulars and bulletins on the preval-
9 ence and control of animal and poultry diseases and their
10 treatment, the proper care and sanitation of stables and
11 other buildings, so as to prevent the existence and spread
12 of communicable diseases among such animals and poul-
13 try, and such other information relative thereto as will
14 be of value to the stock industry of the state;

15 (d) To make or cause to be made any investigations
16 he may deem advisable regarding the causes and methods
17 of preventing, controlling and eradicating diseases of
18 animals or poultry, and exercise such other powers and
19 perform such other duties as may be proper or necessary
20 to prevent the spread of, eradicate or control any com-
21 municable disease among animals or poultry, including
22 the power to promulgate, issue, and enforce regulations
23 prohibiting the feeding of garbage to swine unless said
24 garbage has been thoroughly heated to a temperature of
25 at least 212° F for at least thirty minutes or treated in
26 some other manner equally effective for the prevention
27 of swine diseases and the protection of public health,
28 such regulations not to apply to any individual who feeds
29 only his own household garbage to swine which are
30 raised for such individual's own use;

31 (e) To prohibit the importation into this state of ani-
32 mals and poultry, when necessary to prevent the spread
33 of disease;

34 (f) To cause general or special quarantine of prem-
35 ises and of animals and poultry to be established and
36 maintained;

37 (g) To cause the disinfection of any premises;

38 (h) To cause the destruction of diseased animals, when
39 such animals are deemed diseased as a result of physical
40 examination or an approved test, and of infected personal
41 property, and to regulate and prohibit the moving or
42 transportation of such animals or property from one place
43 to another in this state;

44 (i) To have charge of the enforcement of the provi-

45 sions of this article and the laws of the state relating to
46 diseases of animals and poultry, and the manufacture,
47 preparation, storage, sale and offering for sale of the food
48 and food products derived from diseased animals and
49 poultry.

Sec. 29. *When Right of Indemnity Does Not Exist.*—

2 The right of indemnity shall not exist nor shall payment
3 be made in any of the following cases:

4 (a) For animals owned by the United States, this
5 state, or any county, city, town or village in this state;

6 (b) For animals brought into this state contrary to
7 the provisions of this article, or where the owner of the
8 animals or person claiming compensation has failed to
9 comply with the provisions of the same;

10 (c) When the owner or claimant at the time of com-
11 ing into possession of the animal knew or had reason to
12 believe it to be afflicted with a communicable disease;

13 (d) When the owner has been guilty of negligence or
14 carelessly exposed such animals to a communicable dis-
15 ease;

16 (e) When the owner has refused or neglected to com-
17 ply with the sanitary requirements of the commissioner
18 of agriculture or his agents;

19 (f) When the animals are fully sexed males over six
20 months of age and are not registered.

Sec. 30. *Appraisal of Diseased Animals; Amount; Arbitration; Fees of Arbitrators.*—The commissioner or his
2 agent shall act as appraiser and appraise each diseased
3 animal within five days prior to the date of slaughter,
4 basing the amount upon the class and market value of
5 the animal at the time of the appraisal, whether for
6 breeding purposes or for milk or meat production. Ani-
7 mals reacting to any approved test, but not exhibiting
8 any physical evidence of disease, shall be appraised with-
9 out considering the presence of a diseased condition, but
10 animals exhibiting any physical evidence of disease shall
11 be appraised as diseased animals: *Provided, however,*
12 That where indemnities are claimed for animals slaught-
13 ered on account of being infected with rabies, appraise-
14 ment shall be based on the value of the animal before it
15

16 became infected. The amount of appraisal for a non-
17 registered equine animal shall not exceed seventy-five
18 dollars, for a registered equine animal one hundred dol-
19 lars, for a nonregistered bovine animal one hundred
20 dollars, for a registered bovine animal two hundred
21 dollars, for a nonregistered swine twenty-five dollars,
22 for a registered swine forty dollars, for a nonregistered
23 sheep ten dollars, and for a registered sheep twenty-five
24 dollars. Animals under six months of age which are
25 eligible to registration shall be appraised as registered
26 animals. If the amount of appraisal of any animal, as
27 determined by the appraiser, is not satisfactory to the
28 owner of the animal, a written notice of such fact setting
29 forth the reason for complaint shall be made at once to
30 the appraiser. The amount of the appraisal shall then
31 be determined by arbitrators, one to be appointed by the
32 appraiser and one by the owner of the animal. If these
33 arbitrators are not able to agree as to the amount of ap-
34 praisal, a third arbitrator shall be appointed by them,
35 whose decision shall be final. Each arbitrator shall be
36 paid one dollar for each appraisement of five or less than
37 five animals and two dollars if more than five animals
38 are appraised. Compensation for the arbitrators ap-
39 pointed by the owner and the appraiser shall be paid by
40 the party appointing such arbitrator, and in case a third
41 arbitrator is chosen, such arbitrator shall be paid by the
42 party against whom the decision is made.

2 *Sec. 33. Payment of Indemnity.*—All claims for indem-
3 nity for animals slaughtered as tuberculous shall be paid
4 in the manner prescribed in section thirty-seven of this
5 article. In all other cases when animals are slaughtered
6 as provided by the article, the veterinarian shall forth-
7 with forward the certificates of appraisal and slaughter,
8 together with the owner's claim for indemnity, and his
9 affidavit that he has, in all respects, complied with the
10 agreement provided for in section twenty-eight of this
11 article and with the requirements of the commissioner in
12 respect thereto, to the commissioner, who shall, if the
13 same is found to be correct and the claim not barred by
 the provisions of section twenty-nine of this article, ap-

14 prove and file the same. The commissioner shall, at the
15 end of each fiscal year, issue his requisition to the state
16 auditor for two-thirds of the value of the certificates of
17 appraisal so approved: *Provided*, That in case of an out-
18 break of foot and mouth disease, or any other dangerous-
19 ly contagious or infectious disease among bovine animals,
20 ovine animals, or swine, on account of which bovine ani-
21 mals, ovine animals or swine are being destroyed by co-
22 operative order of federal and state authority, and for
23 which animals so destroyed the federal government pays
24 one-half of the indemnity herein provided for, this state
25 shall pay one-half, and only one-half, of such indemnity.
26 The state auditor shall issue his warrant on the state
27 treasurer, in favor of the claimant, for the amount ord-
28 ered by the commissioner, which amount shall be paid
29 out of the current appropriation made for carrying out
30 the provisions of this article: *Provided further*, That in
31 case the amount of such certificates of appraisal, and
32 those similarly provided for in section thirty-seven of
33 this article, in any one year, shall exceed the current
34 appropriation therefor, such certificates shall be paid
35 pro rata at the end of each fiscal year.

CHAPTER 10

(Com. Sub. for Senate Bill No. 1—Originating in the Senate Committee on Finance)

AN ACT making an appropriation of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

[Passed March 14, 1953; in effect from passage.]

Title

1. General Provisions.
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section

1. Finding and general policy.

2. Definitions.
3. Classification of appropriations.
4. Method of expenditure.
5. Limitations on expenditures.
6. Maximum expenditures.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and General Policy.*—The Legislature finds that estimates of funds in the treasury at the time this act is enacted, and expected revenues to accrue prior to July 1, 1953, and during the biennium 1953-55, will furnish funds sufficient to pay:

- (1) Expense of the Legislature;
- (2) Expense of the executive department;
- (3) Expense of the judiciary department;
- (4) Interest and principal of the debts of the state;
- (5) Salaries payable under the constitution and laws of the state;
- (6) Aid to public schools;
- (7) Expenses for other purposes required by the constitution and laws of the state, and to meet appropriations herein made, and, in pursuance of such finding, this act is enacted.

The purpose of this act is to appropriate money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal years one thousand nine hundred fifty-four and one thousand nine hundred fifty-five. To give effect to this purpose, the board of public works shall supervise the fiscal policy, control the assumption of obligations, and regulate the expenditures of the agencies of the state, to the end that same may as nearly as practicable conform to the budget document: *Provided, however,* That notwithstanding any provision of this section or any other statute to the contrary, expenditures of departments and educational institutions under the West Virginia University board of governors and under the West Virginia board of education shall be determined and regulated by such boards, except that no salary shall be increased in an amount which would exceed ten per cent of the amount approved by the board of public works in the

35 budget document, without prior approval of the board of
36 public works.

Sec. 2. *Definitions*.—For the purpose of this act:

2 “Board” shall mean the board of public works;

3 “Spending Unit” shall mean the department, agency, or
4 institution to which an appropriation is made;

5 The “fiscal year one thousand nine hundred fifty-four”
6 shall mean the period from July first, one thousand nine
7 hundred fifty-three through June thirtieth, one thousand
8 nine hundred fifty-four and the “fiscal year one thousand
9 nine hundred fifty-five” shall mean the period from July
10 first, one thousand nine hundred fifty-four through June
11 thirtieth, one thousand nine hundred fifty-five.

12 “From collections” shall mean that part of the total ap-
13 propriation which must be collected by the spending unit
14 to be available for expenditure. If the authorized amount
15 of collections is not collected, the total appropriation for
16 the spending unit shall be reduced automatically by the
17 amount of the deficiency in the collection. If the amount
18 collected exceeds the amount designated “from collections”
19 the excess shall be set aside in a special surplus fund and
20 may be expended for the purpose of the spending unit as
21 provided by chapter thirty-nine, acts of the Legislature,
22 regular session, one thousand nine hundred thirty-nine.

Sec. 3. *Classification of Appropriations*.—An appropria-
2 tion for:

3 “Personal services” shall be expended only for the pay-
4 ment of salaries, wages, fees, and other compensation for
5 skill, work, or employment;

6 Unless otherwise specified, appropriations for Personal
7 Services shall include salaries of heads of spending units.

8 “Current expenses” shall be expended only for operating
9 costs other than personal services or capital outlay;

10 “Repairs and alterations” shall include all expenditures
11 for materials, supplies and labor used in repairing and
12 altering buildings, grounds and equipment;

13 “Equipment” shall be expended only for things which
14 have an appreciable and calculable period of usefulness in
15 excess of one year;

16 “Buildings” shall include construction and alteration of

17 structures and the improvements of lands, sewer and water
 18 improvements, and shall include shelter, support, storage,
 19 protection, or the improvement of a natural condition;
 20 "Lands" shall be expended only for the purchase of
 21 lands or interest in lands.
 22 Building and/or lands appropriations are not transfer-
 23 able to other items of appropriation.
 24 Unclassified appropriations shall be expended only
 25 where the distribution of expenditures for different pur-
 26 poses cannot well be determined in advance or it is neces-
 27 sary or desirable to permit the spending unit freedom to
 28 spend an appropriation for more than one of the above
 29 purposes.

Sec. 4. *Method of Expenditure.*—Money appropriated by
 2 this act, unless otherwise specifically directed, shall be
 3 appropriated and expended according to the provisions of
 4 article three, chapter twelve of the code of West Virginia,
 5 one thousand nine hundred thirty-one, or according to any
 6 law detailing a procedure specifically limiting that article.

Sec. 5. *Limitations on Expenditures.*—The expenditure
 2 of money appropriated by this act shall be limited to the
 3 specific amount appropriated to each item. There shall be
 4 no transfer of amounts between items of the appropriation
 5 of the spending unit without prior authorization by the
 6 board of public works, as provided by chapter five, article
 7 five, code of West Virginia.

Sec. 6. *Maximum Expenditures.*—No authority or re-
 2 quirement of law shall be interpreted as requiring or per-
 3 mitting an expenditure in excess of the appropriations set
 4 out in this act.

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14. Appropriations from taxes and license fees.
15. Appropriations to pay premiums on bonds of county clerks.
16. Appropriations to pay costs of publication of delinquent corporations.
17. Appropriations for local governments.
18. Printing costs.
19. Total appropriation.
20. General school fund.

Section 1. *Appropriations from General Revenue.*—From the state fund, general revenue, there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, the following amounts, as itemized, for expenditure during the fiscal years one thousand nine hundred fifty-four and one thousand nine hundred fifty-five.

LEGISLATIVE

1—Senate

Acct. No. 101

		<i>Fiscal Years</i>	
		1953-54	1954-55
1	Salaries of Members.....	\$ 16,000.00	\$ 16,000.00
2	To pay Clerk of the Senate		
3	for compiling and publishing		
4	the West Virginia Blue Book,		
5	the distribution of which		
6	shall be made by the Clerk		
7	of the Senate and shall in-		
8	clude seventy-five copies for		
9	each member of the Legisla-		
10	ture and two copies to each		
11	classified and approved High		
12	and Junior High School and		
13	one to each elementary		
14	school within the state, in-		
15	cluding all expenses incurred		
16	in the employment of con-		
17	tributors	\$ 10,000.00	\$ 10,000.00
18	To pay cost of printing 1953 and		
19	1954 editions of Blue Book ..	\$ 41,500.00	\$ 41,500.00
20		<i>Fiscal Year</i>	1952-1953
21	Mileage of Members.....		\$ 831.80
22	Compensation and per diem of		
23	officers and attaches		\$ 70,000.00
24	Current Expenses and Contin-		
25	gent Fund.....		\$ 85,000.00
26	Joint Committee on Govern-		

27	ment and Finance and other		
28	Committees	\$	75,000.00
29	To establish bill drafting serv-		
30	ice and expenses connected		
31	therewith	\$	6,000.00
32	H. C. R. No. 4, interim commit-		
33	tee study of state road system	\$	75,000.00
34	H. C. R. No. 9, interim commit-		
35	tee study of utility assess-		
36	ments	\$	15,000.00
37	The above appropriations for		
38	the fiscal year 1952-53 are to		
39	remain in full force and effect		
40	until the convening of the		
41	regular session of the Legis-		
42	lature, 1955.		
43	The Clerk of the Senate is		
44	authorized to draw his war-		
45	rants upon the Auditor, pay-		
46	able out of the contingent		
47	fund of the Senate, for any		
48	bills for supplies and serv-		
49	ices that may have been in-		
50	curred by the Senate and		
51	not included in the appropria-		
52	tion bill, and for bills for sup-		
53	plies and services incurred		
54	after adjournment, and for		
55	the necessary operation of his		
56	offices, the requisition for		
57	same to be accompanied by		
58	bills to be filed with the		
59	Auditor.		

2—House of Delegates

Acct. No. 102

1	Salaries of Members.....	\$	50,000.00	\$	50,000.00
2					
					<i>Fiscal Year 1952-1953</i>
3	S. C. R. No. 2 per diem of mem-				
4	bers	\$			3,000.00

5	Mileage of members.....	\$	2,468.80
6	Compensation and per diem of		
7	attaches and officers.....	\$	103,200.00 ✓
8	Contingent Fund.....	\$	85,000.00
9	Contingent Fund:		
10	Legislative Drafting Office.....	\$	5,000.00
11	Current Expenses HR 8-11.....	\$	36,508.53
12	Joint Committee on Govern-		
13	ment and Finance and other		
14	authorized Legislative Com-		
15	mittees	\$	75,000.00
16	H. C. R. No. 4, interim commit-		
17	tee study of state road sys-		
18	tem	\$	75,000.00
19	H. C. R. No. 9, interim commit-		
20	tee study of utility assess-		
21	ments	\$	15,000.00
22	The above appropriations for		
23	the fiscal year 1952-53 are to		
24	remain in full force and ef-		
25	fect until the convening of		
26	the regular session of the		
27	Legislature, 1955.		
28	With the approval of the		
29	Speaker, an amount, not to		
30	exceed \$3,000.00 per year, is		
31	hereby authorized to be ex-		
32	pended from the contingent		
33	fund of the House of Dele-		
34	gates for janitor service, etc.		
35	The House Committee on		
36	Rules, with the approval of		
37	the Speaker, is hereby au-		
38	thorized to expend from the		
39	House contingent fund an		
40	amount, not to exceed the		
41	sum of thirty-eight thousand		
42	dollars (\$38,000.00), for the		
43	purpose of altering, furnish-		
44	ing and ventilating the com-		
45	mittee rooms of the Judici-		

46 ary and Finance Committees,
47 and for the purpose of alter-
48 ing the elevator in the north-
49 east section of the Main Unit
50 of the Capitol Building so as
51 to provide automatic opera-
52 tion for passenger and freight
53 service.

54 An amount, not to exceed \$5,-
55 000.00, is hereby authorized
56 to be expended from the con-
57 tingent fund of the House of
58 Delegates by the House Com-
59 mittee on Rules for the pur-
60 pose of establishing a House
61 Legislative Drafting Office,
62 employing, if deemed advis-
63 able by the Committee, in
64 connection therewith, tech-
65 nical and clerical assistants,
66 who shall be available to the
67 members and committees of
68 the House of Delegates, at
69 such times as may be deter-
70 mined by the Committee on
71 Rules, for the purpose of as-
72 sisting in the preparation and
73 editing of bills and resolu-
74 tions, and in such other legis-
75 lative drafting and editing as
76 the Committee on Rules may
77 deem proper.

78 The Clerk of the House is au-
79 thorized to draw his war-
80 rants upon the Auditor, pay-
81 able out of the contingent
82 fund of the House for any
83 bills for supplies and services
84 that may have been incurred
85 by the House and not in-

86 cluded in the appropriation
 87 bill, and for bills for supplies
 88 and services incurred after
 89 adjournment, the requisition
 90 for same to be accompanied
 91 by bills to be filed with the
 92 Auditor.

93 For duties imposed by law and
 94 by the House of Delegates,
 95 including the salary allowed
 96 by law as keeper of the rolls,
 97 the Clerk of the House of
 98 Delegates shall be paid a
 99 monthly salary at the rate of
 100 \$675.00 per month, payable
 101 from the contingent fund of
 102 the House of Delegates, and
 103 the Clerk may employ a sec-
 104 retary at a salary of not to
 105 exceed \$275.00 per month,
 106 payable monthly from the
 107 same fund.

3—Joint Expenses

Acct. No. 103

1 To pay the cost of legislative	
2 printing and stationery, the	
3 appropriation is to be avail-	
4 able for the year ending June	
5 thirty, one thousand nine	
6 hundred fifty-three. If this	
7 work is not completed prior	
8 to June thirtieth, one thou-	
9 sand nine hundred fifty-three,	
10 then the appropriation shall	
11 continue in full force until	
12 completed	\$ 125,000.00
13 Commission on Interstate Co-	
14 operation	\$ 30,000.00

JUDICIAL

4—*Supreme Court of Appeals*

Acct. No. 110

1	Salaries of Judges.....	\$ 62,500.00	\$ 62,500.00
2	Other Personal Services	69,920.00	69,920.00
3	Current Expenses.....	20,000.00	20,000.00
4	Equipment	1,000.00	1,000.00
5	Total	\$ 153,420.00	\$ 153,420.00

5—*Circuit Courts*

Acct. No. 111

1	Salaries of Judges of the Cir-		
2	cuit Courts	\$ 258,000.00	\$ 258,000.00
3	Current Expenses.....	54,000.00	54,000.00
4	Total	\$ 312,000.00	\$ 312,000.00

6—*Judges' Retirement System*

Acct. No. 112

1	To be transferred to the Judges'		
2	Retirement Fund, in accord-		
3	ance with the law relating		
4	thereto, upon requisition of		
5	the State Auditor	\$ 25,000.00	\$ 25,000.00

7—*State Law Library*

Acct. No. 114

1	Personal Services	\$ 11,900.00	\$ 11,900.00
2	Current Expenses	1,000.00	1,000.00
3	Equipment	7,000.00	7,000.00
4	Total	\$ 19,900.00	\$ 19,900.00

8—*Auditor's Office—Criminal Charges*

Acct. No. 119

1	Criminal Charges.....	\$ 160,000.00	\$ 160,000.00
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EXECUTIVE

9—Governor's Office

Acct. No. 120

1 Salary of Governor.....\$	12,500.00	\$	12,500.00
2 Other Personal Services, in-			
3 cluding Salaries of Secre-			
4 taries, Stenographers and As-			
5 sistants	32,230.00		32,230.00
6 Current Expenses	9,500.00		9,500.00
7 One hundred dollars annual			
8 dues to the Governors' Con-			
9 ference shall be included in			
10 this item.			
11 Equipment	1,500.00		1,500.00
12 Civil Contingent Fund.....	140,000.00		140,000.00
13 Of this appropriation there may			
14 be expended an amount not			
15 to exceed \$5,000.00 in each			
16 year to provide instruction,			
17 care and maintenance for per-			
18 sons who are deaf and blind,			
19 and for whom the state pro-			
20 vides no facilities.			
21 Of this appropriation there			
22 may be expended, at the dis-			
23 cretion of the Governor, an			
24 amount not to exceed \$1,-			
25 000.00 in each year of the bi-			
26 ennium as West Virginia's			
27 contribution to the Interstate			
28 Oil Compact Commission.			
29 Any unexpended balance re-			
30 maining in the Civil Contin-			
31 gent Fund at the close of the			
32 fiscal year 1953-54 is hereby			
33 reappropriated for expendi-			
34 ture during the fiscal year			
35 1954-55.			
36 Custodial Fund	\$ 31,350.00	\$	31,350.00

37 To be used for current general
 38 expenses, including compen-
 39 sation of servants and em-
 40 ployees, household mainte-
 41 nance, cost of official func-
 42 tions, and any additional
 43 household expenses occa-
 44 sioned by such official func-
 45 tions. In the event Napoleon
 46 Gardner, now and for many
 47 years in the service of the
 48 Governor and his predeces-
 49 sors in office, shall become
 50 unable to perform such serv-
 51 ices for which he may earn
 52 compensation, an amount not
 53 in excess of \$50.00 per month
 54 may be expended out of this
 55 appropriation by the Gov-
 56 ernor at his discretion, for the
 57 use and benefit of the said
 58 Napoleon Gardner.

59	Total	\$ 227,080.00	\$ 227,080.00
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10—*Parole and Probation Investigation and Supervision*

Acct. No. 123

1	Personal Services	\$ 112,580.00	\$ 112,580.00
2	Current Expenses	40,800.00	40,700.00
3	Equipment	1,000.00	1,000.00
4	Total	\$ 154,380.00	\$ 154,280.00

FISCAL

11—*Auditor's Office—General Administration*

Acct. No. 150

1	Salary of State Auditor	\$ 7,250.00	\$ 7,250.00
2	Other Personal Services	88,000.00	88,000.00
3	Current Expenses	9,900.00	9,900.00

4	Equipment	2,500.00	2,500.00
5	Total	\$ 107,650.00	\$ 107,650.00

*12—Insurance Commissioner**Acct. No. 151*

1	Personal Services	\$ 54,460.00	\$ 54,460.00
2	Current Expenses	10,410.00	9,910.00
3	Equipment	600.00	600.00
4	Total	\$ 65,470.00	\$ 64,970.00

*13—Treasurer's Office**Acct. No. 160*

1	Salary of State Treasurer	\$ 7,250.00	\$ 7,250.00
2	Other Personal Services	55,000.00	55,000.00
3	Current Expenses	7,500.00	9,000.00
4	Equipment	3,000.00	3,000.00
5	Total	\$ 72,750.00	\$ 74,250.00

*14—Sinking Fund Commission**Acct. No. 170*

1	Personal Services	\$ 12,900.00	\$ 12,900.00
2	Current Expenses	600.00	600.00
3	Equipment	500.00	
4	Total	\$ 14,000.00	\$ 13,500.00

*15—State Tax Commissioner**Acct. No. 180*

1	Personal Services	\$ 541,600.00	\$ 541,600.00
2	Current Expenses	142,500.00	157,400.00
3	Equipment	14,500.00	15,000.00
4	Total	\$ 698,600.00	\$ 714,000.00
5	This appropriation shall in-		
6	clude all expenditures for the		

- 7 operation of the Gasoline
 8 Division formerly appropri-
 9 ated from the State Road
 10 Fund.

16—*West Virginia Board of Control*

Acct. No. 190

1	Salaries of the three members			
2	of the Board of Control.....	\$	21,000.00	\$ 21,000.00
3	Other Personal Services		39,680.00	39,680.00
4	Current Expenses		11,550.00	11,500.00
5	Equipment		700.00	700.00
6	Total	\$	72,930.00	\$ 72,880.00

17—*Director of the Budget*

Acct. No. 210

1	Personal Services	\$	78,600.00	\$ 78,600.00
2	Current Expenses		7,300.00	13,600.00
3	Equipment		1,250.00	1,250.00
4	Total	\$	87,150.00	\$ 93,450.00

18—*Director of the Budget—Inventory Control*

Acct. No. 211

1	Personal Services	\$	17,120.00	\$ 17,120.00
2	Current Expenses		4,500.00	4,250.00
3	Total	\$	21,620.00	\$ 21,370.00

- 4 To be expended in cooperation
 5 with the Director of Pur-
 6 chases to establish and main-
 7 tain an inventory control of
 8 all physical property of the
 9 state.

LEGAL

19—*Attorney General*

Acct. No. 240

1	Salary of Attorney General.....	\$	7,500.00	\$ 7,500.00
2	Other Personal Services		91,500.00	91,500.00

3	Current Expenses_____	8,500.00	8,500.00
4	Equipment _____	5,000.00	3,500.00
5	To protect the resources or tax		
6	structure of the State in con-		
7	troversies or legal proceedings		
8	affecting same. Any unex-		
9	pended balance remaining in		
10	this fund at the close of the		
11	fiscal year 1953-54 is hereby		
12	reappropriated for expendi-		
13	ture during the fiscal year		
14	1954-55 _____	8,000.00	
15	Total _____	\$ 120,500.00	\$ 111,000.00

20—Commission on Uniform State Laws

Acct. No. 245

1	Total _____	\$ 650.00	\$ 650.00
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INCORPORATING AND RECORDING

21—Secretary of State

Acct. No. 250

1	Salary of Secretary of State.....	\$ 7,250.00	\$ 7,250.00
2	Other Personal Services.....	30,780.00	30,780.00
3	Current Expenses.....	5,000.00	6,000.00
4	Equipment	14,000.00	1,000.00
5	Total _____	\$ 57,030.00	\$ 45,030.00

CUSTODIAL AND SERVICE

22—Capitol Building and Grounds

Acct. No. 270

1	Personal Services _____	\$ 153,500.00	\$ 153,500.00
2	Current Expenses _____	94,000.00	94,000.00
3	Repairs and Alterations	33,000.00	33,000.00
4	Equipment _____	4,500.00	4,500.00
5	Total _____	\$ 285,000.00	\$ 285,000.00
6	The above appropriation for		

7 repairs and alterations shall
 8 be expended at the discretion
 9 of the Board of Control and
 10 shall include all painting and
 11 decorating for the capitol
 12 buildings and the apartments
 13 therein.

23—Central Mailing Office

Acct. No. 280

1 Personal Services	\$ 12,620.00	\$ 12,620.00
2 Current Expenses	58,480.00	58,120.00
3 Equipment	200.00	200.00
4 Total	\$ 71,300.00	\$ 70,940.00

5 The Workmen's Compensation
 6 Commission, Department of
 7 Public Assistance, West Vir-
 8 ginia Public Service Commis-
 9 sion, Conservation Commis-
 10 sion, Department of Motor
 11 Vehicles, State Road Com-
 12 mission and State Health De-
 13 partment shall reimburse the
 14 Current Expense appropri-
 15 ation of the Central Mailing
 16 Office monthly for all meter
 17 service. Any spending unit
 18 receiving reimbursement for
 19 postage costs from the Fed-
 20 eral Government shall refund
 21 to the Current Expense ac-
 22 count of the Central Mailing
 23 Office such amounts. Should
 24 this appropriation for Cur-
 25 rent Expense be insufficient
 26 to meet the mailing require-
 27 ments of the State spending
 28 units as set out above, any ex-
 29 cess postage meter service re-

30 quirements shall be a proper
 31 charge against the units, and
 32 each spending unit shall re-
 33 fund to the Current Expenses
 34 appropriation of the Central
 35 Mailing Office any amounts
 36 required for that Department
 37 for postage in excess of this
 38 appropriation.

24—*Department of Purchases*

Acct. No. 290

1	Personal Services	\$	73,100.00	\$	73,100.00
2	Current Expenses		14,000.00		14,000.00
3	Equipment		1,000.00		1,000.00
4	Total	\$	88,100.00	\$	88,100.00

EDUCATIONAL

25—*Department of Education—State Aid to Schools*

Acct. No. 295

1 State aid to supplement the
 2 General School Fund.....\$44,150,000.00 \$44,950,000.00
 3 To be transferred to the gen-
 4 eral school fund upon the
 5 requisition of the Governor.
 6 To be distributed according
 7 to law except an amount not
 8 to exceed \$100,000.00 for each
 9 year of the biennium, which
 10 sum shall be available to the
 11 State Board of School Fi-
 12 nance to aid counties in pro-
 13 viding instruction for home-
 14 bound physically and men-
 15 tally handicapped children
 16 under such rules and regula-
 17 tions for instruction of home-
 18 bound physically and men-
 19 tally handicapped children
 20 as may be adopted by the

21 State Board of Education as
22 provided by chapter 18, arti-
23 cle 2, section 5, of the West
24 Virginia code, one thousand
25 nine hundred thirty-one, as
26 amended.

27 In making distribution of state
28 aid to counties as provided by
29 law, the state board of school
30 finance shall allocate to each
31 county state aid of not less
32 than fifty dollars for each net
33 enrolled pupil in the county.

34 From this appropriation the
35 sum of \$500,000.00 shall be
36 earmarked for sick leave ben-
37 efits for teachers, to be allo-
38 cated according to law and to
39 be spent only as provided by
40 section two-a, article seven,
41 chapter eighteen of the code,
42 which sum shall not be taken
43 into account in computing
44 the amount of temporary
45 state aid to which any county
46 may be entitled under the
47 provisions of section twelve,
48 article nine-a, chapter eight-
49 een of the code.

26—Department of Education—Textbook Aid

Acct. No. 297

1 Textbooks for Schools.....	\$ 200,000.00	\$ 150,000.00
2 To be distributed according to		
3 chapter 51, Acts of Legisla-		
4 ture, regular session, 1939.		

27—Teachers Retirement Board

Acct. No. 298

1 Benefit Fund — Payments to

2	Retired Teachers.....	\$ 1,238,300.00	\$ 1,318,300.00
3	Expense Fund.....	31,100.00	30,100.00
4	Employers' Accumulation Fund		
5	—To match contribution of		
6	members	\$ 3,100,000.00	\$ 3,140,000.00
7	Total	\$ 4,369,400.00	\$ 4,488,400.00

28—West Virginia University

Acct. No. 300

1	Personal Services	\$ 3,551,510.00	\$ 3,549,510.00
2	Current Expenses	577,400.00	577,400.00
3	Repairs and Alterations.....	254,500.00	254,500.00
4	Equipment	232,250.00	232,250.00
5	State aid to Medical Students	62,500.00	62,500.00
6	State aid to students of Vet-		
7	erinary Medicine.....	8,000.00	16,000.00
8	Total	\$ 4,686,160.00	\$ 4,692,160.00

9 Out of the above appropriation
 10 tion for Personal Services
 11 there shall be available a sum
 12 not to exceed \$30,000.00 each
 13 year of the biennium for ad-
 14 ditional retirement benefits
 15 as provided by Acts of the
 16 Legislature, 1951: *Provided*
 17 *further*, That out of the above
 18 appropriation the following
 19 amounts shall be set up in
 20 reserve and may be expended
 21 only out of collections in ex-
 22 cess of six hundred thousand
 23 dollars: Current expenses,
 24 forty-three thousand dollars;
 25 repairs and alterations, seven-
 26 teen thousand dollars.

29—West Virginia University—Mining and Industrial
Extension

Acct. No. 301

1	Personal Services.....	\$ 47,500.00	\$ 47,500.00
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2	Current Expenses.....	20,500.00	20,500.00
3	Equipment	1,000.00	1,000.00
4	Total	\$ 69,000.00	\$ 69,000.00

30—*West Virginia University—Agricultural, Horticultural
and Home Economics Extension*

Acct. No. 302

1	Personal Services.....	\$ 88,700.00	\$ 85,700.00
2	Current Expenses.....	14,670.00	14,670.00
3	Equipment	1,000.00	1,000.00
4	Total	\$ 104,370.00	\$ 101,370.00
5	Provided that \$6,000.00 is ap-		
6	propriated in the year 1953-54		
7	and \$6,000.00 is appropriated		
8	in the year 1954-55 out of the		
9	Personal Services item—Line		
10	1—for the employment of a		
11	Spray Specialist who shall be		
12	stationed only at the West		
13	Virginia University Experi-		
14	ment Farm at Kearneysville.		
15	Out of the above appropria-		
16	tion, under item two, an		
17	amount not to exceed \$1,-		
18	500.00 may be expended for		
19	propagation of blight resist-		
20	ant chestnuts.		

31—*West Virginia University—Jackson's Mill 4-H Camp*

Acct. No. 303

1	Personal Services.....	\$ 24,400.00	\$ 24,400.00
2	Current Expenses.....	14,900.00	14,900.00
3	Repairs and Alterations.....	12,500.00	12,500.00
4	Equipment	4,500.00	3,450.00
5	Total	\$ 56,300.00	\$ 55,250.00

32—*West Virginia University—Cooperation with Oglebay
Institute*

Acct. No. 304

1 Unclassified—Total _____\$ 4,000.00 \$ 4,000.00

33—*West Virginia University—Extension Division*

Acct. No. 305

1 Personal Services _____\$ 167,100.00 \$ 167,100.00

2 Current Expenses _____ 32,600.00 32,600.00

3 Total _____\$ 199,700.00 \$ 199,700.00

4 To pay expenses of County

5 Agricultural Agents and

6 Home Demonstration Agents.

34—*West Virginia University—Engineering Experiment
Station*

Acct. No. 306

1 Personal Services _____\$ 19,800.00 \$ 19,800.00

2 Current Expenses _____ 3,200.00 3,200.00

3 Equipment _____ 4,000.00 4,000.00

4 Total _____\$ 27,000.00 \$ 27,000.00

35—*West Virginia University—Gas and Petroleum Research*

Acct. No. 309

1 Personal Services _____\$ 13,000.00 \$ 13,000.00

2 Current Expenses _____ 3,500.00 3,500.00

3 Equipment _____ 2,000.00 1,000.00

4 Total _____\$ 18,500.00 \$ 17,500.00

36—*West Virginia University—Agricultural Experiment
Station*

Acct. No. 310

1 Personal Services _____\$ 124,900.00 \$ 124,900.00

2 Current Expenses _____ 17,840.00 17,840.00

3 Repairs and Alterations _____ 8,000.00 6,000.00

4	Equipment	10,000.00	12,000.00
5	Total	\$ 160,740.00	\$ 160,740.00

37—*West Virginia University—Experiment Farm—
Kearneysville*

Acct. No. 311

1	Current Expenses.....	\$ 13,800.00	\$ 13,800.00
2	Repairs and Alterations.....	3,500.00	3,500.00
3	Equipment	7,200.00	7,200.00
4	Total	\$ 24,500.00	\$ 24,500.00

38—*West Virginia University—Reymann Memorial Farm*

Acct. No. 312

1	Current Expenses.....	\$ 11,000.00	\$ 11,000.00
2	Repairs and Alterations.....	3,000.00	3,000.00
3	Equipment	2,000.00	2,000.00
4	Total	\$ 16,000.00	\$ 16,000.00

39—*West Virginia University—Ohio Valley Sub-Station*

Acct. No. 313

1	Current Expenses.....	\$ 6,400.00	\$ 6,400.00
2	Equipment	2,500.00	2,500.00
3	Total	\$ 8,900.00	\$ 8,900.00

40—*West Virginia University—Experiment Farm—Reedsville*

Acct. No. 314

1	Current Expenses.....	\$ 7,000.00	\$ 7,000.00
2	Repairs and Alterations.....	5,600.00	4,600.00
3	Equipment	3,400.00	4,400.00
4	Total	\$ 16,000.00	\$ 16,000.00

41—*Potomac State College of West Virginia University*

Acct. No. 315

1	Personal Services.....	\$ 215,950.00	\$ 215,950.00
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2	Current Expenses.....	37,700.00	37,500.00
3	Repairs and Alterations.....	20,900.00	20,900.00
4	Equipment	13,200.00	13,200.00
5	Total	\$ 287,750.00	\$ 287,550.00

42—Marshall College

Acct. No. 320

1	Personal Services.....	\$ 1,221,260.00	\$ 1,221,260.00
2	Current Expenses.....	119,740.00	118,240.00
3	Repairs and Alterations.....	51,000.00	51,000.00
4	Equipment	65,000.00	65,000.00
5	Flood Wall Assessment.....	2,200.00	2,200.00
6	Total	\$ 1,459,200.00	\$ 1,457,700.00

43—Fairmont State College

Acct. No. 321

1	Personal Services	\$ 418,340.00	\$ 418,340.00
2	Current Expenses.....	51,560.00	51,560.00
3	Repairs and Alterations.....	20,000.00	20,000.00
4	Equipment	21,000.00	21,000.00
5	Total	\$ 510,900.00	\$ 510,900.00

44—Glenville State College

Acct. No. 322

1	Personal Services.....	\$ 259,640.00	\$ 259,640.00
2	Current Expenses.....	36,500.00	36,400.00
3	Repairs and Alterations.....	15,000.00	15,000.00
4	Equipment	18,500.00	18,500.00
5	Total	\$ 329,640.00	\$ 329,540.00

45—West Liberty State College

Acct. No. 323

1	Personal Services.....	\$ 257,300.00	\$ 257,300.00
2	Current Expenses.....	32,600.00	32,300.00
3	Repairs and Alterations.....	15,000.00	15,000.00
4	Equipment	15,000.00	15,000.00
5	Total	\$ 319,900.00	\$ 319,600.00

46—*Shepherd College*

Acct. No. 324

1	Personal Services.....	\$ 239,050.00	\$ 239,050.00
2	Current Expenses.....	36,000.00	36,000.00
3	Repairs and Alterations.....	16,500.00	16,500.00
4	Equipment	15,000.00	15,000.00
5	Total	\$ 306,550.00	\$ 306,550.00

47—*Concord College*

Acct. No. 325

1	Personal Services.....	\$ 380,400.00	\$ 380,400.00
2	Current Expenses.....	46,500.00	46,400.00
3	Repairs and Alterations.....	25,000.00	25,000.00
4	Equipment	22,000.00	22,000.00
5	Total	\$ 473,900.00	\$ 473,800.00

48—*West Virginia Institute of Technology*

Acct. No. 327

1	Personal Services.....	\$ 302,800.00	\$ 302,800.00
2	Current Expenses.....	50,500.00	50,000.00
3	Repairs and Alterations.....	21,500.00	21,500.00
4	Equipment	32,000.00	32,000.00
5	Total	\$ 406,800.00	\$ 406,300.00

49—*West Virginia State College*

Acct. No. 328

1	Personal Services.....	\$ 640,300.00	\$ 640,300.00
2	Current Expenses.....	89,000.00	89,000.00
3	Repairs and Alterations	42,500.00	42,500.00
4	Equipment	52,000.00	52,000.00
5	Total	\$ 823,800.00	\$ 823,800.00

50—*Bluefield State College*

Acct. No. 329

1	Personal Services.....	\$ 270,100.00	\$ 270,100.00
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APPROPRIATIONS

[Ch. 10]

2 Current Expenses.....	49,000.00	48,800.00
3 Repairs and Alterations.....	25,000.00	25,000.00
4 Equipment	25,000.00	25,000.00

5 Total	\$ 369,100.00	\$ 368,900.00
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51—*West Virginia State College—4-H Camp for Colored
Boys and Girls*

Acct. No. 330

1 Personal Services.....	\$ 12,240.00	\$ 12,240.00
2 Current Expenses.....	5,000.00	5,000.00
3 Repairs and Alterations.....	3,000.00	3,000.00
4 Equipment	2,500.00	2,500.00

5 Total	\$ 22,740.00	\$ 22,740.00
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52—*West Virginia Schools for the Deaf and Blind*

Acct. No. 333

1 Personal Services	\$ 292,480.00	\$ 292,480.00
2 Current Expenses.....	120,000.00	120,000.00
3 Repairs and Alterations.....	15,000.00	15,000.00
4 Equipment	15,000.00	15,000.00

5 Total	\$ 442,480.00	\$ 442,480.00
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53—*West Virginia School for the Colored Deaf and Blind*

Acct. No. 334

1 Personal Services.....	\$ 39,790.00	\$ 39,790.00
2 Current Expenses.....	22,000.00	22,000.00
3 Repairs and Alterations.....	4,500.00	4,500.00
4 Equipment	4,000.00	4,000.00

5 Total	\$ 70,290.00	\$ 70,290.00
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54—*State FFA-FHA Camp and Conference Center*

Acct. No. 336

1 Personal Services.....	\$ 7,400.00	\$ 7,400.00
2 Current Expenses.....	1,000.00	1,000.00
3 Repairs and Alterations.....	1,200.00	

4	Equipment	500.00	500.00
5	Total	\$ 10,100.00	\$ 8,900.00

55—*State Board of Education—Storer College*

Acct. No. 338

1	To pay Storer College for use		
2	of Plant and Facilities for		
3	West Virginia Students.....	\$ 20,000.00	\$ 20,000.00
4	To be expended by the State		
5	Board of Education on a per		
6	capita cost basis for West Vir-		
7	ginia students only.		

56—*Department of Archives and History*

Acct. No. 340

1	Personal Services.....	\$ 17,640.00	\$ 17,640.00
2	Current Expenses	3,700.00	3,700.00
3	Equipment	7,000.00	5,500.00
4	Total	\$ 28,340.00	\$ 26,840.00

57—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services.....	\$ 43,460.00	\$ 43,460.00
2	Current Expenses.....	10,400.00	10,400.00
3	Equipment	500.00	500.00
4	Books and Periodicals.....	30,000.00	30,000.00
5	Total	\$ 84,360.00	\$ 84,360.00

CHARITIES AND CORRECTION

58—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services	\$ 129,500.00	\$ 130,070.00
2	Current Expenses	80,000.00	80,000.00
3	Repairs and Alterations	10,000.00	10,000.00
4	Equipment	10,000.00	10,000.00
5	Total	\$ 229,500.00	\$ 230,070.00

59—*West Virginia Industrial School for Colored Boys*

Acct. No. 371

1	Personal Services.....	\$ 31,830.00	\$ 31,830.00
2	Current Expenses.....	28,950.00	28,950.00
3	Repairs and Alterations.....	4,000.00	4,000.00
4	Equipment	5,000.00	5,000.00
5	Total	\$ 69,780.00	\$ 69,780.00

60—*West Virginia Industrial Home for Girls*

Acct. No. 372

1	Personal Services.....	\$ 74,370.00	\$ 74,370.00
2	Current Expenses.....	58,400.00	58,400.00
3	Repairs and Alterations.....	6,500.00	6,500.00
4	Equipment	6,500.00	6,500.00
5	Total	\$ 145,770.00	\$ 145,770.00

61—*West Virginia Industrial Home for Colored Girls*

Acct. No. 373

1	Personal Services.....	\$ 9,310.00	\$ 9,310.00
2	Current Expenses	8,500.00	8,500.00
3	Repairs and Alterations.....	2,500.00	2,500.00
4	Equipment	1,200.00	1,200.00
5	Total	\$ 21,510.00	\$ 21,510.00

62—*West Virginia State Prison for Women*

Acct. No. 374

1	Personal Services	\$ 29,520.00	\$ 29,520.00
2	Current Expenses	38,000.00	38,000.00
3	Repairs and Alterations.....	9,300.00	4,000.00
4	Equipment	5,000.00	4,500.00
5	Total	\$ 81,820.00	\$ 76,020.00

63—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services.....	\$ 420,020.00	\$ 420,020.00
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2	Current Expenses_____	450,000.00	450,000.00
3	Repairs and Alterations_____	25,000.00	25,000.00
4	Equipment _____	20,000.00	15,000.00
5	Total _____	\$ 915,020.00	\$ 910,020.00

64—Medium Security Prison

Acct. No. 376

1	Personal Services_____	\$ 145,000.00	\$ 145,000.00
2	Current Expenses_____	170,000.00	170,000.00
3	Repairs and Alterations_____	13,000.00	13,000.00
4	Equipment _____	15,000.00	15,000.00
5	Total _____	\$ 343,000.00	\$ 343,000.00

65—West Virginia Children's Home

Acct. No. 380

1	Personal Services_____	\$ 28,620.00	\$ 28,620.00
2	Current Expenses_____	21,300.00	21,300.00
3	Repairs and Alterations_____	3,000.00	3,000.00
4	Equipment _____	1,500.00	1,500.00
5	Total _____	\$ 54,420.00	\$ 54,420.00

66—West Virginia Colored Children's Home

Acct. No. 381

1	Personal Services_____	\$ 13,580.00	\$ 13,580.00
2	Current Expenses_____	15,930.00	15,930.00
3	Repairs and Alterations_____	3,000.00	3,000.00
4	Equipment _____	3,000.00	3,000.00
5	Total _____	\$ 35,510.00	\$ 35,510.00

67—West Virginia Home for Aged and Infirm Colored
Men and Women

Acct. No. 382

1	Personal Services_____	\$ 23,480.00	\$ 23,480.00
2	Current Expenses_____	39,400.00	39,400.00
3	Repairs and Alterations_____	7,500.00	7,500.00

4	Equipment	4,500.00	4,500.00
5	Total	\$ 74,880.00	\$ 74,880.00

68—West Virginia Training School

Acct. No. 383

1	Personal Services.....	\$ 134,440.00	\$ 134,440.00
2	Current Expenses.....	87,900.00	87,900.00
3	Repairs and Alterations.....	7,500.00	7,500.00
4	Equipment	15,500.00	7,500.00
5	Total	\$ 245,340.00	\$ 237,340.00

69—Andrew S. Rowan Memorial Home

Acct. No. 384

1	Personal Services.....	\$ 149,280.00	\$ 149,280.00
2	Current Expenses.....	155,000.00	155,000.00
3	Repairs and Alterations.....	10,000.00	10,000.00
4	Equipment	7,500.00	7,500.00
5	Total	\$ 321,780.00	\$ 321,780.00

HEALTH AND WELFARE

70—State Health Department

Acct. No. 400

1	Personal Services.....	\$ 543,000.00	\$ 543,000.00
2	Current Expenses.....	105,000.00	104,100.00
3	Equipment	14,540.00	14,540.00
4	Cancer Control and Treatment	95,000.00	95,000.00
5	Tuberculosis Field Clinic and		
6	Nursing Service—To be ex-		
7	pended in cooperation with		
8	West Virginia Tuberculosis		
9	and Health Association.....	10,000.00	10,000.00
10	Out-Patient Pneumothorax		
11	Treatment	25,000.00	25,000.00
12	Hospitalization of Needy Tu-		
13	bercular Children.....	5,000.00	5,000.00
14	Total	\$ 797,540.00	\$ 796,640.00

71—State Water Commission

Acct. No. 401

1	Personal Services.....	\$ 32,380.00	\$ 32,380.00
2	Current Expenses.....	13,300.00	13,200.00
3	Equipment	1,500.00	1,500.00
4	For cooperation with the U. S.		
5	Geological Survey for a pro-		
6	gram of stream gauging.....	4,000.00	4,000.00
7	Total	\$ 51,180.00	\$ 51,080.00

72—Bureau of Negro Welfare and Statistics

Acct. No. 403

1	Personal Services.....	\$ 14,600.00	\$ 14,600.00
2	Current Expenses	4,000.00	3,950.00
3	Equipment	250.00	250.00
4	Total	\$ 18,850.00	\$ 18,800.00

73—West Virginia Department of Veterans Affairs

Acct. No. 404

1	Personal Services	\$ 139,820.00	\$ 139,820.00
2	Current Expenses	44,950.00	44,770.00
3	Equipment	1,950.00	1,700.00
4	To provide Educational Oppor-		
5	tunities for Children of War		
6	Veterans as provided by		
7	Chapter 39, Acts of the Leg-		
8	islature, 1943	12,500.00	12,500.00
9	Total	\$ 199,220.00	\$ 198,790.00

74—Department of Public Assistance

Acct. No. 405

1	Personal Services	\$ 850,000.00	\$ 850,000.00
2	Current Expenses	172,000.00	172,000.00
3	Equipment	10,000.00	10,000.00
4	Public Assistance Grants (Clas-		

5	sified Aid)	7,000,000.00	7,000,000.00
6	Aid to Crippled Children.....	300,000.00	300,000.00
7	General Medical and Hospitali-		
8	zation	700,000.00	700,000.00
9	Conservation of Vision and Pre-		
10	vention of Blindness	35,000.00	35,000.00
11	Child Welfare Services	75,000.00	75,000.00
12	General Relief	600,000.00	600,000.00
13	Boarding Care	350,000.00	350,000.00
14	Commodity Distribution	34,890.00	34,890.00
15	Merit System	11,400.00	11,400.00
16	Social Security Matching Funds	20,000.00	20,000.00
17	Total	\$10,158,290.00	\$10,158,290.00

75—Weston State Hospital

Acct. No. 420

1	Personal Services.....	\$ 893,980.00	\$ 893,980.00
2	Current Expenses.....	619,500.00	619,500.00
3	Repairs and Alterations	27,500.00	27,500.00
4	Equipment	22,500.00	22,500.00
5	Total	\$ 1,563,480.00	\$ 1,563,480.00

76—Spencer State Hospital

Acct. No. 421

1	Personal Services.....	\$ 389,740.00	\$ 389,740.00
2	Current Expenses.....	301,600.00	301,600.00
3	Repairs and Alterations	15,000.00	15,000.00
4	Equipment	12,000.00	12,000.00
5	Total	\$ 718,340.00	\$ 718,340.00
6	All revenue collected by the		
7	above spending unit in excess		
8	of the amount required to pay		
9	the principal and interest on		
10	outstanding Clinic Bonds shall		
11	be deposited to the State		
12	Fund—General Revenue.		

77—Huntington State Hospital

Acct. No. 422

1	Personal Services	\$ 505,760.00	\$ 505,760.00
2	Current Expenses	429,200.00	429,200.00
3	Repairs and Alterations	22,500.00	22,500.00
4	Equipment	15,000.00	15,000.00
5	Total	\$ 972,460.00	\$ 972,460.00
6	All revenue collected by the		
7	above spending unit in excess		
8	of the amount required to		
9	pay the principal and inter-		
10	est on outstanding Clinic		
11	Bonds shall be deposited to		
12	the State Fund — General		
13	Revenue.		

78—Lakin State Hospital

Acct. No. 423

1	Personal Services	\$ 238,600.00	\$ 238,600.00
2	Current Expenses	152,200.00	152,200.00
3	Repairs and Alterations	12,500.00	12,500.00
4	Equipment	10,000.00	10,000.00
5	Total	\$ 413,300.00	\$ 413,300.00

79—Barboursville State Hospital

Acct. No. 424

1	Personal Services	\$ 149,500.00	\$ 149,500.00
2	Current Expenses	124,600.00	124,600.00
3	Repairs and Alterations	8,700.00	8,700.00
4	Equipment	10,700.00	7,500.00
5	Total	\$ 293,500.00	\$ 290,300.00

80—Fairmont Emergency Hospital

Acct. No. 425

1	Personal Services	\$ 98,720.00	\$ 98,720.00
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2	Current Expenses	70,000.00	70,000.00
3	Repairs and Alterations	8,000.00	8,000.00
4	Equipment	7,500.00	6,000.00
5	Total	\$ 184,220.00	\$ 182,720.00

81—*Welch Emergency Hospital*

Acct. No. 426

1	Personal Services	\$ 102,260.00	\$ 102,260.00
2	Current Expenses	135,000.00	135,000.00
3	Repairs and Alterations	8,000.00	8,000.00
4	Equipment	6,500.00	6,500.00
5	Total	\$ 251,760.00	\$ 251,760.00

82—*Hopemont Sanitarium*

Acct. No. 430

1	Personal Services	\$ 399,380.00	\$ 399,380.00
2	Current Expenses	327,660.00	327,660.00
3	Repairs and Alterations	20,000.00	20,000.00
4	Equipment	12,500.00	12,500.00
5	Total	\$ 759,540.00	\$ 759,540.00

83—*Pinecrest Sanitarium*

Acct. No. 431

1	Personal Services	\$ 537,120.00	\$ 537,120.00
2	Current Expenses	535,750.00	535,750.00
3	Repairs and Alterations	30,000.00	30,000.00
4	Equipment	39,500.00	20,000.00
5	Total	\$ 1,142 370.00	\$ 1,122,870.00

84—*Denmar Sanitarium*

Acct. No. 432

1	Personal Services	\$ 155,500.00	\$ 155,500.00
2	Current Expenses	146,700.00	146,700.00

3	Repairs and Alterations.....	10,000.00	10,000.00
4	Equipment	10,000.00	7,500.00
5	Total	\$ 322,200.00	\$ 319,700.00

85—*Berkeley Springs Sanitarium*

Acct. No. 436

1	Personal Services.....	\$ 25,900.00	\$ 25,900.00
2	Current Expenses.....	7,460.00	7,460.00
3	Repairs and Alterations.....	2,500.00	2,500.00
4	Equipment	1,500.00	1,500.00
5	Total	\$ 37,360.00	\$ 37,360.00

86—*Non-State Institutions*

Acct. No. 437

1	Morris Memorial Hospital.....	\$ 10,000.00	\$ 10,000.00
2	Marmet Hospital, Inc.....	7,500.00	7,500.00
3	Total	\$ 17,500.00	\$ 17,500.00
4	To be expended by the Depart-		
5	ment of Public Assistance to		
6	meet actual per capita costs		
7	for hospitalization of needy		
8	West Virginia patients at		
9	these institutions.		

87—*State Board of Education—Rehabilitation Division*

Acct. No. 440

1	Vocational Rehabilitation Serv-		
2	ices	\$ 300,000.00	\$ 300,000.00
3	To provide management and		
4	supervisory services for vend-		
5	ing stand program for the		
6	blind	7,420.00	7,420.00
7	Total	\$ 307,420.00	\$ 307,420.00

BUSINESS AND INDUSTRIAL RELATIONS

88—Bureau of Labor and Department of Weights and Measures

Acct. No. 450

1	Personal Services.....	\$ 193,620.00	\$ 193,620.00
2	Current Expenses.....	55,000.00	55,000.00
3	Equipment	3,000.00	3,000.00
4	Total	\$ 251,620.00	\$ 251,620.00

89—Department of Mines

Acct. No. 460

1	Personal Services.....	\$ 529,980.00	\$ 529,980.00
2	Current Expenses.....	157,250.00	157,250.00
3	Equipment	17,000.00	17,000.00
4	Total	\$ 704,230.00	\$ 704,230.00

90—Commission on Interstate Cooperation

Acct. No. 472

1	Total	\$ 8,500.00	\$ 8,500.00
2	Out of the above appropriation		
3	the sum of \$6,000.00 may be		
4	made available for West Vir-		
5	ginia's membership in the		
6	Council of State Govern-		
7	ments.		

91—Interstate Commission on Potomac River Basin

Acct. No. 473

1	West Virginia's contribution to		
2	Potomac River Basin Inter-		
3	state Commission.....	\$ 3,600.00	\$ 3,600.00

92—Ohio River Valley Water Sanitation Commission

Acct. No. 474

1	West Virginia's contribution to		
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2	the Ohio River Valley Water			
3	Sanitation Commission.....	\$	12,250.00	\$ 12,250.00

93—Department of Banking

Acct. No. 480

1	Personal Services.....	\$	60,000.00	\$ 60,000.00
2	Current Expenses.....		23,600.00	23,300.00
3	Equipment		900.00	900.00
4	Total	\$	84,500.00	\$ 84,200.00

94—West Virginia State Aeronautics Commission

Acct. No. 485

1	Personal Services.....	\$	11,900.00	\$ 11,900.00
2	Current Expenses.....		6,000.00	6,000.00
3	Equipment		300.00	300.00
4	Total	\$	18,200.00	\$ 18,200.00

95—West Virginia Industrial and Publicity Commission

Acct. No. 486

1	Personal Services.....	\$	26,140.00	\$ 26,140.00
2	Current Expenses.....		61,300.00	61,300.00
3	Equipment		1,500.00	1,000.00
4	Total	\$	88,940.00	\$ 88,440.00

96—West Virginia Non-Intoxicating Beer Commission

Acct. No. 490

1	Personal Services.....	\$	111,900.00	\$ 111,900.00
2	Current Expenses.....		60,000.00	60,000.00
3	Equipment		1,000.00	1,000.00
4	Total	\$	172,900.00	\$ 172,900.00

97—West Virginia Racing Commission

Acct. No. 495

1	To pay per diem of members			
2	and other general expenses..	\$	65,000.00	\$ 65,000.00

AGRICULTURE

98—Department of Agriculture

Acct. No. 510

1	Salary of Commissioner.....	\$ 7,250.00	\$ 7,250.00
2	Other Personal Services.....	128,490.00	128,490.00
3	Current Expenses.....	65,000.00	65,000.00
4	Equipment	9,000.00	9,000.00
5	For the Eradication and Pre-		
6	vention of Livestock Diseases		
7	—To be expended at the dis-		
8	cretion of the Commissioner		
9	of Agriculture	118,500.00	118,500.00
10	Aid to Dairy Development Pro-		
11	gram	55,000.00	55,000.00
12	Eradication and Control of Jap-		
13	anese beetle and other plant		
14	pests	20,000.00	20,000.00
15	Total	\$ 403,240.00	\$ 403,240.00

99—Department of Agriculture—Soil Conservation
Committee

Acct. No. 512

1	To pay per diem and travel ex-		
2	penses of District Supervisors		
3	and Other General Expenses		
4	of the Soil Conservation Com-		
5	mittee	\$ 50,000.00	\$ 50,000.00

100—Department of Agriculture—Marketing and Research

Acct. No. 513

1	For cooperation with the Fed-		
2	eral Government in a pro-		
3	gram of marketing and re-		
4	search	\$ 40,000.00	\$ 40,000.00
5	Any part or all of this appro-		
6	priation may be transferred		
7	to Special Revenue Fund for		

- 8 the purpose of matching fed-
 9 eral funds for the above
 10 named purpose.

101—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1 Incorporated County and Dis-			
2 trict Fairs, 4-H Fairs and Ex-			
3 hibits and Vocational Agri-			
4 cultural Fairs and Exhibits ..\$	12,500.00	\$	12,500.00
5 State Agricultural Fairs and			
6 Agricultural and Industrial			
7 Exhibits	25,000.00		25,000.00
8 West Virginia State Fair	25,000.00		25,000.00
9 Mountain State Forest Festival	10,000.00		10,000.00
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10 Total	\$ 72,500.00	\$	72,500.00
11 To be expended at the discre-			
12 tion of the Commissioner of			
13 Agriculture and in accord-			
14 ance with law.			

CONSERVATION AND DEVELOPMENT

102—*West Virginia Geological Survey*

Acct. No. 520

1 Personal Services	\$ 70,000.00	\$	70,000.00
2 Current Expenses	20,000.00		20,000.00
3 Equipment	3,100.00		3,100.00
<hr/>			
4 Total	\$ 93,100.00	\$	93,100.00
5 Of the above appropriation for			
6 Current Expenses not more			
7 than \$5,000.00 may be used			
8 each year of the biennium to			
9 cooperate with the United			
10 States Geological Survey in			
11 Ground Waters Resources			
12 Study.			

103—*Conservation Commission—Division of State Parks*

Acct. No. 522

1	Personal Services.....	\$	60,680.00	\$	70,680.00
2	Current Expenses.....		56,600.00		56,200.00
3	Repairs and Alterations.....		20,000.00		20,000.00
4	Equipment		8,960.00		8,960.00
5	Total	\$	146,240.00	\$	155,840.00

104—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1	For cooperation with the United				
2	States Department of Agri-				
3	culture in Fire Prevention				
4	and Control	\$	75,000.00	\$	75,000.00

105—*Point Pleasant Battle Monument Commission*

Acct. No. 561

1	For Maintenance of Historical				
2	Monument	\$	3,200.00	\$	3,200.00

106—*Rumseyan Society*

Acct. No. 562

1	For Maintenance of Historical				
2	Monument	\$	350.00	\$	350.00

107—*Morgan Morgan Memorial*

Acct. No. 563

1	For maintenance of Historical				
2	Monument	\$	25.00	\$	25.00

108—*Grafton G. A. R. Post*

Acct. No. 564

1	In aid of Memorial Day Patri-				
2	otic Exercises	\$	1,000.00	\$	1,000.00
3	To be expended subject to the				

- 4 approval of The Board of
 5 Public Works upon presenta-
 6 tion of satisfactory plans by
 7 the Grafton G. A. R. Post,
 8 American Legion, Veterans
 9 of Foreign Wars and Sons of
 10 Veterans.

PROTECTION

109—*Department of Public Safety*

Acct. No. 570

1	Personal Services.....	\$ 853,480.00	\$ 864,000.00
2	Current Expenses.....	556,520.00	548,520.00
3	Repairs and Alterations.....	17,500.00	17,500.00
4	Equipment	64,000.00	45,000.00
<hr/>			
5	Total	\$ 1,491,500.00	\$ 1,475,020.00

110—*Adjutant General—State Militia*

Acct. No. 580

1	Personal Services.....	\$ 51,000.00	\$ 51,000.00
2	Current Expenses	138,760.00	139,260.00
3	Repairs and Alterations.....	3,000.00	3,000.00
4	Equipment	4,000.00	4,000.00
5	Compensation of Commanding		
6	Officers, Clerical Services and		
7	Care of Property.....	73,970.00	73,970.00
<hr/>			
8	Total	\$ 270,730.00	\$ 271,230.00

111—*Division of Civilian Defense*

Acct. No. 581

1	Personal Services.....	\$ 15,000.00	\$ 15,000.00
2	Current Expenses	7,000.00	7,000.00
3	Equipment	3,500.00	3,500.00
<hr/>			
4	Total	\$ 25,500.00	\$ 25,500.00

112—*State Armory Board*

Acct. No. 582

1	For Insurance, maintenance,			
2	repair, and equipment for			
3	state owned Armories.....	\$	20,000.00	\$ 20,000.00

113—*State Board of Education—Insurance*

Acct. No. 584

1	Boiler Insurance Premiums.....	\$	7,600.00	
2	To pay insurance premiums on			
3	boilers at state colleges.			
4	The above appropriation is for			
5	premiums for a three-year			
6	period.			

114—*West Virginia Board of Control—Insurance*

Acct. No. 585

1	Boiler Insurance Premiums	\$	10,000.00	
2	To pay Insurance Premiums on			
3	boilers at state institutions.			
4	The above appropriation is for			
5	premiums for a three-year			
6	period.			

115—*State Board of Examiners of Accountants*

Acct. No. 586

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	2,000.00	\$ 2,000.00
4	From Collections		2,000.00	2,000.00

116—*State Board of Examiners of Registered Nurses*

Acct. No. 588

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	18,750.00	\$ 18,750.00
4	From Collections.....		18,750.00	18,750.00

117—*State Board of Dental Examiners*

Acct. No. 589

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 2,000.00	\$	2,000.00
4 From Collections	2,000.00		2,000.00

118—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 12,000.00	\$	12,000.00
4 From Collections	12,000.00		12,000.00

119—*State Board of Osteopathy*

Acct. No. 591

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 1,000.00	\$	1,000.00
4 From Collections	1,000.00		1,000.00

120—*State Board of Optometry*

Acct. No. 592

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 2,500.00	\$	2,500.00
4 From Collections	2,500.00		2,500.00

121—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 10,000.00	\$	10,000.00
4 From Collections	10,000.00		10,000.00

122—*State Board of Registration for Professional Engineers*

Acct. No. 594

1 To pay the per diem of mem-			
-------------------------------	--	--	--

2	bers and other general ex-			
3	penses	\$	15,000.00	\$ 15,000.00
4	From Collections.....		15,000.00	15,000.00

123—*State Board of Examiners for Architects*

Acct. No. 595

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	2,500.00	\$ 2,500.00
4	From Collections		2,500.00	2,500.00

124—*State Board of Examiners for Veterinarians*

Acct. No. 596

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	500.00	\$ 500.00
4	From Collections		500.00	500.00

125—*State Board of Law Examiners*

Acct. No. 597

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	2,400.00	\$ 2,400.00

126—*Auditor's Office—Social Security*

Acct. No. 598

1	To match contributions of state			
2	employees for social security			
3	tax	\$	192,500.00	\$ 220,000.00
4	The above appropriation is in-			
5	tended to cover the state's			
6	share of social security costs			
7	for those departments oper-			
8	ating from General Revenue			
9	Fund and General School			
10	Fund appropriations. The			
11	State Road Commission, De-			
12	partment of Motor Vehicles,			
13	Workmen's Compensation			

14 Commission, Public Service
 15 Commission, and other de-
 16 partments operating from
 17 Special Revenue Funds
 18 and/or Federal Funds shall
 19 pay their proportionate share
 20 of the social security cost
 21 for their respective divisions.
 22 Such payments may be made
 23 from the balances in the vari-
 24 ous Special Revenue Funds
 25 in excess of specific appropri-
 26 ations.

Sec. 2. *Appropriations from Other Funds.*—From the
 2 funds designated there is hereby appropriated condition-
 3 ally upon the fulfillment of the provisions set forth in
 4 chapter 39, acts of the Legislature, regular session, one
 5 thousand nine hundred thirty-nine, the following amounts,
 6 as itemized, for expenditure during the fiscal years one
 7 thousand nine hundred fifty-four and one thousand nine
 8 hundred fifty-five.

127—Department of Agriculture

Acct. No. 655

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 127,480.00	\$ 127,480.00
2	Current Expenses and Equip-		
3	ment	60,370.00	60,370.00
4	Total	\$ 187,850.00	\$ 187,850.00

5 The total amount of this appro-
 6 priation shall be paid from
 7 Special Revenue Fund out of
 8 collections made by the De-
 9 partment of Agriculture as
 10 provided by law. It is the
 11 intention that special funds
 12 in excess of the amounts

13 hereby appropriated shall be
 14 made available by budget
 15 amendments upon request of
 16 the Commissioner of Agricul-
 17 ture.

128—*State Committee of Barbers and Beauticians*

Acct. No. 656

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	19,380.00	\$	19,380.00
2	Current Expenses.....		10,550.00		10,550.00
3	Total	\$	29,930.00	\$	29,930.00

4 The total amount of this appro-
 5 priation shall be paid from
 6 Special Revenue Fund out of
 7 collections made by the State
 8 Committee of Barbers and
 9 Beauticians as provided by
 10 law.

129—*Insurance Commissioner—Fire Marshal*

Acct. No. 660

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$	69,220.00	\$	69,440.00
2	Current Expenses		27,000.00		27,000.00
3	Equipment		11,300.00		10,100.00
4	Total	\$	107,520.00	\$	106,540.00

5 The total amount of this appro-
 6 priation shall be paid from
 7 Special Revenue Fund out of
 8 collections of the special tax
 9 of one-half of one per cent of
 10 premium receipts of fire in-
 11 surance companies as pro-
 12 vided by law.

130—*Public Service Commission*

Acct. No. 661

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners.....	\$ 22,500.00	\$ 22,500.00
2	Other Personal Services.....	240,000.00	240,000.00
3	Current Expenses	27,000.00	27,000.00
4	Equipment	5,000.00	5,000.00
5	Total	\$ 294,500.00	\$ 294,500.00
6	The total amount of this appro-		
7	priation shall be paid from		
8	Special Revenue Fund out of		
9	collections for special license		
10	fees from public service cor-		
11	porations as provided by law.		
12	Out of the above appropriation		
13	\$5,000.00 may be transferred		
14	annually to the State Water		
15	Commission for use in coop-		
16	eration with the U. S. Geo-		
17	logical Survey in a program		
18	of stream gauging.		

131—*Public Service Commission—Motor Carrier Division*

Acct. No. 662

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 149,760.00	\$ 149,760.00
2	Current Expenses	39,000.00	38,700.00
3	Equipment	3,500.00	3,500.00
4	Total	\$ 192,260.00	\$ 191,960.00
5	The total amount of this appro-		
6	priation shall be paid from		
7	Special Revenue Fund out of		
8	receipts collected for or by		
9	the Public Service Commis-		
10	sion pursuant to and in the		
11	exercise of regulatory au-		

- 12 thority over motor carriers as
 13 authorized by law.

132—*Conservation Commission*

Acct. No. 663

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$ 899,180.00	\$ 899,180.00
2	Current Expenses.....	410,520.00	410,520.00
3	Repairs and Alterations.....	70,000.00	70,000.00
4	Equipment	48,000.00	48,000.00
5	Buildings, Land and Improve-		
6	ments	21,350.00	21,350.00
7	Land Purchase	90,478.00	47,850.00
8	National Forests	92,792.00	65,000.00
9	White Pine Blister Rust Con-		
10	trol	5,000.00	5,000.00
11	Oak Wilt Control.....	10,000.00	10,000.00
12	To match Pittman-Robertson		
13	appropriation	80,000.00	80,000.00
14	Dingell-Johnson	14,000.00	14,000.00
15	For payment of bounties.....	5,000.00	5,000.00
16	For construction of ponds and		
17	small lakes.....	65,000.00	65,000.00
18	For restocking of game.....	45,000.00	45,000.00
19	Total	\$ 1,856,320.00	\$ 1,785,900.00
20	The total amount of this appro-		
21	priation shall be paid from		
22	Special Revenue Fees col-		
23	lected by the Conservation		
24	Commission. Expenditures		
25	shall be limited to the		
26	amounts appropriated except		
27	for Federal Funds received		
28	and Special Funds collected		
29	at State Parks. The sum of		
30	\$5,000.00 may be transferred		
31	annually from the Current		
32	Expenses appropriation to		
33	the State Water Commission		

34 for use in cooperation with
 35 the U. S. Geological Survey
 36 in a program of stream gaug-
 37 ing.

38 Special Funds in excess of the
 39 amounts hereby appropriated
 40 may be made available by
 41 budget amendment upon re-
 42 quest of the Conservation
 43 Commission and approval
 44 of the Board of Public Works
 45 for any emergency which
 46 might arise in the operation
 47 of this Division during the
 48 biennium.

49 It is the intent of the Legisla-
 50 ture that the reductions
 51 made in the above items of
 52 appropriation shall not affect
 53 fire protection and propaga-
 54 tion of game and fish. It shall
 55 be the responsibility of the
 56 Conservation Commission to
 57 curtail other items of ex-
 58 penditure to operate within
 59 the amounts appropriated
 60 herein.

61 It is the intent of this Legisla-
 62 ture that the Conservation
 63 Commission shall not own,
 64 operate or maintain in ex-
 65 cess of one hundred ten au-
 66 tomobiles.

133—*West Virginia Liquor Control Commission*

Acct. No. 667

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of three members of		
2	the Commission.....	\$ 21,000.00	\$ 21,000.00
3	Other Personal Services	2,680,000.00	2,680,000.00

4	Current Expenses.....	816,000.00	816,000.00
5	Repairs and Alterations	17,500.00	17,500.00
6	Equipment	30,000.00	30,000.00

7	Total	\$ 3,564,500.00	\$ 3,564,500.00
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8 The total amount of this appro-
 9 priation shall be paid from
 10 the Special Revenue Fund
 11 out of liquor revenues.

12 The above appropriation in-
 13 cludes the salaries of store
 14 personnel, store inspectors,
 15 store operating expenses and
 16 equipment, and equipment
 17 for administration offices.

18 There is hereby appropriated
 19 from liquor revenues, in ad-
 20 dition to the above appropria-
 21 tion, the necessary amount for
 22 purchase of liquor.

134—*State Road Commission—General Administration
 and Engineering*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$ 353,100.00	\$ 353,100.00
2	Current Expenses	85,000.00	85,000.00
3	Equipment	20,000.00	20,000.00

4	Total	\$ 458,100.00	\$ 458,100.00
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5 In addition to the foregoing ap-
 6 propriations or claims, as au-
 7 thorized by this act or by law
 8 to be paid from the state road
 9 fund, the balance or residue
 10 of the annual receipts of the
 11 state road fund are hereby
 12 appropriated first for the pay-
 13 ment of interest on and prin-
 14 cipal of outstanding road

- 15 bonds, and thereafter for
 16 maintenance, construction
 17 and reconstruction of state
 18 roads, in accordance with the
 19 provisions of chapter seven-
 20 teen, code of West Virginia,
 21 1931, as amended.

135—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Personal Services.....	\$ 490,400.00	\$ 490,400.00
2	Current Expenses.....	200,000.00	200,000.00
3	Equipment	30,000.00	20,000.00
4	Total	\$ 720,400.00	\$ 710,400.00

136—*State Board of Education*

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$ 23,620.00	\$ 23,620.00
2	Current Expenses	12,000.00	11,800.00
3	Equipment	500.00	500.00
4	Out-of-State aid to Negroes.....	10,000.00	10,000.00
5	Total	\$ 46,120.00	\$ 45,920.00

137—*State Board of Education—Vocational Division*

Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$ 23,310.00	\$ 23,310.00
2	Current Expenses	6,700.00	6,500.00
3	Equipment	1,000.00	1,000.00
4	Vocational Aid.....	300,000.00	300,000.00
5	Total	\$ 331,010.00	\$ 330,810.00

138—*Department of Education*

Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintendent			
2	ent	\$	7,250.00	\$ 7,250.00
3	Other Personal Services		120,930.00	120,930.00
4	Current Expenses		58,850.00	54,850.00
5	Equipment		2,500.00	2,500.00
6	Salaries of County Superintendents		62,000.00	64,000.00
7				
8	Total	\$	251,530.00	\$ 249,530.00

139—*State Board of School Finance*

Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	12,720.00	\$ 12,720.00
2	Current Expenses		3,600.00	3,600.00
3	Total	\$	16,320.00	\$ 16,320.00

140—*Department of Education—Hot Lunches*

Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	37,840.00	\$ 37,840.00
2	Current Expenses		10,000.00	10,000.00
3	Aid to Counties—Includes hot			
4	lunches and canning for hot			
5	lunches		125,000.00	125,000.00
6	Total	\$	172,840.00	\$ 172,840.00

141—*Auditor's Office—Land Department*

Acct. No. 709

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$	62,780.00	\$ 62,780.00
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2	Current Expenses.....	2,000.00	2,000.00
3	Equipment	1,500.00	1,500.00
4	Total	\$ 66,280.00	\$ 66,280.00

142—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Personal Services.....	\$ 529,500.00	\$ 529,500.00
2	Current Expenses.....	175,500.00	250,500.00
3	Equipment	20,000.00	20,000.00
4	Total	\$ 725,000.00	\$ 800,000.00

5 There is hereby authorized to
 6 be paid out of the above ap-
 7 propriation for Current Ex-
 8 penses the amount necessary
 9 for the premiums on bonds
 10 given by the State Treasurer
 11 and bond custodian for the
 12 protection of the Workmen's
 13 Compensation Fund.

Sec. 3. *Deficiency Appropriations.*—From the State
 2 Fund, General Revenue, except as otherwise provided,
 3 there are hereby appropriated the following amounts, as
 4 itemized, for expenditure during the fiscal year one thou-
 5 sand nine hundred fifty-three to supplement the 1952-
 6 53 appropriations, and to be available for expenditure upon
 7 date of passage.

143—*Circuit Courts*

Acct. No. 111

1	Salaries of Judges.....	\$ 17,000.00 ✓
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144—*Auditor's Office—Criminal Charges*

Acct. No. 119

1	Total	\$ 25,000.00 ✓
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145—*Capitol Building and Grounds*

Acct. No. 270

1 Current Expenses.....	\$ 20,500.00 ✓
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146—*State Department of Education—State Aid to Schools*

Acct. No. 295

1 State aid to counties to pro-	
2 vide instruction for home-	
3 bound physically and men-	
4 tally handicapped children....	\$ 25,000.00

147—*Teachers Retirement Board*

Acct. No. 298

1 Employers' Accumulation Fund	
2 —To Match Contributions of	
3 Members	\$ 376,570.00 ✓

148—*West Virginia Industrial Home for Girls*

Acct. No. 372

1 Current Expenses.....	\$ 5,000.00 ✓
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149—*West Virginia State Prison for Women*

Acct. No. 374

1 Current Expenses.....	\$ 6,500.00 ✓
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150—*West Virginia Penitentiary*

Acct. No. 375

1 Current Expenses.....	\$ 150,000.00 ✓
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151—*Medium Security Prison*

Acct. No. 376

1 Current Expenses.....	\$ 25,000.00 ✓
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152—*Weston State Hospital*

Acct. No. 420

1 Current Expenses.....	\$ 40,000.00 ✓
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153—*Spencer State Hospital*

Acct. No. 421

1	Personal Services.....	\$	40,000.00 ✓
2	Current Expenses.....		46,000.00 ✓
			<hr/>
3	Total	\$	86,000.00

154—*Huntington State Hospital*

Acct. No. 422

1	Current Expenses.....	\$	20,000.00 ✓
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155—*Lakin State Hospital*

Acct. No. 423

1	Personal Services.....	\$	25,000.00 ✓
2	Current Expenses.....		16,000.00 ✓
			<hr/>
3	Total	\$	41,000.00

156—*Pinecrest Sanitarium*

Acct. No. 431

1	Current Expenses.....	\$	25,000.00 ✓
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157—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1	Total	\$	50,000.00
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158—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Other Personal Services	\$	31,500.00 ✓
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159—*Department of Education*

Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Current Expenses.....	\$	10,000.00 ✓
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Section 4. *Awards for Claims Against the State.—Ap-*

2 propriations to pay awards for claims against the State as
 3 approved and certified by the State Court of Claims are for
 4 the remainder of the fiscal year 1952-53, and to remain in
 5 effect until June 30, 1955.

Claims Versus State Road Commission

TO BE PAID FROM STATE ROAD FUND

1 Andrews, Doyle _____	\$	121.50
2 Copley, Jennie Bell _____		350.00
3 Copley, Stanley _____		50.25
4 Gill, Stanley B. and Florence L.		1,100.00
5 Higginbotham, P. O. _____		600.00
6 Colonial Glass Company _____		335.35
7 Jarrell, Roger Dale, by Eugene		
8 Jarrell, his father and legal		
9 guardian _____		200.00
10 Meadows, O. W. _____		117.18
11 Meadows, Ocie _____		150.00
12 Wilkinson, Fred N. _____		50.00
13 Total _____	\$	3,074.28

Claims Versus State Tax Commissioner

TO BE PAID FROM STATE ROAD FUND

1 Corbin, Frank P. d/b/a Osgood		
2 Bus Lines _____	\$	558.80

Claims Versus State Auditor—Land Department

TO BE PAID FROM GENERAL SCHOOL FUND

1 Holliday, J. Kelvin and Kath-		
2 leen Holliday, d/b/a The Fay-		
3 ette Tribune _____	\$	76.55

Claims Versus Department of Archives and History

TO BE PAID FROM GENERAL REVENUE FUND

1 Norris, Fred W. _____	\$	150.00
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Claims Versus State Adjutant General

TO BE PAID FROM GENERAL REVENUE FUND

1 Crichton, H. N. (Mrs.) _____	\$	30.00
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2	Esso Standard Oil Company ---	58.00
3	Johnson, Cora _____	30.00
4	Rich Valley Dairy Company ---	416.47
5	Stewart, Clifford S. _____	79.41
6	Weekley, Margaret E. _____	57.00
7	Weekley, J. C. _____	608.82
8	Young, Hazen D. _____	202.90
9	Total _____	\$ 1,482.60

Claims Versus State Board of Control

TO BE PAID FROM GENERAL REVENUE FUND

1	Bumgarner, Wallace _____	\$ 2,000.00
2	Reynolds, James _____	550.00
3	Total _____	\$ 2,550.00

*Claims Versus State Board of Control**Huntington State Hospital*

TO BE PAID FROM GENERAL REVENUE FUND

1	Crichton Engineering Company	\$ 2,903.00
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*Claims Versus Potomac State College of
West Virginia University*

TO BE PAID FROM GENERAL REVENUE FUND

1	Melody, Thomas _____	\$ 20.00
2	Zacot, Francis _____	93.00
3	Beal, Edward _____	255.73
4	Pendegrast, Robert _____	15.00
5	Total _____	\$ 383.73

Claims Versus State Tax Commissioner

TO BE PAID FROM GENERAL REVENUE FUND

1	American Oil Company _____	\$ 674.83
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*Claims Versus State Auditor**Criminal Claims Department*

TO BE PAID FROM GENERAL REVENUE FUND

1	Chambers, Thurman, Sheriff of
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2	Mingo County	\$	82.40
3	Dean, James J., Sheriff of		
4	Greenbrier County		137.80
5	Frame, Drexell, Sheriff of Gil-		
6	mer County		20.00
7	Morrison, F. A., Sheriff of		
8	Mason County		20.20
9	Pugh, Warren W., Sheriff of		
10	Ohio County		63.00
11	Smith, Houston A.		300.00
12	Wilson, Howard E., Sheriff of		
13	Clay County		149.70
14	Wright, Dick, Sheriff of Han-		
15	cock County		283.70
16	Total	\$	1,056.80

Claims Versus State Conservation Commission

TO BE PAID FROM SPECIAL REVENUE FUND

1	Cleaver, Tressie V., admx. es-		
2	tate of Lemuel A. Cleaver,		
3	Jr., deceased	\$	256.80
4	Herbaugh, Sylvia		75.00
5	Total	\$	331.80

Section 5. *Appropriations from Surplus Revenues.*—The following items are appropriated from the General Revenue Fund, subject to the following terms and conditions:

(a) The following items are hereby appropriated and are to be available for expenditure only out of the surplus in the Treasury on the first day of July, 1953, or at the time release or encumbrance of any such items is made, subject to the conditions and limitations hereinafter expressed.

Before making funds available or encumbering such surplus for expenditure hereunder, except as otherwise provided, The Board of Public Works shall review the revenues of the state from the date that appropriations hereunder are expected to be made available or encumbered for expenditure hereunder, and determine whether, in its opinion, revenues then in prospect or on hand will be sufficient to

16 meet all appropriations under this section, and make a find-
17 ing with respect thereto.

18 (b) The order in which the items of this section are
19 named does not indicate a preference as to priority of ex-
20 penditure. The Board of Public Works may authorize the
21 expenditure of any one or more of said items without re-
22 gard to the order in which they are listed.

23 (c) The amounts of the several items are suggestive, and
24 are not to be considered as absolute. The Board may revise
25 or reduce any item downward, without restriction, or elim-
26 inate it entirely, and may increase any one or more of the
27 items by not more than twenty-five per cent, so long as
28 such increases, if any, as to items so increased and released
29 do not exceed the total amount made available under this
30 section, and corresponding decreases or eliminations are
31 made to offset increases.

32 (d) Expenditures authorized, which are for construction
33 purposes, shall be for a complete and usable unit or project
34 including necessary equipment, and in any case where addi-
35 tional funds are available, by aid from a Federal Agency
36 or other source, such fact may be considered by the Board
37 in determining what items should at any time be encum-
38 bered or released for expenditure 1: *Provided*, That in
39 making such release the Board shall first determine that all
40 funds available will be provided for completion of a com-
41 plete and usable unit or project, including necessary
42 equipment.

43 (e) Any of the items under this section may be released
44 or encumbrances made therefor at any time after the first
45 day of July, 1953, as the Board may deem proper, subject
46 to the limitations of subsection (a) herein.

47 Subject to the foregoing conditions, the following appro-
48 priations are made for the purposes named in this section:

49 Item 1: West Virginia Uni-
50 versity, to complete and equip
51 Music Building; (a part or all
52 of this appropriation may be
53 made available for expenditure
54 from date of passage of this
55 act) _____

\$ 170,000.00

56 Item 2: West Virginia Uni-	
57 versity, to construct and	
58 equip a girls' dormitory (to be	
59 supplemented by funds de-	
60 rived from sale of Revenue	
61 Bonds) _____	700,000.00
62 Item 3: West Virginia Uni-	
63 versity — Reymann Memorial	
64 Farm, for construction of a lay-	
65 ing and brooding house _____	16,000.00
66 Item 4: West Virginia Uni-	
67 versity—Ohio Valley Sub-Sta-	
68 tion, for construction of tobacco	
69 barn _____	12,000.00
70 Item 5: Potomac State	
71 School, for repair and renova-	
72 tion and/or sprinkler system	
73 for boys' dormitory _____	40,000.00
74 Item 6: Marshall College, to	
75 construct and equip a girls'	
76 dormitory (to be supple-	
77 mented by funds derived from	
78 sale of Revenue Bonds) _____	325,000.00
79 Item 7: Glenville State Col-	
80 lege, for major building repairs	
81 and alterations _____	50,000.00
82 Item 8: West Liberty State	
83 College, to construct and equip	
84 a Physical Education building	500,000.00
85 Item 9: West Liberty State	
86 College, for furnishings for	
87 present girls' dormitory _____	25,000.00
88 Item 10: Shepherd College,	
89 for purchase of land from the	
90 City of Shepherdstown _____	4,000.00
91 Item 11: Concord College, to	
92 complete athletic field _____	85,000.00
93 Item 12: West Virginia Insti-	
94 tute of Technology: (a) for	
95 renovation and fireproofing of	
96 Old Main Building, \$115,000.00;	

197 and (b) for completion of Sci-	
198 ence Building, \$21,000.00; (a	
199 part or all of this appropriation	
100 may be made available for ex-	
101 penditure from date of passage	
102 of this act) _____	136,000.00
103 Item 13: West Virginia State	
104 College, for major building re-	
105 pairs and renovations _____	50,000.00
106 Item 14: West Virginia State	
107 College, to purchase equipment	
108 for new Science Building _____	50,500.00
109 Item 15: West Virginia State	
110 College, for purchase of land ---	21,750.00
111 Item 16: West Virginia	
112 Schools for the Deaf and Blind,	
113 for dormitory, classroom and	
114 hospital building _____	400,000.00
115 Item 17: West Virginia In-	
116 dustrial School for Boys, to	
117 construct and equip a Physical	
118 Education Building _____	225,000.00
119 Item 18: West Virginia In-	
120 dustrial Home for Girls, for	
121 major building repairs _____	25,000.00
122 Item 19: West Virginia State	
123 Prison for Women, for pur-	
124 chase of land _____	8,000.00
125 Item 20: West Virginia Peni-	
126 tentiary, for completion of new	
127 cell block and mine shaft and	
128 for fireproofing roof area of ad-	
129 ministration section; (a part or	
130 all of this appropriation may be	
131 made available for expenditure	
132 from the date of passage of this	
133 act) _____	300,000.00
134 Item 21: West Virginia Pen-	
135 itentiary, for purchase of land	
136 (this appropriation may be	

137 made available from date of 138 passage of this act) _____	18,000.00
139 Item 22: Medium Security 140 Prison, to complete waterproof- 141 ing of main building, construc- 142 tion of pasteurization plant 143 and equipment, and cannery 144 building and equipment _____	57,500.00
145 Item 23: West Virginia Chil- 146 dren's Home, for hay barn and 147 fencing _____	3,500.00
148 Item 24: West Virginia Col- 149 ored Children's Home, for in- 150 stallation of showers and major 151 plumbing repairs _____	10,000.00
152 Item 25: West Virginia Home 153 for Aged and Infirm Colored 154 Men and Women, for major 155 building repairs _____	7,500.00
156 Item 26: West Virginia 157 Training School, for new build- 158 ing or buildings, including a 159 ward building. A part of this 160 appropriation may be used to 161 repair administration building	500,000.00
162 Item 27: Andrew S. Rowan 163 Memorial Home, for purchase 164 of land and improvement of 165 water system. A part of this ap- 166 propriation may be used to re- 167 pair administration building	25,000.00
168 Item 28: Weston State Hos- 169 pital, for renovation and fire- 170 proofing of old buildings and/or 171 construction of new buildings 172 to replace present structures....	1,150,000.00
173 Item 29: Spencer State Hos- 174 pital, for renovation and fire- 175 proofing of existing buildings....	600,000.00
176 Item 30: Huntington State 177 Hospital, for renovation and	

178 fireproofing of old buildings	
179 and/or construction of new	
180 building to replace present	
181 structures -----	1,000,000.00
182 Item 31: Lakin State Hos-	
183 pital, for employees' dormitory	100,000.00
184 Item 32: Fairmont Emergen-	
185 cy Hospital, for roof repairs	
186 and to replace elevator -----	28,500.00
187 Item 33: Welch Emergency	
188 Hospital, for major building re-	
189 pairs and repairs to elevator	8,000.00
190 Item 34: Hopemont Sanitar-	
191 ium, for additional floors to	
192 new hospital unit; (a part or	
193 all of this appropriation may be	
194 made available for expenditure	
195 from the date of passage of this	
196 act) -----	400,000.00
197 Item 35: Denmar Sanitar-	
198 ium, for employees' dormitory	100,000.00
199 Item 36: Denmar Sanitar-	
200 ium, for machine shed and	
201 storage building -----	10,000.00
202 Item 37: Berkeley Springs	
203 Sanitarium, for construction of	
204 a bath house and major build-	
205 ing repairs -----	45,000.00
206 Item 38: State Board of Ed-	
207 ucation, for construction of a	
208 bridge at the FFA-FHA Camp	
209 and Conference Center located	
210 in Jackson County -----	55,000.00
211 Item 39: Department of Ed-	
212 ucation, for temporary supple-	
213 mental aid to counties to be	
214 distributed by the State Board	
215 of School Finance for the two	
216 year period beginning July 1,	
217 1953, in accordance with the	

218 new formula for distribution
219 of state aid to schools 2,500,000.00
220 Item 40: State Office Build-
221 ing Commission, for payment
222 of principal and interest due
223 October 1, 1953, and April 1,
224 1954, on bonds issued for con-
225 struction of an office building
226 at the corner of California Av-
227 enue and Washington Street .. 140,000.00
228 The foregoing amount to be
229 refunded to the general reve-
230 nue fund at such time as suf-
231 ficient revenues have accrued
232 to the State Office Building
233 Commission in excess of an-
234 nual bond requirements and
235 operating expenses as provided
236 in the bond resolution.
237 Item 41: Conservation Com-
238 mission, for the following pur-
239 poses:
240 (a) Construction of tele-
241 phone line to Lost River State
242 Park \$10,000.00; (b) construc-
243 tion of concession building and
244 equipment and for beach im-
245 provements at Tygart Lake
246 State Park \$40,000.00; (c) to ac-
247 quire land \$10,000.00 and con-
248 struction of parking lot \$3,-
249 000.00 at Cathedral State Park;
250 (d) for Picnic Shelter, parking
251 area, additional road for one
252 way traffic to "Fall View" at
253 Blackwater Falls State Park,
254 and other improvements \$30,-
255 000.00; (e) for bath house and
256 filtering system at Greenbrier
257 State Forest \$40,000.00; (f) for
258 construction of Superintend-

259 ent's residence at Spring Run	
260 Trout Hatchery \$15,000.00; (g)	
261 for construction of Superin-	
262 tendent's residence at Audra	
263 State Park \$15,000.00; (h) for	
264 improvements at Coonskin	
265 Park in Kanawha County, to	
266 be expended upon recommen-	
267 dation of the Coonskin Park	
268 Commission \$40,000.00; (i) for	
269 development of new State Park	
270 in Ritchie County \$30,000.00;	
271 (j) for development of new	
272 State Park in Gilmer County	
273 \$30,000.00; and (k) for im-	
274 provement of Grandview State	
275 Park in Raleigh County \$30,-	
276 000.00	293,000.00
277 Item 42: State Armory	
278 Board, for construction and/or	
279 acquisition of new armories,	
280 including needed land acquisi-	
281 tion, and for purchase and re-	
282 pair of buildings now used or	
283 to be used as armories	100,000.00
284 Item 43: The Board of Pub-	
285 lic Works, for an independent	
286 audit of the Tax Commis-	
287 sioner's Office and the Depart-	
288 ment of Motor Vehicles	75,000.00
289 Item 44: State Road Com-	
290 mission, for construction of	
291 secondary roads	3,500,000.00

Sec. 6. *Reappropriations.*—The date for expiring the 2 unexpended balances, if any, in items 2, 4, 15, 19, 24, 47 3 and 52 in the appropriations made by and under au- 4 thority of Section 5 of the 1949 Budget Act, as reappro- 5 priated by Section 6 of the 1951 Budget Act, and item 6 8 of the appropriations made by and under authority of 7 Section 5 of the 1951 Budget Act, is extended to June

8 30, 1954, and such items are hereby reappropriated from
9 their respective dates of expiration to June 30, 1954, ex-
10 cept that only \$110,000.00 of item 24, is reappropriated
11 by this section. The State Office Building Commission
12 may expend from the amount hereby reappropriated a
13 sum sufficient to cover increased costs, caused by un-
14 avoidable delay, in the construction of the State Office
15 Building presently being constructed on the corner of
16 Washington Street and California Avenue in the City
17 of Charleston. A part or all of this reappropriation may
18 be made available for expenditure for the last mentioned
19 purpose from the date of passage of this Act.

Sec. 7. *Special Revenue Appropriations.*—There is here-
2 by appropriated for expenditure during the fiscal years
3 one thousand nine hundred fifty-four and one thousand
4 nine hundred fifty-five appropriations made by general law
5 from special revenue which are not paid into the state fund
6 as general revenue under the provisions of section two,
7 article two, chapter twelve of the code of West Virginia,
8 one thousand nine hundred thirty-one: *Provided, however,*
9 That none of the moneys so appropriated by this section
10 shall be available for expenditure except in compliance
11 with and in conformity to the provisions of articles 2 and
12 3, of chapter 12, code of West Virginia, and chapter 39, acts
13 of the Legislature, regular session, one thousand nine hun-
14 dred thirty-nine, and unless the spending unit has filed
15 with the state director of the budget and the state auditor
16 prior to the beginning of each fiscal year:

17 (a) An estimate of the amount and sources of all reve-
18 nues accruing to such fund:

19 (b) A detailed expenditure schedule showing for what
20 purposes the fund is to be expended.

Sec. 8. *Appropriations Revived and Extended.*—A part
2 of an appropriation to a spending unit that remains unex-
3 pended at the end of the fiscal year one thousand nine hun-
4 dred fifty-four may, by order of the board of public works,
5 be revived and expended only to meet unforeseen contin-
6 gencies arising during the fiscal year one thousand nine
7 hundred fifty-five.

Sec. 9. *Specific Statutory Appropriations.*—Whenever the
2 specific payment of a definite sum of money is required by
3 general law such sum shall be paid from the proper item
4 appropriated by this act.

Sec. 10. *Specific Funds and Collection Accounts.*—A
2 fund or collection account, which by law is dedicated to a
3 specific use is hereby appropriated in sufficient amount to
4 meet all lawful demands upon the fund or collection ac-
5 count, and shall be expended according to the provisions
6 of article three, chapter twelve of the code of West Vir-
7 ginia, one thousand nine hundred thirty-one.

Sec. 11. *Appropriations for Refunding Erroneous Pay-*
2 *ments.*—Money that has been erroneously paid into the
3 state treasury is hereby appropriated out of the fund into
4 which it was paid for refund to the proper person.
5 When the officer authorized by law to collect money for
6 the state finds that a sum has been erroneously paid, he
7 shall issue his requisition upon the auditor for the refund-
8 ing of the proper amount. The auditor shall issue his war-
9 rant to the treasurer and the treasurer shall pay the war-
10 rant out of the fund into which the amount was originally
11 paid.

Sec. 12. *Contingent Fund.*—A contingent fund may be
2 expended as appropriated, with the approval of the board
3 of public works, when the expenditure will improve the
4 governmental service and care for unexpected contingen-
5 cies. A part of a contingent fund that remains unexpended
6 at the end of the first fiscal year shall automatically become
7 available for expenditure during the second fiscal year.
8 The expenditure of the governor's civil contingent fund,
9 and the legislative contingent funds shall not be condition-
10 ed upon the approval of the board of public works.

Sec. 13. *Sinking Fund Deficiencies.*—There is hereby ap-
2 propriated to the board of public works a sufficient amount
3 to meet a deficiency that may arise in the funds of the state
4 sinking fund commission because of the failure of any state
5 agency for either general obligation or revenue bonds or
6 any local taxing district for general obligation bonds to re-

7 mit funds necessary for the payment of interest and sinking
8 fund requirements. The board of public works is authorized
9 to transfer from time to time such amounts to the state sink-
10 ing fund commission as may be necessary for this purpose.
11 The state sinking fund commission shall reimburse the
12 State of West Virginia through the board of public works
13 from the first remittance collected from any state agency
14 or local taxing district for which the board of public works
15 advanced funds, with interest at the rate carried by the
16 bonds for which the advance was made.

Sec. 14. *Appropriations from Taxes and License Fees.*—

2 There is hereby appropriated from all chain store tax fees
3 and general license taxes collected by the state tax com-
4 missioner, all necessary salaries and expenses, not to ex-
5 ceed twenty-five per cent of the gross collections author-
6 ized by law to be expended in the collection of such chain
7 store tax fees and general license taxes. There is hereby
8 appropriated from the cigarette tax for administration and
9 enforcement of the law relating to said tax a sum not to
10 exceed one and one-half per cent of the tax collected or
11 stamps sold. There is hereby appropriated from the soft
12 drink tax revenues for administration and enforcement of
13 the law relating to said tax, a sum not to exceed two and
14 one-half per cent of the total revenues collected. All such
15 salaries and expenses, authorized by law as aforesaid, shall
16 be paid by the tax commissioner through the state treas-
17 urer out of gross collections.

Sec. 15. *Appropriations to Pay Premiums on Bonds of*

2 *County Clerks.*—There is hereby appropriated out of the
3 general school fund, to be paid upon the requisition of the
4 auditor, a sum sufficient to pay premiums on bonds of
5 county clerks to protect funds belonging to the said gen-
6 eral school fund, and out of the special revenue fund of the
7 conservation commission, to be paid upon the requisition
8 of the director, a sum sufficient to pay premiums on
9 bonds of county clerks to protect funds belonging to the
10 said conservation commission.

Sec. 16. *Appropriations to Pay Costs of Publication of*

2 *Delinquent Corporations.*—There is hereby appropriated

3 out of the state fund, general revenue, out of funds not
4 otherwise appropriated to be paid upon requisition of the
5 auditor and/or the governor, as the case may be, a sum
6 sufficient to pay the cost of publication of delinquent
7 corporations as provided by sections seventy-five and sev-
8 enty-seven of article twelve, chapter eleven, code of West
9 Virginia.

Sec. 17. *Appropriations for Local Governments.*—There
2 is hereby appropriated for payment to counties, districts,
3 and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal cor-
5 porations and which have been paid into the treasury:

- 6 1. For the redemption of lands;
- 7 2. By public service corporations;
- 8 3. For tax forfeitures.

Sec. 18. *Printing Costs.*—The cost of printing, binding
2 and stationery for each spending unit shall be paid from
3 the current expenses appropriation for the spending unit.
4 *Provided, however,* That no annual or biennial report of
5 any spending unit shall be printed except upon order of
6 the Governor in accordance with Chapter 5, article 1,
7 section 20, of the code of West Virginia, one thousand
8 nine hundred thirty-one, as amended: *Provided, further,*
9 That the amounts expended for printing, binding and
10 stationery shall not exceed the amounts set forth in the
11 printing and binding appendix "A" to this budget act.
12 For those spending units not listed in the appendix, ex-
13 penditures for printing, binding and stationery shall not
14 exceed the amounts approved by the board of public
15 works in the budget document. Spending units shall
16 maintain subsidiary records covering printing and bind-
17 ing which shall be subject to audit by the State Tax Com-
18 missioner.

Sec. 19. *Total Appropriation.*—Where only a total sum
2 is appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital out-
4 lay, except as otherwise provided in Title I, Section 3.

Sec. 20. *General School Fund.*—The balance of the pro-

2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropri-
4 ated for expenditure in accordance with section six, article
5 nine, chapter eighteen of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended.

Title 3. Administration.

Section

1. Appropriations conditional.
2. Suspension of certain acts.
3. Limitation on spending.
4. Limitation on publicity.
5. Limitation on expenditures for insurance.
6. Appropriations for supplemental retirement benefits.
7. Constitutionality.

Section 1. *Appropriations Conditional.*—The expendi-
2 tures of the appropriations made by this act, except those
3 appropriations made to the legislative and judicial
4 branches of the state government, are conditioned upon
5 the compliance by the spending unit with the require-
6 ments of article five, chapter five, of the code of West
7 Virginia, one thousand nine hundred thirty-one, as
8 amended by chapter thirty-nine, acts of the Legislature,
9 regular session, one thousand nine hundred thirty-nine.

Sec. 2. *Suspension of Certain Acts.*—A provision of an-
2 other act, or of the code of West Virginia, one thousand
3 nine hundred thirty-one, as amended, which is in conflict
4 with the provisions of this act is hereby suspended dur-
5 ing the operation of this act.

Sec. 3. *Limitation on Spending.*—The appropriations
2 made by this act are made for the maintenance and op-
3 eration of the departments, services, and institutions, hu-
4 mane, educational, eleemosynary, and penal, as hereto-
5 fore established by the Legislature, and may be expended
6 only for the maintenance and operation of the depart-
7 ments, services, and institutions as so established. All
8 requisitions for the purchase of automobiles and all re-
9 quests for transfer of automobiles from one spending unit
10 to another shall be approved by the board of public works
11 as to the necessity and propriety therefor before any ob-
12 ligation is made for the purchase or transfer of such
13 equipment. No part of any appropriation, including con-

14 tingent and emergency appropriations, made by this act
15 for any institution, humane, educational, eleemosynary,
16 or penal, shall be expended for any purpose or at any
17 place other than for the maintenance and operation of
18 such institution at the geographical place or location at
19 which such institution has heretofore been established
20 by the Legislature, and for no other purpose and at no
21 other place: *Provided, however,* That where any appro-
22 priation appears in the name of an institution, the name
23 of which has been changed by an act of this session of
24 the Legislature, the funds appropriated for the old in-
25 stitution shall be applied to the institution operating
26 under the new name and succeeding to the possession of
27 the physical plant of the former institution, and any of-
28 ficer or person who shall expend or shall participate in
29 the expenditure of any part of any appropriation made
30 by this act in violation of any of the provisions hereof
31 shall be personally liable therefor. Travel expenses shall
32 not exceed the amounts listed in Appendix "B" of this
33 act. For those spending units not listed, the travel ex-
34 penses shall not exceed the amounts approved by the
35 board of public works in the budget document on the
36 line entitled "Travel Expenses". Gasoline, oil and re-
37 pairs are not to be included in this limitation unless such
38 expenditures have been combined in the budget docu-
39 ment under "Travel Expenses". Spending units shall main-
40 tain subsidiary records covering travel expenses which
41 shall be subject to audit by the State Tax Commissioner.
42 It is the intention of the Legislature in making the ap-
43 propriations herein for "Personal Services" that reduc-
44 tions in the amounts recommended and approved by the
45 Board of Public Works in the budget document shall be
46 accomplished by reduction in personnel and shall not
47 prejudice the granting of normal wage and salary in-
48 creases recommended by the Board for all employees.

Sec. 4. *Limitation on Publicity.*—Spending units other
2 than the West Virginia Industrial and Publicity Commis-
3 sion shall not expend funds appropriated to them here-
4 under, or receivable as special revenues or otherwise as
5 a result of acts of the Legislature, in advertising the state

6 as a whole, or in the employment of personnel whose
7 major duties are publicity or promotional work to that
8 end. Spending units which conduct advertising or pro-
9 motional work as a part of their functioning shall, in any
10 case where expenditures therefor exceed five hundred
11 dollars, have the program first approved by the director
12 of said commission before any expense in excess of five
13 hundred dollars in any one year is incurred: *Provided*,
14 *however*, That no funds shall be spent by any agency,
15 unit, department, state officer or employee, publicizing
16 any individual, state officer or employee.

Sec. 5. *Limitation on Expenditures For Insurance.*—Not
2 more than ten per cent of the total amount which may
3 be expended from all appropriations of this act for the
4 payment of premiums on fire, casualty or fidelity insur-
5 ance shall be paid to insurance agents or agencies in any
6 one county, and of such total amount not more than five
7 per cent shall be paid to any one insurance agent or
8 agency.

Sec. 6. *Appropriations for Supplemental Retirement*
2 *Benefits.*—From the amounts appropriated for personal
3 services in the various state colleges, the board of educa-
4 tion may, at its discretion, authorize the payment of sup-
5 plemental retirement benefits as provided in section two-
6 a, article seven-a, of chapter eighteen of the code of West
7 Virginia, one thousand nine hundred and thirty-one, as
8 amended, provided the necessary adjustments can be made
9 in personnel to provide the amount required to pay such
10 benefits: *And provided further*, That expenditures under
11 this section for the fiscal year ending June thirty, one
12 thousand nine hundred fifty-four and for the fiscal year
13 ending June thirty, one thousand nine hundred fifty-five
14 shall not exceed the following amounts for each year:

15 Marshall College, fifteen thousand dollars; Concord Col-
16 lege, five thousand dollars; Shepherd College, five thou-
17 sand dollars; Fairmont State College, five thousand dol-
18 lars; West Liberty State College, four thousand dollars;
19 West Virginia State College, four thousand dollars; Glen-
20 ville State College, three thousand dollars; Bluefield State

21 College, three thousand dollars; West Virginia Institute
22 of Technology, three thousand dollars.

Sec. 7. *Constitutionality*.—If any part of this act is de-
2 clared unconstitutional by a court of competent jurisdic-
3 tion, its decision shall not affect any portion of this act
4 which remains, but the remaining portions shall be in
5 full force and effect as if the portion declared unconstitu-
6 tional had never been a part of the act.

APPENDIX "A" TO BUDGET BILL

Biennium Beginning July 1, 1953 and ending June 30, 1955

PRINTING AND BINDING

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
123	1,000.00	900.00
150	4,500.00	4,000.00
151	4,500.00	4,000.00
160	1,000.00	900.00
180	31,500.00	45,000.00
190	450.00	400.00
210	1,575.00	7,150.00
211	270.00	240.00
250	2,240.00	2,000.00
290	3,600.00	3,200.00
298	720.00	640.00
300	31,500.00	28,000.00
301	1,080.00	960.00
302	1,350.00	1,200.00
310	900.00	800.00
315	3,140.00	2,880.00
320	13,050.00	11,600.00
321	720.00	640.00
322	1,350.00	1,200.00
323	3,150.00	2,900.00
324	2,700.00	2,400.00
325	1,350.00	1,200.00
327	2,250.00	2,000.00
328	1,350.00	1,200.00

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
329	1,800.00	1,600.00
340	2,700.00	2,400.00
375	540.00	480.00
400	8,100.00	7,200.00
401	1,350.00	1,200.00
403	270.00	240.00
404	2,250.00	2,000.00
420	1,170.00	1,000.00
421	630.00	560.00
422	540.00	480.00
430	900.00	800.00
431	720.00	640.00
450	1,800.00	1,600.00
460	16,200.00	14,400.00
480	2,700.00	2,400.00
486	13,500.00	12,000.00
490	1,350.00	1,200.00
510	6,200.00	5,700.00
520	2,250.00	2,000.00
521	45,000.00	40,000.00
580	1,350.00	1,200.00
655	5,400.00	4,800.00
660	900.00	800.00
661	2,000.00	1,800.00
662	1,350.00	1,200.00
667	18,000.00	16,000.00
670	20,500.00	18,000.00
671	112,000.00	112,000.00
700	900.00	800.00
701	1,350.00	1,200.00
703	36,000.00	32,000.00
704	540.00	480.00
705	700.00	650.00
900	4,500.00	4,000.00

APPENDIX "B" TO BUDGET BILL

Biennium Beginning July 1, 1953 and ending June 30, 1955

TRAVEL EXPENSES *

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
123 -----	\$ 32,500.00	\$ 32,500.00
151 -----	2,900.00	2,900.00
180 -----	80,000.00	80,000.00
190 -----	3,600.00	3,600.00
290 -----	2,500.00	2,500.00
315 -----	2,700.00	2,700.00
320 -----	10,800.00	10,800.00
321 -----	3,100.00	3,100.00
322 -----	1,800.00	1,800.00
323 -----	2,200.00	2,200.00
324 -----	3,300.00	3,300.00
325 -----	3,100.00	3,100.00
327 -----	3,000.00	3,000.00
329 -----	2,700.00	2,700.00
401 -----	6,000.00	6,000.00
403 -----	2,900.00	2,900.00
404 -----	24,000.00	24,000.00
450 -----	46,800.00	46,800.00
460 -----	108,000.00	108,000.00
480 -----	18,000.00	18,000.00
485 -----	1,800.00	1,800.00
486 -----	1,800.00	1,800.00
490 -----	58,500.00	58,500.00
510 -----	31,000.00	31,000.00
520 -----	4,500.00	4,500.00
580 -----	5,800.00	5,800.00
581 -----	3,800.00	3,800.00
660 -----	13,500.00	13,500.00
661 -----	7,200.00	7,200.00
670 -----	16,200.00	16,200.00
671 -----	21,000.00	21,000.00
700 -----	8,100.00	8,100.00
701 -----	15,100.00	15,100.00
703 -----	27,500.00	27,500.00

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
704 _____	2,500.00	2,500.00
705 _____	6,300.00	6,300.00
900 _____	37,000.00	37,000.00

* As shown in Budget Document on lines under "Travel Expense".

CHAPTER 11

(House Bill No. 511—By Mr. Perry and Mr. Barron)

AN ACT to amend and reenact section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assistant attorneys general.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 3. Attorney General.

Section

3. Assistants to attorney general.

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Assistants to Attorney General.*—The attorney general may appoint such assistant attorneys general as may be necessary to properly perform the duties of his office. One of such assistants shall be designated the first assistant attorney general and shall receive a salary not in excess of seven thousand dollars per annum, and each of the other assistant attorneys general shall receive a salary not in excess of six thousand five hundred dollars per annum. The total compensation of all such assistants shall be within the limits of the amounts appropriated by the Legislature for personal services. All assistant attor-

- 12 neys general so appointed shall serve at the pleasure of
13 the attorney general and shall perform such duties as he
14 may require of them.
-

CHAPTER 12

(House Bill No. 112—By Mr. Bowles)

AN ACT to authorize the state auditor to transfer certain
obsolete balances now in two special revenue accounts
into the general revenue fund.

Passed February 18, 1953; in effect ninety days from passage. Approved by the
Governor.]

Section

1. Authorized transfer of obsolete balances.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorized Transfer of Obsolete Balances.*—

- 2 The following balances of special revenue accounts hav-
3 ing been carried for many years on state financial rec-
4 ords and there being no discernible likelihood of future
5 reimbursements to possible claimants, the state auditor
6 is hereby authorized to transfer these balances as fol-
7 lows: (a) expert engineer fund, public service commis-
8 sion, five hundred eight dollars and fifty-five cents, and
9 (b) chief inspector account, state tax commissioner, seven
10 hundred thirty-one dollars and sixty-six cents, into the
11 general revenue fund.
-

CHAPTER 13

(House Bill No. 120—By Mr. Bowles)

AN ACT to authorize the state auditor to expend from collec-
tions in the operating fund of the land department of the
state auditor's office, an amount not to exceed ten thousand

dollars for the purchase of new shelving for land books, land grant books, and delinquent tax records in the vault room of the land department in the state auditor's office.

[Passed February 17, 1953; in effect from passage. Approved by the Governor.]

Section

1. Expenditure for new shelving.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Expenditure for New Shelving.*—The state
- 2 auditor is hereby authorized to expend from the operating
 - 3 fund of the land department of the state auditor's office,
 - 4 established by section seven, article four, chapter eleven-a
 - 5 of the code of West Virginia, a sum not to exceed ten
 - 6 thousand dollars, for the purchase of new shelving for
 - 7 land books, land grant books and delinquent tax records
 - 8 in the vault room of the land department of his office.

CHAPTER 14

(Com. Sub. for House Bill No. 121—Originating in the House Committee on Finance)

AN ACT to amend and reenact chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred fifty-one, relating to the compiling, printing, and sale of an official index of land grants by the state auditor.

[Passed February 20, 1953; in effect from passage. Approved by the Governor.]

Section

1. Expenditure for printing of index to land grants.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 1. *Expenditure for Printing of Index to Land Grants.*—The state auditor is hereby authorized to expend from the operating fund of the land department of the state auditor's office, established by section seven, article four, chapter eleven-a of the code of West Virginia, a sum not to exceed eight thousand dollars, for the compiling and printing of an official index to original land grants on file in his office. It shall be the duty of the auditor to provide copies of the index for use in the clerk's office of each county in addition to those for use in the land department. The remaining copies may be sold by his office at a price of not more than twenty dollars per copy, the proceeds of such sale to be deposited back into the said operating fund.

CHAPTER 15

(Senate Bill No. 137—By Mr. Winters, by request)

AN ACT to amend chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article one-a, relating to the regulation and control of bedding and upholstery businesses and prescribing penalties for violations thereof.

[Passed March 2, 1953: In effect ninety days from passage. Approved by the Governor.]

Article 1-a. Regulation and Control of Bedding and Upholstery Businesses.

Section

1. Purpose of article
2. Definitions.
3. Sales of bedding prohibited unless filling material is correctly represented and tagged.
4. Selling infected material prohibited.
5. Filling material from any animal or fowl to be sterilized.
6. Second-hand material to be sterilized.
7. Requirement for state inspection stamps.
8. Altering, defacing or removing tag or stamp.
9. Counterfeiting stamps or permits.
10. Sterilization permits and fees.
11. Statements to be required on tags to be affixed to bedding.
12. Form of tags to be approved by commissioner.

13. Commissioner's authority to prohibit sales.
14. Inspection stamps; registration; yearly fee.
15. Enforcement.
16. Disposition of moneys collected by bedding division; creation of bedding division fund.
17. Enforcement; division of bedding.
18. Offenses; penalties.

Be it enacted by the Legislature of West Virginia:

That chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article one-a, to read as follows:

Section 1. *Purpose of Article.*—The purpose of this article is to protect the purchaser of articles of bedding as herein defined against disease and fraud.

Sec. 2. *Definitions.*—As used in this article, unless the contents clearly require otherwise:

"Commissioner" means commissioner of labor.

"Department" means state department of labor.

"Bedding" or "articles of bedding" includes upholstered furniture and filling material (as herein defined) and any mattress, pillow, cushion, quilt, bed pad, comforter, upholstered spring bed, head board, box springs, davenport or day bed, bed springs, metal couch, metal bed, metal cot, metal cradle, metal bassinet, which is wholly or partly upholstered and is used or intended for use for sleeping, resting or reclining purposes.

"Upholstered furniture" means any article of household furniture wholly or partly stuffed or filled with soft material which is used or intended for use for sitting, resting or reclining purposes. "Upholstered furniture" does not include any seat or cushion which is used in any automobile, truck, bus or airplane.

"Filling material" includes any hair, down, feathers, wool, cotton, kapok, or other soft material used in the manufacture of and for filling articles of bedding or upholstered furniture.

"New" means any material or article which has not been previously used for any purpose, including by-products produced in the manufacture of any fabric and

26 material reclaimed from new fabric: *Provided, however,*
27 That an article of bedding returned by the purchaser for
28 exchange, alteration, or correction within thirty days af-
29 ter date of delivery after original sale at retail, shall be
30 deemed to be a new article, but if such article is returned
31 later than thirty days after the date of such delivery, such
32 article shall be deemed to be second-hand.

33 "Second-hand" means any material or article of which
34 prior use has been made, except as otherwise provided
35 in this article.

36 "Manufacture," "making," "make," or "made" includes
37 altering, repairing, finishing or preparing articles of bed-
38 ding or upholstered furniture or filling materials for sale,
39 including remaking or renovating when done away from
40 the home of the owner.

41 "Sale," "sell," or "sold" includes offering or exposing
42 for sale or exchange or lease or consigning or delivery
43 in consignment for sale, exchange or lease or holding in
44 possession with like intent.

45 "Person" shall include persons, partnerships, corpora-
46 tions and associations.

Sec. 3. *Sales of Bedding Prohibited Unless Filling Ma-*
2 *terial Is Correctly Represented and Tagged.*—No person
3 shall sell as new any article of bedding unless it is made
4 from all new material and shall be tagged as hereinafter
5 provided.

6 No person shall sell, representing it to be new material,
7 any second-hand hair, down, feathers, wool, cotton, kapok
8 or other material used for filling articles of bedding.

9 No person shall sell any article of bedding made from
10 second-hand material unless it shall be tagged as here-
11 inafter provided.

12 For the purposes of this article, the presence on the
13 premises of any maker or vendor of any second-hand
14 filling material or article of bedding shall be presumptive
15 evidence of the sale or use.

Sec. 4. *Selling Infected Material Prohibited.*—No per-
2 son shall sell any article of bedding, or any filling ma-
3 terial used in the making thereof, which has been used
4 by or about any person having an infectious or con-

5 tagious disease unless such article or material shall have
6 been sterilized and is tagged as hereinafter provided.

Sec. 5. *Filling Material from Any Animal or Fowl to Be Sterilized.*—No person shall use any filling material
3 to make any article of bedding for sale that is made
4 from material (a) that comes from any animal or fowl,
5 (b) that contains any bugs, vermin, insects or filth, (c)
6 that is unsanitary, unless such material has been thor-
7 oughly sterilized by a process approved by the commis-
8 sioner.

Sec. 6. *Second-hand Material to Be Sterilized.*—No per-
2 son shall use any filling material to make any article of
3 bedding for sale that is made from material that is sec-
4 ond-hand unless such material has been thoroughly ster-
5 ilized by a process approved by the commissioner.

Sec. 7. *Requirement for State Inspection Stamps.*—No
2 person shall sell any article of bedding or filling material
3 herein required to be tagged unless there is affixed on
4 the tag an inspection stamp as required by this article:
5 *Provided, however,* That nothing herein contained shall
6 be deemed to require an inspection stamp to be affixed on
7 the tag attached to an article of bedding made in this
8 state for shipment and sale outside of this state: *And*
9 *provided further,* That this section shall not require stamps
10 to be affixed to articles of bedding sold at public auction,
11 or sold as antique furniture, or sold at a private sale from
12 the home of the owner direct to the purchaser.

Sec. 8. *Altering, Defacing or Removing Tag or Stamp.*—
2 No person other than a purchaser at retail for his own
3 use or benefit, except as herein otherwise provided, shall
4 remove, deface, alter or cause to be removed, defaced or
5 altered, any tag or inspection stamp attached to an ar-
6 ticle of bedding: *Provided, however,* That immediately
7 after material used for filling has been removed from its
8 container, the tag and inspection stamp thereon shall be
9 removed and destroyed by the person removing such
10 material.

Sec. 9. *Counterfeiting Stamps or Permits.*—No person

2 shall have in his possession or shall make, use or sell
3 any counterfeit or colorable imitation of the inspection
4 stamp or permit required by this article. Each counter-
5 feited or imitated stamp or permit made, used, sold, of-
6 fered for sale, delivered or consigned for sale shall con-
7 stitute a separate offense.

Sec. 10. *Sterilization Permits and Fees.*—(1) Any ster-
2 ilization process used in connection herewith shall be ap-
3 proved by the commissioner. Every person desiring to
4 operate such sterilization process shall first obtain a num-
5 bered permit from the commisisoner and shall not oper-
6 ate such process unless such permit is kept conspicuously
7 posted in his establishment. The fee for an original
8 permit shall be twenty-five dollars. Application for such
9 permit shall be accompanied by the specifications for the
10 sterilization process to be employed by the applicant, in
11 such form as the commissioner shall require. Such per-
12 mit shall expire one year from date of issue and the
13 fee for annual renewal of the sterilization permit shall
14 be ten dollars.

15 (2) Every application for a sterilization permit to be
16 held in a state other than West Virginia shall be approved
17 only after personal inspection of the applicant's sterilizer
18 or disinfecter by the commissioner or an authorized em-
19 ployee of the bedding division of the department. The
20 expenses for such inspections out of the state shall be
21 paid by the applicant.

22 (3) The commissioner may revoke or suspend any per-
23 mit for violation of the provisions of this article. Upon
24 notification of such revocation or suspension, the person
25 to whom the permit was issued, or his successor or as-
26 signee, shall forthwith return such permit to the com-
27 missioner. For reissuing a revoked or expired permit,
28 the fee shall be the same as for an original permit.

Sec. 11. *Statements to Be Required on Tags to Be*
2 *Affixed to Bedding.*—(1) Every article of bedding made
3 for sale, sold or offered for sale shall have attached there-
4 to a tag on which is stated the name of the filling material
5 used, that such material used is new or second-hand and,
6 when required to be sterilized, that such material has

7 been sterilized and the number of the sterilization permit.
8 Such tag shall also contain the name and address of the
9 maker or the vendor and the registry number, as herein-
10 after provided, of the maker.

11 (2) Every remade or renovated article of bedding not
12 for sale, before returned to the owner for his own use,
13 shall have attached thereto a tag which, in addition to
14 the statements hereinabove required, shall state the name
15 and address of the remaker or renovator or the statement
16 "remade and renovated for" followed by the name and
17 address of the person for whom the article of bedding is
18 renovated.

19 (3) In the description of the filling material used on
20 any tag attached to an article of bedding, no term or
21 designation intended or likely to mislead shall be used;
22 but where such article contains more than one material,
23 the amount of such materials shall be stated on the tag
24 and there shall be no variance in excess of ten per cent
25 from the amount stated on the tag: *Provided, however,*
26 That no variance shall be allowed for filling material
27 which is described as "all," "pure," "100%" or terms of
28 similar import.

29 (4) A complete second-hand article of bedding which
30 has not been remade or renovated may be sold "as is"
31 without being sterilized, but the original tag shall be re-
32 moved by the vendor and he shall attach a tag stating
33 that the article is second-hand—"contents unknown."
34 This requirement shall not apply to articles sold at public
35 auction, the sale of antique furniture, or to a private sale
36 from the home of the owner direct to the purchaser:
37 *Provided however,* That the exceptions herein stated shall
38 not authorize the sale of an article of bedding that has
39 been exposed to infectious or contagious disease and
40 which, after such exposure, has not been sterilized and
41 approved for use.

Sec. 12. *Form of Tags to Be Approved by Commis-*
2 *sioner.*—(1) Whenever a tag is required by this article,
3 it shall be approved by the commissioner. Tags shall be
4 made of muslin, linen or other material of like durabil-

5 ity and shall be the same color stock throughout. Paper
6 faced tags shall not be used.

7 (2) For designating all new material, the tags shall
8 be white; for designating second-hand or renovated ma-
9 terial or articles, the tag shall be yellow; for designating
10 articles or materials placed off-sale by the commissioner,
11 as hereinafter provided, the tag shall be blue; and for
12 designating articles or materials exposed to infectious or
13 contagious disease and declared "unclean" by the com-
14 missioner, as hereinafter provided, the tag shall be red.

15 (3) Statements required on tags shall be legibly
16 printed or stamped on one side only, in the English lan-
17 guage, and in letters at least one-eighth of an inch in
18 height. Tags attached to mattresses or pillows shall be
19 at least six square inches in area. The commissioner may
20 permit smaller tags or he may require larger tags for
21 other articles. On each tag, there shall be a certification
22 that such article complies with the requirements of law,
23 but such tag also may state that the article complies with
24 the law of any other state.

Sec. 13. *Commissioner's Authority to Prohibit Sales.*—

2 (1) The commissioner shall order off-sale, and may so
3 tag, any article of bedding or material therefor, which is
4 not tagged as hereinbefore required or which is tagged
5 with a tag bearing a misleading term, description, desig-
6 nation or statement and no articles or materials placed
7 off-sale or seized by the commissioner, or any duly author-
8 ized employee of the bedding division, shall be sold nor
9 shall the contents thereof be altered, interfered with or
10 removed in whole or in part, nor shall the articles or con-
11 tents thereof be removed from the premises where placed
12 off-sale or seized until such articles or materials are re-
13 leased by the commissioner. All articles or materials
14 placed off-sale or seized shall be subject to frequent exam-
15 ination by the commissioner or his duly authorized in-
16 spector. Such articles or materials must be so placed or
17 stored as to be readily accessible at all times and shall
18 be produced for examination upon demand of the com-
19 missioner or any such employee made upon the person
20 or persons in charge of the establishment or premises

21 where such articles or materials are placed off-sale or
22 were seized.

23 (2) If the commissioner or any duly authorized em-
24 ployee of the bedding division shall find any article of
25 bedding or filling material which has been used by or
26 about any person having an infectious or contagious dis-
27 ease, he shall tag such article of bedding or material with
28 a tag bearing the word "unclean" in conspicuous letters.
29 Such tag shall not be removed except by the commis-
30 sioner or such duly authorized employee.

Sec. 14. *Inspection Stamps; Registration; Yearly Fee.*—

2 Adhesive inspection stamps as provided for by this article
3 shall be furnished by the commissioner in quantities of
4 not less than one thousand for which the applicant shall
5 pay ten dollars for each one thousand stamps. The bed-
6 ding division shall register all applicants for stamps, and
7 assign to every such person a registration number which
8 thereafter shall constitute his identification record and
9 said identification shall not be used by any other person.
10 The commissioner is hereby authorized to prepare and
11 cause to be printed adhesive stamps which shall contain
12 the replica of the seal of the state of West Virginia, the
13 registry number of the person applying therefor and such
14 other matter as the commissioner shall direct.

Sec. 15. *Enforcement.*—The commissioner of labor shall
2 have the power and duty, to:

3 (1) Create and organize a division of the department
4 of labor to be known as the "bedding division" for the
5 purpose of administering and enforcing the provisions of
6 this article; (2) appoint, remove and fix the compensa-
7 tion of the employees of the bedding division; (3) pre-
8 scribe uniform rules pertaining to and not in conflict with
9 the provisions of this article, to carry out the intent and
10 purpose of this article; (4) invoke any legal, equitable
11 or special remedy for the enforcement of orders of the
12 provisions of this chapter; (5) cooperate with other agen-
13 cies of the state of West Virginia for the purpose of secur-
14 ing laboratory analyses of the filling material used in
15 articles of bedding; (6) exercise any other power neces-

16 sary for the proper administration of the division of bed-
17 ding, and the enforcement of the provisions contained in
18 this article.

Sec. 16. *Disposition of Moneys Collected by Bedding*
2 *Division; Creation of Bedding Division Fund.*—Disposi-
3 tion of fees, fines, penalties and other moneys derived
4 from the operation of this article shall be paid to the bed-
5 ding division of the department of labor. The bedding
6 division shall, on receipt of same, forthwith pay over to
7 the state treasurer such money so received, accompanying
8 it with a statement showing in detail the sources of such
9 money and the purpose for which the same was originally
10 paid, and the same shall be credited forthwith to a fund
11 to be designated as the "bedding division fund". Such
12 money so paid and credited to the bedding division fund
13 shall be used and paid out upon the order of the commis-
14 sioner of labor solely for the administration and enforce-
15 ment of this article. If there be any unused portion of
16 said bedding division fund remaining unexpended or un-
17 drawn at the end of any fiscal year, a sum not exceeding
18 ten thousand dollars of such unused portion thereof shall
19 be carried over as a balance to the next fiscal year and
20 shall be used and paid out upon the order of the com-
21 missioner of labor, as herein provided, and the surplus
22 of said unused portion of the bedding division fund, over
23 and above the sum so carried over to the next fiscal
24 year, shall be paid by the commissioner of labor into the
25 general revenue fund.

Sec. 17. *Enforcement; Division of Bedding.*—Every
2 place where articles of bedding are made, remade or reno-
3 vated, or materials therefor are prepared or sterilized,
4 where such articles or materials are sold, shall be subject
5 to inspection by the commissioner or duly authorized
6 employee of the bedding division who shall have the
7 power to inspect the manufacture and sale or delivery of
8 all articles or materials covered by this article, to open
9 and examine the contents thereof and power to seize and
10 hold for evidence any article of bedding, in whole or in
11 part, which he has reason to believe is made or sold or
12 held in possession in violation of this article. No person

13 shall interfere with, obstruct or otherwise hinder the
14 commissioner or an employee of the bedding division in
15 the performance of his duties.

Sec. 18. *Offenses; Penalties.*—Any person who violates
2 a provision of this article shall be guilty of a misde-
3 meanor, and, upon conviction thereof, shall, for a first
4 offense, be fined not less than fifty dollars nor more than
5 five hundred dollars; for a second or subsequent offense,
6 shall be fined not less than one hundred dollars nor more
7 than one thousand dollars or imprisoned for not more
8 than thirty days, or both, such fine and imprisonment
9 to be within the discretion of the court.

CHAPTER 16

(House Bill No. 172—By Mr. Baker and Mr. Goshorn)

AN ACT to amend and reenact section eleven, article one, chapter forty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recordation of contracts, deeds, trust deeds and mortgages in county to which property removed from other county and state, notice required upon removal of goods and chattels mentioned therein.

[Passed March 4, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Acts Generally Void as to Creditors and Purchasers.

Section

11. Recordation of contracts, deeds, trust deeds, and mortgages in county to which property removed from other county and state; notice required.

Be it enacted by the Legislature of West Virginia:

That section eleven, article one, chapter forty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 11. *Recordation of Contracts, Deeds, Trust*

2 *Deeds, and Mortgages in County to Which Property Re-*
3 *moved from Other County and State; Notice Required.—*

4 Any goods or chattels mentioned in such writing shall
5 not be removed from any county wherein such writing
6 is recorded, or from another state into a county in this
7 state, where such writing is not admitted to record, prior
8 to the performance of the provisions contained therein,
9 except for temporary uses for a period of not more than
10 thirty days, unless the owner, not less than ten days be-
11 fore such removal, shall give the person or persons se-
12 cured thereby or otherwise interested therein, or the
13 guardian or committee of any infant or insane person
14 secured thereby or otherwise interested therein, person-
15 ally or by registered mail written notice of the place to
16 which the goods or chattels are to be removed and the
17 approximate time of such intended removal. Unless such
18 writing, or a copy thereof, is admitted to record in the
19 county to which the property is so removed, within ten
20 days after receipt of the above written notice, or receipt
21 of actual notice of such removal, such writing, shall as
22 to the property so removed, be void as to such creditors
23 or purchasers until recorded in such last mentioned
24 county. If any such property is so removed without the
25 giving of such notice, the person or persons so secured
26 or otherwise interested therein, including any such guar-
27 dian or committee, may take possession of such goods and
28 chattels and deal with them as in case of any other default
29 under the terms of such writing.

30 The above provisions of this section shall not apply,
31 however, to equipment or rolling stock of railroad or
32 street, or interurban railway, or of commercial watercraft
33 or barges, or any equipment thereon, however, any such
34 writing conveying any such equipment shall be void as
35 to any creditors or purchasers thereof unless the writing
36 shall be acknowledged in like manner as a deed for real
37 property, and the writing or a copy thereof, be filed in
38 the office of the secretary of state.

CHAPTER 17

(House Bill No. 283—By Mr. Maxwell)

AN ACT to amend and reenact section five, article six, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to disposition of neglected children by the juvenile court.

[Passed March 6, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 6. Procedure in Neglect Cases.

Section

5. Disposition other than commitment to the state department.

Be it enacted by the Legislature of West Virginia:

That section five, article six, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Disposition Other Than Commitment to the*

2 *State Department.*—In any case of a neglected child the
3 court may:

4 (1) Return the child to his own home under super-
5 vision of the county department;

6 (2) Commit the child to the custody of the county
7 department or a licensed private child welfare agency;

8 (3) When necessary for the welfare of the child, termi-
9 nate the parental rights and responsibilities of the parent
10 or parents of the child and commit the child to the per-
11 manent care and guardianship of the state department or
12 of a licensed private child welfare agency;

13 (4) Commit the child to a suitable person who may be
14 appointed guardian of the person of the child;

15 (5) Enter whatever other order may, in the discretion
16 of the court, be most conducive to the welfare of the
17 child.

CHAPTER 18

(House Bill No. 487—Originating in the House Committee on Finance)

AN ACT to amend and reenact article two, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to claims and proceedings against the state, its officers and agencies, and providing for the attorney general to process and make recommendations upon such claims.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 2. Claims Against the State.

Section

1. Purpose.
2. Proceedings against state officers.
3. Authority of attorney general respecting claims.
4. The jurisdiction of the attorney general.
5. Claims excluded.
6. Rules of procedure.
7. Claims under existing appropriations.
8. Claims under special appropriations.
9. Inclusion of awards in budget.
10. Records to be preserved.
11. Fraudulent claims.

Be it enacted by the Legislature of West Virginia:

That article two, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Purpose.*—The purpose of this article is to
2 provide a simple and expeditious method for the con-
3 sideration of claims against the state that because of the
4 provisions of section thirty-five, article six of the constitu-
5 tion of the state, and of statutory restrictions, inhibitions
6 or limitations, cannot be determined in a court of law
7 or equity; and to provide for proceedings in which the
8 state has a special interest.

Sec. 2. *Proceedings Against State Officers.*—The follow-
2 ing proceedings shall be brought and prosecuted only in
3 the circuit court of Kanawha county:

- 4 1. Any suit in which the governor, any other state

5 officer, or a state agency is made a party defendant,
6 except as garnishee or suggestee.

7 2. Any suit attempting to enjoin or otherwise suspend
8 or affect a judgment or decree on behalf of the state
9 obtained in any circuit court.

10 This section shall apply only to such proceedings as are
11 not prohibited by the constitutional immunity of the
12 state from suit under section thirty-five, article six of
13 the constitution of the state.

Sec. 3. *Authority of Attorney General Respecting*
2 *Claims.*—The attorney general is hereby authorized to act
3 as a special instrumentality of the Legislature for the
4 purpose of considering claims against the state, which
5 because of the provisions of section thirty-five, article
6 six of the constitution of the state, and of statutory re-
7 strictions, inhibitions or limitations, cannot be heard in
8 a court of law or equity, and recommending the disposi-
9 tion thereof to the Legislature. Nothing in this article
10 is to be construed as an attempt to invest the attorney
11 general with judicial power in the sense of article eight
12 of the constitution of this state. A determination made
13 by the attorney general shall not be subject to review by
14 a court of law or equity created by or pursuant to article
15 eight of the constitution. The attorney general shall,
16 in accordance with this article, consider claims which,
17 but for the constitutional immunity of the state from suit,
18 or of some statutory restrictions, inhibitions or limita-
19 tions, could be maintained in the regular courts of the
20 state. No liability shall be imposed upon the state or any
21 of its agencies by a determination of the attorney general
22 under the provisions of this article, unless the Legisla-
23 ture has previously made an appropriation for the pay-
24 ment of the claim, subject only to the determination of
25 the attorney general.

26 Except as otherwise provided in this article, a claim
27 shall be instituted by the filing of notice with the attorney
28 general. The attorney general may hold hearings, at
29 which witnesses may be examined and law respecting
30 the claim presented. If, after consideration, the attorney
31 general finds that a claim is just and proper, he shall so

32 determine and shall state in writing his reasons therefor.
33 The attorney general shall also determine the amount
34 that should be paid to the claimant and shall itemize
35 this amount as an award, with the reasons therefor.

36 In determining the amount of the claim, interest shall
37 not be allowed unless the claim is based upon a contract
38 which specifically provides for the payment of interest.

Sec. 4. *The Jurisdiction of the Attorney General.*—The
2 jurisdiction of the attorney general, under the provisions
3 of this article, except for the claims excluded below, shall
4 extend to the following matters:

5 1. Claims and demands, liquidated and unliquidated,
6 ex contractu and ex delicto, against the state or any of
7 its agencies, which the state as a sovereign commonwealth
8 should in equity and good conscience discharge and pay.

9 2. Claims and demands, liquidated and unliquidated,
10 ex contractu and ex delicto, which may be asserted in the
11 nature of set-off or counterclaim on the part of the state
12 or any of its agencies.

13 3. The legal or equitable status, or both, of any claim
14 referred to the attorney general by the head of a state
15 agency for advisory determination.

Sec. 5. *Claims Excluded.*—The jurisdiction of the at-
2 torney general shall not extend to any claim:

3 1. For loss, damage, or destruction of property or for
4 injury or death incurred by a member of the militia
5 or national guard when in the service of the state.

6 2. For injury to or death of an inmate of a state penal
7 institution.

8 3. Arising out of the care or treatment of a person in
9 a state institution.

10 4. For a disability or death benefit under chapter
11 twenty-three of this code.

12 5. For unemployment compensation under chapter
13 twenty-one-a of this code.

14 6. For relief or public assistance under chapter nine
15 of this code.

16 7. With respect to which a proceeding may be main-
17 tained by or on behalf of the claimant in the courts of
18 the state.

Sec. 6. *Rules of Procedure.*—The attorney general may
2 adopt rules to govern proceedings before him under the
3 provisions of this article, which rules shall be designed
4 to assure a simple, expeditious and inexpensive considera-
5 tion of claims.

6 Under the rules promulgated, the attorney general
7 shall not be bound by the common law or statutory rules
8 of evidence, but may accept and weigh in accordance with
9 its evidential value, any information that will assist him
10 in determining the factual basis of the claim.

Sec. 7. *Claims Under Existing Appropriations.*—A claim
2 arising under an appropriation made by the Legislature
3 during the fiscal year to which the appropriation applies,
4 and falling within the jurisdiction of the attorney general,
5 may be submitted by:

6 1. A claimant whose claim has been rejected by the
7 state agency concerned or by the state auditor.

8 2. The head of the state agency concerned in order to
9 obtain a determination of the matters in issue.

10 3. The state auditor in order to obtain a full hearing
11 and consideration of the merits.

12 If the attorney general finds that the claimant should
13 be paid, he shall certify the approved claim and award
14 to the head of the state agency, the state auditor and the
15 governor. The governor may thereupon instruct the
16 auditor to issue his warrant in payment of the award and
17 to charge the amount thereof to the proper appropriation.
18 The auditor shall forthwith notify the state agency that
19 the claim has been paid. Such an expenditure shall not
20 be subject to further review by the auditor upon any mat-
21 ter determined and verified by the attorney general.

Sec. 8. *Claims Under Special Appropriations.*—When-
2 ever the Legislature makes an appropriation for the pay-
3 ment of claims against the state, then accrued or arising
4 during the ensuing biennium, determination of claims and
5 the payment thereof may be made in accordance with this
6 section. But this section shall apply only if the Legislature
7 in making its appropriation specifically so provides.

8 The claim shall be considered and determined by the
9 attorney general and the amount of the award fixed in

10 the manner hereinbefore provided. The attorney general
11 shall issue his requisition to the auditor who shall issue
12 his warrant to the treasurer in favor of the claimant. The
13 auditor shall issue his warrant without further examination
14 or review of the claim except for the question of a
15 sufficient unexpended balance in the appropriation.

Sec. 9. *Inclusion of Awards in Budget.*—The attorney
2 general shall certify to the director of the budget on or
3 before the twentieth day of November of each year next
4 preceding the year in which the Legislature meets in regular
5 session, a list of all awards recommended by the attorney
6 general to the Legislature for appropriation. The attorney
7 general may certify supplementary lists to the
8 board of public works to include subsequent awards made
9 by the attorney general. The board of public works shall
10 include all awards so certified in its proposed budget bill
11 transmitted to the Legislature.

Sec. 10. *Records to Be Preserved.*—The record of each
2 claim considered by the attorney general, including all
3 documents, papers, briefs, transcripts of testimony and
4 other materials, shall be preserved by him and shall be
5 made available to the Legislature or any committee thereof
6 for the reexamination of the claim.

Sec. 11. *Fraudulent Claims.*—A person who knowingly
2 and wilfully presents or attempts to present a false or
3 fraudulent claim, or a state officer who knowingly and
4 wilfully participates or assists in the preparation or presentation
5 of a false or fraudulent claim, shall be guilty of
6 a misdemeanor. A person convicted, in a court of competent
7 jurisdiction, of violation of this section shall be
8 fined not more than one thousand dollars or imprisoned
9 for not more than one year, or both, in the discretion of
10 such court. If the convicted person is a state officer he
11 shall, in addition, forfeit his office.

CHAPTER 19

(Senate Bill No. 235—By Mr. Stemple)

AN ACT authorizing and directing the state tax commissioner to approve, and the state auditor to issue a warrant for, the refunding of moneys paid in gross sales taxes to the state of West Virginia during the years one thousand nine hundred forty-three and one thousand nine hundred forty-four by the American Oil Company, a corporation doing business in the state of West Virginia.

[Passed March 4, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Tax commissioner directed to refund and auditor empowered to repay certain gross sales taxes paid by the American Oil Company.
2. Finding of moral obligation.

WHEREAS, The American Oil Company during the years one thousand nine hundred forty-three and one thousand nine hundred forty-four was obliged to pay to the Defense Supplies Commission, a federal agency created for the purpose of taking care of excess transportation costs in the oil industry occasioned by land shipments of oil rather than by the cheaper method of shipping by water, and rather than pass the increased cost to the consumer directly, the American Oil Company was obliged by the said federal commission to collect and turn over to the commission the excess amounts so collected and was then required to pay the gross sales tax to the state of West Virginia on said excess collections, notwithstanding that the American Oil Company received no benefit whatever from such excess sales; and

WHEREAS, After a period of two years had elapsed, the matter was called to the attention of the state tax commissioner, who ruled that the American Oil Company was not required under law to pay a tax on said excess costs but refused to refund such overpayments on the ground that such repayments were barred by the statute of limitations (two-year rule); and

WHEREAS, The said American Oil Company, after the ruling

by the state tax commissioner, presented its case to the West Virginia State Court of Claims (Case No. 615) in the year one thousand nine hundred forty-eight; and was awarded the sum of six hundred seventy-four dollars and eighty-three cents, on the theory that even though the claim was barred by the two-year statute of limitations, nevertheless the claim was a "moral obligation" on the state which should be paid; and

WHEREAS, The one thousand nine hundred forty-nine and the one thousand nine hundred fifty-one Legislatures failed to authorize the payment of said claim and to make an appropriation for the payment thereof; and

WHEREAS, On December nine, one thousand nine hundred fifty-two, the West Virginia Supreme Court of Appeals, in the case of Raleigh County Bank v. Simms, — W. Va. —, 73 S. E. (2d) 526, decided that a moral obligation exists based upon overpayment of taxes even though the taxpayer failed to file a petition for a refund of the overpayment within the time allowed by the statute; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Tax Commissioner Directed to Refund and Auditor Empowered to Repay Certain Gross Sales Taxes Paid by the American Oil Company.*—The tax commissioner is directed to approve and the state auditor is directed to issue a warrant payable out of any surplus in the general revenue to the American Oil Company, General Offices, American Building, Baltimore 3, Maryland, the amount of six hundred seventy-four dollars and eighty-three cents for refund of gross sales taxes paid by said company in the years one thousand nine hundred forty-three and one thousand nine hundred forty-four.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature, based upon its conclusions of fact and the recommendations of the court of claims, and the decision of the supreme court of appeals of West Virginia, that this refund and reimbursement is necessary to discharge a moral obligation of the state of West Virginia.

CHAPTER 20

(Senate Bill No. 189—By Mr. Martin)

AN ACT to make an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing Edward Beal for expenses he incurred in connection with injury he sustained at Potomac State School of West Virginia University.

[Passed March 3, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Appropriation for Edward Beal.
2. Finding of moral obligation.

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for Edward Beal.*—There is
2 hereby appropriated from the state fund general revenue
3 the sum of two hundred fifty-five dollars and seventy-
4 three cents to reimburse him for expenses he incurred
5 as a result of medical expenses expended by him when
6 he was injured in the gymnasium of the Potomac State
7 School of West Virginia University at Keyser on Feb-
8 ruary eight, one thousand nine hundred fifty-two, when
9 a window fell from said gymnasium striking said Edward
10 Beal and causing him bodily injury.

Sec. 2. *Finding of Moral Obligation.*—It is hereby de-
2 clared to be the finding of the Legislature that this re-
3 imbursement is necessary to discharge a moral obligation
4 of the state of West Virginia.

CHAPTER 21

(Senate Bill No. 339—By Mr. Vassar)

AN ACT finding and declaring a certain claim of the Colonial Glass Company of Weston, West Virginia, against the state road commission, to be a moral obligation of the state, making an appropriation out of the treasury to

pay said claim and directing the auditor to issue his warrant in payment thereof.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Payment of claim of Colonial Glass Company.
2. Finding of moral obligation and directing payment of claim.

WHEREAS, On March seventh, one thousand nine hundred forty-five, a road commission maintenance crew dynamited a slide which had clogged up the outlet to a culvert on U. S. Route 19 at Deanville, just north of Weston, West Virginia, resulting in a large amount of broken tile and small stones being thrown on the roof of a nearby factory of the Colonial sitating a new roof for which the labor and material amounted to three hundred thirty-five dollars and thirty-five cents; and

WHEREAS, Said Colonial Glass Company filed its claim with the state court of claims on August second, one thousand nine hundred forty-five, and on October sixteenth, one thousand nine hundred forty-five, the court of claims awarded the said Colonial Glass Company three hundred thirty-five dollars and thirty-five cents in its decision of case No. 486; and

WHEREAS, The Legislature of West Virginia, regular session, one thousand nine hundred forty-seven, in chapter twenty-seven of the acts of that session, appropriated the sum of three hundred thirty-five dollars and thirty-five cents for the payment of said claim, but said claim still remains unpaid; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Payment of Claim of Colonial Glass Company.*—It appearing from a statement of the revenues and appropriations for the fiscal year one thousand nine hundred fifty-two—one thousand nine hundred fifty-three, that there remains in the treasury, state fund general revenue, in excess of the amount hereby appropriated, the sum of three hundred thirty-five dollars and thirty-five cents is hereby appropriated to the Colonial Glass Company, to compensate it for damages done by negligence of the state road commission's workmen and

11 in satisfaction of the judgment of the state court of
12 claims.

Sec. 2. *Finding of Moral Obligation and Directing Payment of Claim.*—The Legislature has considered the findings of fact and recommendations reported by the court of claims concerning said claim of the Colonial Glass Company against the state road commission, and with respect to said claim the Legislature adopts such findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay said claim, and directs the auditor to issue his warrant for the payment thereof out of any fund appropriated and available for the purpose.

CHAPTER 22

(House Bill No. 160—By Mr. Ambler)

AN ACT authorizing and empowering the state tax commissioner to approve, and the state auditor to issue a warrant for the refunding of moneys paid as gasoline taxes to the state of West Virginia, during the months of July, August and September, one thousand nine hundred fifty-one, by Frank P. Corbin, doing business as the Osgood Bus Lines.

[Passed March 11, 1953; in effect from passage. Approved by the Governor.]

Section

1. Tax commissioner authorized to refund and auditor empowered to repay certain gasoline taxes paid by Frank P. Corbin.
2. Finding of moral obligation.

WHEREAS, Frank P. Corbin, doing business as the Osgood Bus Lines, Morgantown, Monongalia county, West Virginia, has paid to the state of West Virginia taxes on gasoline used in the state of Maryland during the months of July, August and September, one thousand nine hundred fifty-one, in the amount of five hundred fifty-eight dollars and eighty cents; and

WHEREAS, Said sum of taxes was owed and properly paid by the said Frank P. Corbin to the state of Maryland as provided under the reciprocal gasoline tax laws of the states of Maryland and West Virginia; and

WHEREAS, Said Frank P. Corbin omitted to make application for the statutorily authorized refund of such taxes by the state of West Virginia within the statutory time limit specified because of lack of knowledge of such time limit; and

WHEREAS, Said Frank P. Corbin has submitted to the tax commissioner properly executed application for the authorized refund of said taxes now being withheld by West Virginia; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Tax Commissioner Authorized to Refund and Auditor Empowered to Repay Certain Gasoline Taxes Paid by Frank P. Corbin.*—The tax commissioner is authorized to approve and the state auditor is empowered to issue a warrant, payable out of any surplus in the general revenue, to Frank P. Corbin, Morgantown, Monongalia county, West Virginia, doing business as the Osgood Bus Lines for refund of taxes paid on gasoline used by said bus lines in the state of Maryland during the months of July, August and September, one thousand nine hundred fifty-one, in the sum of five hundred fifty-eight dollars and eighty cents which sum has been lawfully paid to the state of Maryland under the reciprocal gasoline tax laws of the two states.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature, based upon its conclusion of fact, that this refund and reimbursement is necessary to discharge a moral obligation of the state of West Virginia.

CHAPTER 23

(Senate Bill No. 267—By Mr. Love)

AN ACT finding and declaring the claim of Eastern Coal Sales Company against the state of West Virginia to be a moral

obligation of the state, and directing the auditor to issue a warrant for the payment thereof.

[Passed March 12, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Declaring it to be the moral obligation of the state to pay the claim of the Eastern Coal Sales Company against the state tax commissioner, and directing the payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Declaring It to Be the Moral Obligation of the State to Pay the Claim of the Eastern Coal Sales Company Against the State Tax Commissioner, and Directing the Payment Thereof.*—The Legislature has considered the claim of Eastern Coal Sales Company against the state tax commissioner, said claim being for overpayment of gross sales tax, and in respect to the said claim the Legislature declares it to be the moral obligation of the state to pay the said claim of Eastern Coal Sales Company in the amount of four thousand six hundred sixteen and ten one-hundredths dollars, and hereby appropriates from the treasury, state fund general revenue, the sum of four thousand six hundred sixteen and ten one-hundredths dollars in order to pay such claim, and hereby directs the auditor to issue a warrant for the payment thereof.

CHAPTER 24

(Senate Bill No. 187—By Mr. Martin)

AN ACT to make an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing Thomas Melody, for expenses he incurred in connection with injury he sustained at Potomac State School of West Virginia University.

[Passed March 3, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Appropriation for Thomas Melody.
2. Finding of moral obligation.

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for Thomas Melody.*—There
2 is hereby appropriated from the state fund general rev-
3 enue the sum of fifteen dollars to reimburse him for
4 expenses he incurred as a result of medical expenses
5 expended by him when he was injured in the gymnasium
6 of the Potomac State School of West Virginia University
7 at Keyser on February eight, one thousand nine hundred
8 fifty-two, when a window fell from said gymnasium
9 striking said Thomas Melody and causing him bodily
10 injury.

Sec. 2. *Finding of Moral Obligation.*—It is hereby de-
2 clared to be the finding of the Legislature that this re-
3 imbursement is necessary to discharge a moral obligation
4 of the state of West Virginia.

CHAPTER 25

(House Bill No. 468—By Mr. Snyder)

AN ACT to compensate Edward Northington and nine other students of Shaw University of Raleigh, North Carolina, for loss by theft incurred as a result of the breaking and entering at a dressing room in the gymnasium at West Virginia State College, Institute, West Virginia.

[Passed March 14, 1953; in effect from passage. Approved by the Governor.]

Section

1. Appropriation for J. E. Lytle, athletic director, in trust.

WHEREAS, On December third, one thousand nine hundred fifty-one, during an intercollegiate basketball game between West Virginia State College and Shaw University of Raleigh, North Carolina, which game was played in the gymnasium of the said college at Institute, West Virginia, an unknown person or persons broke and entered the window of the dressing room wherein the members of the Shaw University team had left their street clothing, money and certain valuables; and

WHEREAS, The person or persons so breaking and entering stole money, clothing and other personal effects, in the total amount of two hundred sixty dollars and seventy-eight cents, from Edward Northington and nine team-mates; and

WHEREAS, Pursuant to a ruling of the central intercollegiate athletic association, to which association both of the participating teams belong, West Virginia State College has been called upon to reimburse the said players for their losses and directed to pay for such reimbursement the sum of two hundred sixty dollars and seventy-eight cents to J. E. Lytle, athletic director of Shaw University, or in the event that such payment is not made, to suffer the penalty of expulsion from the central intercollegiate athletic association; and

WHEREAS, West Virginia State College by its proper authority requisitioned the payment above mentioned by transmittal sheet number six hundred and ninety-four, dated February fifth, one thousand nine hundred fifty-three, requisition number seven hundred and four, dated February fifth, one thousand nine hundred fifty-three, which payment was to be made from their athletic account number six thousand six hundred forty-one-one, which request was approved by the West Virginia State Board of Education; and

WHEREAS, Some question has arisen as to the authority of the auditor to authorize payment of said transmittal under the general laws of the state of West Virginia and the auditor has requested a special act of this Legislature; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for J. E. Lytle, Athletic Director, In Trust.*—The auditor of West Virginia is hereby
2 authorized to approve the transmittal sheet number six
3 hundred ninety-four of West Virginia state college, dated
4 February fifth, one thousand nine hundred fifty-three, for
5 the payment of two hundred sixty dollars and seventy-
6 eight cents to J. E. Lytle, athletic director of Shaw Uni-
7 versity of Raleigh, North Carolina, from the athletic ac-
8 count number six thousand six hundred forty-one-one, of
9 said college as payment in trust for Edward Worthington
10 and others, students at the said Shaw University who suf-
11 fered the loss described in the above recital, pursuant to
12

- 13 a ruling by the central intercollegiate athletic association
14 directing the reimbursement of such loss to the said stu-
15 dents.

CHAPTER 26

(Senate Bill No. 190—By Mr. Martin)

AN ACT to make an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing Robert Pendegrast for expenses he incurred in connection with injury he sustained at Potomac State School of West Virginia University.

[Passed March 3, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Appropriation for Robert Pendegrast.
2. Finding of moral obligation.

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for Robert Pendegrast.*—There
2 is hereby appropriated from the state fund general rev-
3 enue the sum of twenty dollars to reimburse him for ex-
4 penses he incurred as a result of medical expenses ex-
5 pended by him when he was injured in the gymnasium
6 of the Potomac State School of West Virginia University
7 at Keyser on February eight, one thousand nine hundred
8 fifty-two, when a window fell from said gymnasium
9 striking said Robert Pendegrast and causing him bodily
10 injury.

Sec. 2. *Finding of Moral Obligation.*—It is hereby de-
2 clared to be the finding of the Legislature that this re-
3 imbursement is necessary to discharge a moral obligation
4 of the state of West Virginia.

CHAPTER 27

(Senate Bill No. 199—By Mr. Jackson, of Lincoln)

AN ACT finding and declaring the claim of James Reynolds against the state and its agency to be a moral obligation of the state, and directing the auditor to issue warrant for the payment thereof.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Finding and declaring claim of James Reynolds against the state and its agency to be a moral obligation of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring Claim of James Reynolds Against the State and Its Agency to Be a Moral Obligation of the State, and Directing Payment Thereof.*
 —The Legislature has considered the findings of fact and recommendations heretofore reported to it by the court of claims concerning various claims against the state and the agencies thereof, and in respect to the following claim the Legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay such claim in the amount specified below, and directs the auditor to issue warrant for the payment thereof out of any funds appropriated and available for the purpose.

Claim versus State Board of Control.

Reynolds, James\$550.00

CHAPTER 28

(Senate Bill No. 188—By Mr. Martin)

AN ACT to make an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing Francis Zacot for expenses he incurred in connection with

injury he sustained at Potomac State School of West Virginia University.

[Passed March 3, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Appropriation for Francis Zacot.
2. Finding of moral obligation.

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for Francis Zacot.*—There is hereby appropriated from the state fund general revenue the sum of ninety-three dollars to reimburse him for expenses he incurred as a result of medical expenses expended by him when he was injured in the gymnasium of the Potomac State School of West Virginia University at Keyser on February eight, one thousand nine hundred fifty-two, when a window fell from said gymnasium striking said Francis Zacot and causing him bodily injury.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature that this reimbursement is necessary to discharge a moral obligation of the state of West Virginia.

CHAPTER 29

(Senate Bill No. 61—By Mr. McKinley)

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state, and directing the auditor to issue warrants for the payment thereof.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Finding and declaring certain claims against the state road commission, the state auditor, the state department of archives and history, the adjutant general, the state board of control and the conservation commission to be moral obligations of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring Certain Claims Against the State Road Commission, the State Auditor, the State Department of Archives and History, the State Adjutant General, the State Board of Control and the State Conservation Commission to Be Moral Obligations of the State, and Directing Payment Thereof.*—The Legislature has considered the findings of fact and recommendations reported to it by the court of claims concerning various claims against the state and the agencies thereof, and in respect to each of the following claims the Legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below, and directs the auditor to issue warrants for the payment thereof out of any fund appropriated and available for the purpose.

(a) Claims versus State Road Commission.

(1) Andrews, Doyle	\$ 121.50
(2) Copley, Jennie Bell.....	350.00
(3) Copley, Stanley	50.25
(4) Gill, Stanley B. and Florence L.....	1,100.00
(5) Higginbotham, P. O.....	600.00

(b) Claims versus State Auditor.

(1) Holliday, J. Kelvin and Kathleen Holliday, d/b/a The Fayette Tribune.....	\$ 76.55
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(c) Claims versus State Department of Archives and History.

(1) Norris, Fred. W.....	150.00
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(d) Claims versus State Adjutant General.

(1) Crighton, H. N. (Mrs.).....	30.00
(2) Esso Standard Oil Company.....	58.00
(3) Johnson, Cora.....	30.00
(4) Rich Valley Dairy Company.....	416.47
(5) Stewart, Clifford S.....	79.41
(6) Weekley, Margaret E.....	57.00
(7) Weekley, J. C.....	608.82
(8) Young, Hazen D.....	202.90

(e) Claims versus State Board of Control.

(1) Bumgarner, Wallace.....	2,000.00
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40	(f) Claims versus State Conservation Commis-	
41	sion.	
42	(1) Cleaver, Tressie V., admx. estate of Lem-	
43	uel A. Cleaver, Jr., deceased.....	256.80
44	(2) Herbaugh, Sylvia.....	75.00

CHAPTER 30

(Senate Bill No. 236—By Mr. McKinley)

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state, and directing the auditor to issue warrants for the payment thereof.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

1. Finding and declaring certain claims against the state road commission, the state auditor, the state department of archives and history, the state adjutant general, the state board of control and the state conservation commission to be moral obligations of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring Certain Claims*
2 *Against the State Road Commission, the State Auditor,*
3 *the State Department of Archives and History, the State*
4 *Adjutant General, the State Board of Control and the*
5 *State Conservation Commission to Be Moral Obligations*
6 *of the State, and Directing Payment Thereof.*—The Legis-
7 lature has considered the findings of fact and recommen-
8 dations reported to it by the court of claims concerning
9 various claims against the state and the agencies thereof,
10 and in respect of each of the following claims the Legisla-
11 ture adopts those findings of facts as its own, and hereby
12 declares it to be the moral obligation of the state to pay
13 each such claim in the amount specified below, and di-
14 rects the auditor to issue warrants for the payment there-
15 of out of any fund appropriated and available for the
16 purpose.

17	(a) Claims Versus State Road Commission.	
18	(1) Jarrell, Roger Dale by Eugene Jarrell,	
19	his father and legal guardian.....	\$ 200.00
20	(2) Meadows, Ocie	150.00
21	(3) Wilkinson, Fred N.	50.00
22	(c) Claims Versus State Auditor — Criminal	
23	Claims Department.	
24	(1) Chambers, Thurman, Sheriff of Mingo	
25	county	\$ 82.40
26	(2) Dean, James J., Sheriff of Greenbrier	
27	county	137.80
28	(3) Frame, Drexell, Sheriff of Gilmer county..	20.00
29	(4) Morrison, F. A., Sheriff of Mason county..	20.20
30	(5) Pugh, Warren W., Sheriff of Ohio county..	63.00
31	(6) Smith, Houston A.	300.00
32	(7) Wilson, Howard E., Sheriff of Clay	
33	county	149.70
34	(8) Wright, Dick, Sheriff of Hancock county..	283.70

CHAPTER 31

(Senate Bill No. 342—By Mr. Amos)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending sections eighteen, twenty-two and thirty-three of article six thereof, relating to time of assembly of the Legislature, length of session and compensation of members.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Legislative Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "Legislative Amendment".
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Be it enacted by the Legislature of West Virginia:

Section 1. *Submitting an Amendment to the State Constitution.*—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred fifty-four, which proposed amendment is as follows:

PROPOSED AMENDMENT

Article 6. Legislature.

Sec. 18. *Time of Assembly of Legislature.*—The Legislature shall assemble annually at the seat of government, and not oftener, unless convened by the governor. Regular sessions of the Legislature shall commence on the second Wednesday of January of each year. Notwithstanding any other provisions of the Constitution, the board of public works shall, on and after the effective date hereof, submit to the Legislature an annual budget prepared as otherwise required by the Constitution.

Sec. 22. *Length of Legislative Sessions.*—The regular session of the Legislature held in the year one thousand nine hundred fifty-five and every second year thereafter shall not exceed sixty days, and the regular session held in the year one thousand nine hundred fifty-six and every second year thereafter shall not exceed thirty days. During any thirty-day session, the Legislature shall consider no other business than the annual budget bill, except such as may be stated in a proclamation issued by the governor at least ten days prior to the convening of the session, or such business as may be stated by the Legislature on its own motion in a concurrent resolution adopted by a two-thirds vote of the members elected to each house. All regular sessions may be extended by the concurrence of two-thirds of the members elected to each house.

Sec. 33. *Compensation of Members.*—Each member of the Legislature shall receive for his services the sum of

3 one thousand five hundred dollars a year, and expenses
4 for one round trip in connection with any session, at the
5 rate of ten cents a mile traveled in going to and return-
6 ing from the seat of government by the most direct
7 route: *Provided*, That if party caucuses are held in ad-
8 vance of the date of the assembly of the Legislature in
9 odd-numbered years for the purpose of selecting candi-
10 dates for officers of the two houses, expenses for travel
11 at the rate herein fixed shall be allowed each member
12 for one round trip in connection with attending such
13 caucus. The Speaker of the House of Delegates and the
14 President of the Senate shall each receive an additional
15 compensation of five dollars a day for each day served
16 as presiding officer. No other allowance or emolument
17 than that by this section provided shall directly or in-
18 directly be made or paid to the members of either house
19 for postage, stationery, newspapers, or any other pur-
20 pose whatever. Notwithstanding any other provision of
21 the Constitution, the compensation herein provided for
22 shall be paid to each member of the Legislature on and
23 after the adoption of this amendment.

2 Sec. 2. *Amendment to be Known as the "Legislative*
3 *Amendment"*.—For convenience in referring to said pro-
4 posed amendment, and in the preparation of the form of
5 the ballot hereinafter provided for, said proposed amend-
6 ment is hereby designated as the "Legislative Amend-
7 ment".

2 Sec. 3. *Form of Ballot; Election*.—For the purpose of
3 enabling the voters of the state to vote on the question of
4 said proposed amendment to the constitution at the said
5 general election to be held in the year one thousand nine
6 hundred fifty-four, the board of ballot commissioners of
7 each county is hereby required to place upon, and at the
8 foot of, the official ballot to be voted at that election, the
9 following:

9 Ballot on "Legislative Amendment".

10 ☐ For Legislative Amendment.

11 ☐ Against Legislative Amendment.

12 The said election on the proposed amendment at each

13 place of voting shall be superintended, conducted and re-
14 turned, and the result thereof ascertained by the same
15 officers and in the same manner as the election of officers
16 to be voted for at said election, and all the provisions of
17 the law relating to general elections, including all duties
18 to be performed by any officer or board, as far as practi-
19 cable, and not inconsistent with anything herein con-
20 tained, shall apply to the election held under the pro-
21 visions of this act, except when it is herein otherwise
22 provided. The ballots cast on the question of said pro-
23 posed amendment shall be counted as other ballots cast
24 at said election.

Sec. 4. *Certificates of Election Commissioners; Canvass*
2 *of Vote; Certifying Result.*—As soon as the result is as-
3 certained, the commissioners, or a majority of them, and
4 the canvassers (if there be any), or a majority of them,
5 at each place of voting, shall make out and sign two
6 certificates thereof in the following form or the follow-
7 ing effect:

8 “We, the undersigned, who acted as commissioners (or
9 canvassers, as the case may be) of the election held at
10 Precinct No. _____, in the district of _____, in
11 the county of _____, on the _____ day of
12 _____, one thousand nine hundred fifty-four, upon
13 the question of the ratification or rejection of the pro-
14 posed constitutional amendment, do hereby certify that
15 the result of said election is as follows:

16 “For ratification of Legislative Amendment _____
17 votes.

18 “Against ratification of Legislative Amendment _____
19 _____ votes.

20 “Given under our hands this _____ day of _____,
21 one thousand nine hundred fifty-four.”

22 The said two certificates shall correspond with each
23 other in all respects and contain the full and true re-
24 turns of said election at each place of voting on said
25 question. The said commissioners, or any one of them
26 (or said canvassers or any one of them, as the case may
27 be), shall, within four days, excluding Sunday, after
28 that on which said election was held, deliver one of said

29 certificates to the clerk of the county court of his county,
30 together with the ballots, and the other to the clerk of
31 the circuit court of the county.

32 The said certificates, together with the ballots cast on
33 the question of said proposed amendment, shall be laid
34 before the commissioners of the county court at the
35 court house at the same time the ballots, poll books, and
36 the certificates of election of the members of the Legis-
37 lature are laid before them; and as soon as the result
38 of said election in the county upon the question of such
39 ratification or rejection is ascertained, two certificates of
40 such result shall be made out and signed by said com-
41 missioners as a board of canvassers, in the form or to
42 the following effect:

43 "We, the board of canvassers of the county of,
44 having carefully and impartially examined the returns
45 of the election held in said county, in each district there-
46 of, on the day of November, one thousand nine
47 hundred fifty-four, do certify that the results of the elec-
48 tion in said county, on the question of the ratification or
49 rejection of the proposed amendment is as follows:

50 "For ratification of Legislative Amendment
51 votes.

52 "Against ratification of Legislative Amendment
53 votes.

54 "Given under our hands this day of,
55 one thousand nine hundred fifty-four."

56 One of the certificates shall be filed in the office of the
57 clerk of the county court, and the other forwarded by
58 mail to the secretary of state, who shall file and preserve
59 the same until the day on which the result of said elec-
60 tion in the state is to be ascertained, as hereinafter
61 stated.

Sec. 5. *Proclamation of Result of Election by Governor.*

2 —On the twenty-fifth day after the election is held, or as
3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to
5 ascertain therefrom the result of said election in the state,
6 and declare the same by proclamation published in one
7 or more newspapers printed at the seat of government.

8 If a majority of the votes cast at said election upon said
9 question be for ratification of said amendment, the pro-
10 posed amendment so ratified shall be in force and effect
11 from and after the time of such ratification, as part of
12 the constitution of the state.

Sec. 6. *Publication of Proposed Amendment by Gov-
2 ernor.*—The governor shall cause the said proposed
3 amendment, with the proper designation for the same as
4 hereinbefore adopted, to be published one time at least
5 three months before such election in some newspaper in
6 every county in which a newspaper is printed, at a price
7 to be agreed upon in advance, in writing, and the cost
8 of such advertising shall in the first instance, if found
9 necessary by him, be paid out of the governor's contingent
10 fund and be afterwards repaid to such fund by appropria-
11 tion of the Legislature.

CHAPTER 32

(House Bill No. 403—By Mr. Snyder)

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section sixty-three-a thereof, and adding thereto a new section, designated section sixty-three-a-1, relating to the consolidation and merger of corporations, to provide for the merger of domestic corporations with foreign corporations upon each complying with the laws of the state under which it was formed; and providing for the merger of a parent corporation and wholly owned subsidiary by act of their respective boards of directors.

[Passed March 5, 1953; in effect from passage. Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

63-a. Consolidation or merger with foreign corporation.

63-a-1. Merger of parent corporation and wholly owned subsidiary; proceedings for.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section sixty-three-a thereof, and by adding thereto a new section, designated sixty-three-a-1, all to read as follows:

Section 63-a. *Consolidation or Merger With Foreign Corporation.*—Any one or more corporations organized under the provisions of this chapter, or existing under the laws of this state, may consolidate or merge with one or more other corporations organized under the laws of any other state or states of the United States of America, if the laws under which said other corporation or corporations are formed shall permit such consolidation or merger. The constituent corporations may merge into a single corporation, which may be any one of said constituent corporations, or they may consolidate to form a new corporation, which may be a corporation of the state of incorporation of any one of said constituent corporations as shall be specified in the agreement hereinafter required. All the constituent corporations shall enter into an agreement in writing which shall prescribe the terms and conditions of the consolidation or merger, the mode of carrying the same into effect, the manner of converting the shares of each of said constituent corporations into shares or other securities of the corporation resulting from or surviving such consolidation or merger if such corporations have shares, and such other details and provisions as shall be deemed necessary or proper. There shall also be set forth in said agreement such other facts as shall then be required to be set forth in certificates of incorporation by the laws of the state, which are stated in said agreement to be the laws that shall govern said resulting or surviving corporation and that can be stated in the case of a consolidation or merger. Said agreement shall be authorized, adopted, approved, signed and acknowledged by each of said constituent corporations in accordance with the laws under which it is formed and, in the case of a West Virginia corporation, in the manner provided in section sixty-three of this article. The agreement

35 so authorized, adopted, approved, signed and acknowl-
36 edged shall be filed in the office of the secretary of state
37 and a copy thereof, certified by the secretary of state, shall
38 be recorded as provided in section sixty-three of this ar-
39 ticle with respect to the consolidation or merger of cor-
40 porations of this state; and said agreement, when so re-
41 corded, shall thenceforth be taken and deemed to be the
42 agreement and act of consolidation or merger of said con-
43 stituent corporations for all purposes of the laws of this
44 state.

45 Wherever the laws of another state than West Virginia
46 are selected as the laws which shall govern the merged
47 or consolidated corporation, such surviving corporation
48 shall comply with the provisions of section seventy-nine,
49 article one, of chapter thirty-one, as last amended, before
50 it holds property or transacts business in this state, and
51 thereafter shall comply with the laws of this state with
52 respect to foreign corporations holding property or trans-
53 acting business in this state.

Sec. 63-a-1. *Merger of Parent Corporation and Wholly
2 Owned Subsidiary; Proceedings for.*—In addition to the
3 method of merger and consolidation provided in section
4 sixty-three of this article, any corporation now or here-
5 after organized under the provisions of this chapter or
6 existing under the laws of this state, for the purpose of
7 carrying on any kind of business, owning all the stock of
8 any other corporation now or hereafter organized under
9 the provisions of this chapter or existing under the laws
10 of this state, or now or hereafter organized under the
11 laws of any other state of the United States of America,
12 if the laws under which said other corporation is formed
13 shall permit a merger as herein provided, may file in the
14 office of the secretary of state a certificate of such owner-
15 ship in its name and under its corporate seal, signed by
16 its president or a vice-president, and its secretary or
17 treasurer or assistant secretary or assistant treasurer, and
18 setting forth a copy of the resolution of its board of di-
19 rectors to merge such other corporation, and to assume
20 all of its obligations, and the date of the adoption thereof;
21 and a certified copy of said certificate shall be recorded in
22 the office of the clerk of the county court of the county

23 in which the principal place of business of the parent
24 corporation is located, and if the other corporation is also
25 a West Virginia corporation and its principal place of
26 business is located in a different county, another certified
27 copy of said certificate shall be recorded in the office of
28 the clerk of the county court of such other county. There-
29 upon, all of the estate, property, rights, privileges and
30 franchises of such other corporation shall vest in and be
31 held and enjoyed by such parent corporation as fully and
32 entirely and without change or diminution as the same
33 were before held and enjoyed by such other corporation,
34 and be managed and controlled by such parent corpora-
35 tion, and except as hereinafter in this section provided,
36 in its name, but subject to all liabilities and obligations of
37 such other corporation and the rights of all creditors
38 thereof. The parent corporation shall not thereby acquire
39 power to engage in any business, or to exercise any right,
40 privilege or franchise, of a kind which it could not law-
41 fully engage in or exercise under the provisions of the
42 law by or pursuant to which such parent corporation is
43 organized. The parent corporation shall be deemed to
44 have assumed all the liabilities and obligations of the
45 merged corporation, and shall be liable in the same man-
46 ner as if it had itself incurred such liability and obliga-
47 tions. Any plan of consolidation or merger which requires
48 or contemplates any changes other than those herein spe-
49 cifically authorized with respect to the parent corpora-
50 tion, shall be accomplished under the provisions of section
51 sixty-three of this article.

CHAPTER 33

(House Bill No. 175—By Mr. Maxwell and Mr. Hubbard)

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section four-a, relating to nonstock corporations.

[Passed March 7, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.**Section****4-a. Nonstock corporations; policy and purpose.**

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding a new section, to be designated section four-a, to read as follows:

Section 4-a. *Nonstock Corporations; Policy and Purpose.*—Nonstock corporations have no capital stock, no shares of stock, and no stockholders, and various provisions of this article are not appropriate for nonstock corporations where the interests of the members are equal and not determined by the number of shares owned, and where numerous persons may be technically members but have no real interest in the management of the corporation, and this article does not make provision for certain other situations peculiar to nonstock corporations, and for these and other reasons the following provisions are made, relating only to nonstock corporations:

(1) The charter of any nonstock corporation may provide: (i) for the division of its members into classes with varying qualifications and requirements and with varying voting and other rights and privileges; and (ii) the number or proportion of its members or of a specified class or classes of its members, whose presence in person or by proxy shall be necessary to constitute a quorum at any meeting of members of the corporation; and (iii) that any specified action may be taken or authorized upon the concurrence of a specified number or proportion of the votes of all members or of all of a specified class or classes of members. Such provisions may be different from what is otherwise required under this article; and any action taken or authorized in accordance with any such charter provision shall be valid and effective.

(2) In any case in which the charter of any nonstock corporation does not provide for members thereof as

114 circumstances which have occurred since its incorpora-
115 tion. The clerk of such court shall promptly send to the
116 secretary of state a certified copy of each order and decree
117 made in such proceeding.

118 (8) Insofar as the provisions of this section are in-
119 consistent with the provisions of any other law, the
120 provisions of this section shall be controlling as to non-
121 stock corporations. The provisions of this section are
122 severable, and the unconstitutionality or invalidity of one
123 portion shall not affect any other portion.

—C—

CHAPTER 34

(House Bill No. 76—By Mr. Hubbard)

AN ACT to amend and reenact section five, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to duration of corporate existence.

[Passed February 18, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

5. Duration of corporate existence.

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Duration of Corporate Existence.*—Every
2 corporation formed hereunder, unless sooner dissolved,
3 shall have the right to perpetual succession. Any corpora-
4 tion chartered prior to January first, one thousand nine
5 hundred forty, which under its agreement of incorpora-
6 tion, had less than perpetual existence, is hereby granted
7 perpetual existence, provided all license fees and taxes
8 due the state of West Virginia shall have been paid to the
9 date of the enactment of this law.

CHAPTER 35

(House Bill No. 179—By Mr. Bowles)

AN ACT to amend and reenact section two, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the term, compensation, oath and bond of the commissioner of banking, the deputy commissioner of banking, bank examiners and assistant bank examiners.

[Passed March 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Section

2. Term; compensation; oath; bond.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 2. *Term; Compensation; Oath; Bond.*—The
2 commissioner of banking shall be appointed for a term
3 of four years and until his successor is appointed and
4 qualifies.
5 The commissioner of banking shall receive a salary
6 of seven thousand dollars a year. The commissioner shall
7 appoint or employ a deputy commissioner, bank examiners,
8 assistant bank examiners and such employees as
9 may be necessary for the efficient operation of his department.
10 The commissioner shall fix the compensation
11 of persons whom he appoints or employs subject to provisions
12 of law and regulations pertaining to the classification
13 and uniform compensation of personnel. Appointees
14 and employees of the commissioner shall serve during
15 his will and pleasure.
16 The commissioner and deputy commissioner of banking

17 and each bank examiner and assistant bank examiner,
18 before entering upon the discharge of his duties, shall
19 take and subscribe the oath prescribed by section five,
20 article four of the constitution.

21 The commissioner of banking shall enter into a bond
22 in the penalty of twenty-five thousand dollars and the
23 deputy commissioner and each bank examiner and assist-
24 ant bank examiner shall enter into a bond in the penalty
25 of five thousand dollars, with an indemnity company as
26 surety, conditioned for the faithful performance of his
27 official duties. Such bonds shall be filed and recorded
28 in the office of the secretary of state. The premiums on
29 such bonds shall be paid out of the state treasury.

C

CHAPTER 36

(House Bill No. 300—By Mr. White)

AN ACT to amend and reenact section thirty-three, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fees, costs and expenses charged by the commissioner of banking for making examinations.

[Passed March 7, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Section

33. Fees, costs and expenses of examinations.

Be it enacted by the Legislature of West Virginia:

That section thirty-three, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 33. Fees, Costs and Expenses of Examinations.—

2 (1) For making an examination within the state of any

3 banking institution the commissioner of banking shall
4 charge and collect from such institution and pay into the
5 state treasury a fee of fifty dollars upon the first twenty-
6 five thousand dollars of the assets as shown by the books
7 of the bank on the date of examination and six cents for
8 each additional one thousand dollars of such assets.

9 (2) For making an examination within the state of any
10 other corporation under his supervision or control, the
11 commissioner of banking shall charge and collect from
12 such corporation and pay into the state treasury the ac-
13 tual and necessary costs and expenses incurred in connec-
14 tion therewith, to be fixed and determined by the com-
15 missioner.

16 (3) If any such examination be made at a place out-
17 side of this state, the fees, costs and expenses shall be as
18 above provided, except that there shall be an additional
19 charge for each examination of twice the amount of the
20 railroad fare from the city of Charleston to the place
21 where the examination is made.

22 The commissioner of banking may maintain an action
23 for the recovery of all such fees, costs and expenses in
24 any court of competent jurisdiction.

CHAPTER 37

(House Bill No. 52—By Mr. Scanes)

AN ACT to amend and reenact section eighteen, article ten,
chapter thirty-one of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to credit unions.

[Passed March 7, 1953; in effect from passage. Approved by the Governor.]

Article 10. Credit Unions.

Section

18. Investment of capital, undivided profits and reserve funds.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article ten, chapter thirty-one of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 18. *Investment of Capital, Undivided Profits and Reserve Funds.*—The capital deposits, undivided profits and reserve funds of the corporation may be invested in the following ways, and in such ways only: (a) Loaned to members of the corporation in accordance with the provisions of this article; (b) deposited to the credit of the corporation in a banking institution incorporated under the laws of this state, or in national banks operating in this state; (c) in obligations of the United States of America, or in securities fully guaranteed thereby as to both principal and interest or in shares or accounts of federal savings and loan associations.

CHAPTER 38

(House Bill No. 205—By Mr. Bowles)

AN ACT to amend and reenact section six, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the duties of the warden as to money, valuables and earnings of the convicts.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 5. The Penitentiary.

Section

6. Duties of warden as to money, valuables and earnings of convicts.

Be it enacted by the Legislature of West Virginia:

That section six, article five, chapter twenty-eight of the code of West Virginia one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 6. *Duties of Warden as to Money, Valuables and*

2 *Earnings of Convicts.*—The warden shall receive and take
3 charge of the money and valuables found upon each con-
4 vict upon his arrival at the penitentiary, and of all money
5 sent to him or earned by him as compensation for work
6 during his imprisonment. The warden shall keep an ac-
7 curate account of all valuables, money and earnings so
8 received, which account shall be subject to examination
9 by the state board of control, and the warden shall deposit
10 such money and earnings in one or more responsible banks
11 to the credit of an account to be designated "Warden's
12 Trustee Fund." The warden shall credit such money and
13 earnings to the convict entitled thereto, and shall pay the
14 same to him or his family, or to those dependent upon
15 him, in such amounts, at such times and in such man-
16 ner, as the state board of control deems best; but at least
17 ten per cent of all money, earned during his imprison-
18 ment shall be kept for and paid to such convict at the
19 time of his discharge. The warden shall deliver to the
20 convict at the time of his discharge all valuables, money
21 and earnings then credited to him, or in case of the death
22 of such convict before discharge, the warden shall de-
23 liver such property to his personal representative: *Pro-*
24 *vided, however,* That in case a committee is appointed
25 for such convict during the term of his imprisonment,
26 the warden shall deliver to such committee, upon demand,
27 all money and valuables belonging to the convict and
28 in the custody of the warden, except money earned by
29 such convict as compensation for work done during his
30 imprisonment.

CHAPTER 39

(House Bill No. 203—By Mr. Bowles)

AN ACT to amend and reenact section thirty-one, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to mentally diseased convicts.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 5. The Penitentiary.**Section****31. Mentally diseased convicts.**

Be it enacted by the Legislature of West Virginia:

That section thirty-one, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 31. *Mentally Diseased Convicts.*—When any
2 convict in any of the state's prisons becomes mentally
3 ill before his or her term of sentence expires, it shall
4 become the duty of the warden or superintendent of
5 such prison to notify the board of control which in turn
6 shall cause such convict, if a white male, to be sent to
7 the criminal mentally ill building at the Weston state
8 hospital, or, if a white female, to the Weston state hos-
9 pital and if colored, either male or female, to the Lakin
10 state hospital at Lakin. It shall then be the duty of the
11 examining board of the hospital in which such convict
12 shall be confined to observe said convict for a period of
13 thirty days. If it be determined that said convict is not
14 mentally diseased he or she shall forthwith be returned
15 to prison. If it be determined that said convict is mentally
16 diseased then the examining board shall proceed in
17 accordance with section three, article four, chapter twenty-
18 seven of the code of West Virginia.

19 When it is determined that such mentally diseased
20 convict has recovered he or she shall be returned forth-
21 with to prison. Any time spent in the Weston state
22 hospital or the Lakin state hospital shall be computed
23 as part of the term for which he or she was sentenced.
24 If the sentence of such convict expire while said convict
25 is at the Weston state hospital or the Lakin state hospital
26 then upon his or her recovery he or she shall be dis-
27 charged from said hospital in accordance with section
28 seven, article four, chapter twenty-seven of the code of
29 West Virginia.

CHAPTER 40

(House Bill No. 460—By Mr. Ridenour)

AN ACT to amend and reenact section five and sections five-(one) through five-(fifty-four), inclusive, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to compensation of county commissioners for services other than services in court.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section

5. Duties of county commissioners and payment for services other than services in court.
5-(1) to 5-(54). Salaries of county commissioners of the various counties of the state.

Be it enacted by the Legislature of West Virginia:

That section five and sections five-(one) through five-(fifty-four), inclusive, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Duties of County Commissioners and Payment for Services Other than Services in Court.*—It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, and to arrange for the feeding and care of the prisoners therein, and to investigate the conditions of the poor within their county, not housed within such institutions; to visit detention homes for children within their counties, if any, and to visit and inspect bridges and bridge approaches under their control; to provide for and have general supervision over the repair and maintenance of the county courthouse, jails, houses for the poor and other county property, so as to prevent the undue deterioration thereof; to supervise and control the maintenance

16 and operation of airport or airports owned and/or oper-
17 ated by the county court; and to supervise and control the
18 purchase, erection and maintenance of airport facilities;
19 to supervise and control the purchase of furniture, fixtures
20 and equipment, and janitors' and other supplies, for their
21 county; to attend the annual meeting of county assessors,
22 and such district meetings as may be called by the state
23 tax commissioner, on matters pertaining to the work of
24 the county assessors and county courts as boards of review
25 and equalization; to review and equalize the assessments
26 made by the assessor; to inspect and review the lists of
27 property both real and personal, made up by the assessor
28 and his deputies for taxable purposes, and to point out
29 to the assessor any property, real or personal, which the
30 said assessors of their respective counties may have over-
31 looked or omitted to place on said tax lists; to call to the
32 attention of the assessor all real estate or personal prop-
33 erty belonging to churches, lodges, schools or other charit-
34 able institutions which may have been overlooked or
35 omitted by the assessor or his deputies in making up his
36 lists of property for entry on the land and personal prop-
37 erty books; to cooperate with the county public assistance
38 council and supervise the general management of the
39 fiscal affairs and business of each county.

40 Compensation shall be allowed and paid out of the
41 county treasury, in the same manner as salaries are paid,
42 to each county commissioner of each county (except
43 as otherwise provided by law for the county of Ohio),
44 for services performed for such county concerning the
45 visiting of the poor, inspection of jails, bridges and bridge
46 approaches, and for visiting detention homes for children;
47 and for providing for and supervising the repair and
48 maintenance of the county courthouse, jails, houses for
49 the poor, and other county property, for supervising and
50 controlling the maintenance and operation of airport or
51 airports owned by and/or operated by the county court;
52 and supervising and controlling the purchase erection
53 and maintenance of airport facilities; and for supervising
54 and controlling the purchase of furniture, fixtures and
55 equipment and janitors' and other supplies of their
56 county; and for attending the annual meeting of assessors

57 and such district meetings as may be called by the state
58 tax commissioner, on matters pertaining to the work of
59 assessors and county courts as boards of review and equal-
60 ization; for reviewing and equalizing the assessments
61 made by the assessors; for inspecting and reviewing the
62 lists of property, both real and personal, made up by the
63 assessor and his deputies for taxable purposes, and for
64 pointing out to the assessor any property, real or per-
65 sonal, which the said assessors of their respective counties
66 may have overlooked or omitted to place on said tax
67 lists; for calling to the attention of the assessor all real
68 estate or personal property belonging to churches, lodges,
69 schools or other charitable institutions which may have
70 been overlooked or omitted by the assessor or his deputies
71 in making up his lists of property for entry on the land
72 and personal property books; and for duties of the county
73 commissioners in cooperating with the county public
74 assistance council, and for supervising the general man-
75 agement of the fiscal affairs and business of each county,
76 within their counties, and other business by such com-
77 missioners, in addition to compensation for services in
78 court, the sums of money hereinafter provided in the
79 following sections five-(one) to five-(fifty-four), inclu-
80 sive.

2 Sec. 5-(1). *Barbour County*.—For the county of Bar-
2 bour, seventy-five dollars per month.

2 Sec. 5-(2). *Berkeley County*.—For the county of Berke-
2 ley, the president of the court seventy-five dollars and
3 other members of the court fifty dollars per month.

2 Sec. 5-(3). *Boone County*.—For the county of Boone,
2 the president of the court eighty-five dollars and the
3 other members of the court seventy-five dollars per
4 month.

2 Sec. 5-(4). *Braxton County*.—For the county of Brax-
2 ton, sixty dollars per month.

2 Sec. 5-(5). *Brooke County*.—For the county of Brooke,
2 one hundred dollars per month.

2 Sec. 5-(6). *Cabell County*.—For the county of Cabell,
2 two hundred dollars per month.

2 Sec. 5-(7). *Calhoun County*.—For the county of Calhoun, thirty-five dollars per month.

2 Sec. 5-(8). *Clay County*.—For the county of Clay, forty-five dollars per month.

2 Sec. 5-(9). *Doddridge County*.—For the county of Doddridge, thirty-five dollars per month.

2 Sec. 5-(10). *Fayette County*.—For the county of Fayette, two hundred fifty dollars per month.

2 Sec. 5-(11). *Gilmer County*.—For the county of Gilmer, fifty dollars per month.

2 Sec. 5-(12). *Grant County*.—For the county of Grant, thirty dollars per month.

2 Sec. 5-(13). *Greenbrier County*.—For the county of Greenbrier, seventy-five dollars per month.

2 Sec. 5-(14). *Hampshire County*.—For the county of Hampshire, the president of the court seventy-five dollars
3 and the other members of the court fifty dollars per month.

2 Sec. 5-(15). *Hancock County*.—For the county of Hancock, one hundred fifty-dollars per month.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy, fifty dollars per month.

2 Sec. 5-(17). *Harrison County*.—For the county of Harrison, two hundred fifty dollars per month.

2 Sec. 5-(18). *Jackson County*.—For the county of Jackson, seventy-five dollars per month.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, the president of the court seventy-five dollars and
3 the other members of the court fifty dollars per month.

2 Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, three hundred fifty dollars per month.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis, one hundred dollars per month.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, one hundred twenty-five dollars per month.

2 Sec. 5-(23). *Logan County*.—For the county of Logan,
2 two hundred twenty-five dollars per month.

2 Sec. 5-(24). *Marion County*.—For the county of Marion,
2 three hundred dollars per month.

2 Sec. 5-(25). *Marshall County*.—For the county of Mar-
2 shall, one hundred dollars per month.

2 Sec. 5-(26). *Mason County*.—For the county of Mason,
2 seventy-five dollars per month.

2 Sec. 5-(27). *McDowell County*.—For the county of Mc-
2 Dowell, two hundred dollars per month.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer,
2 the president of the court two hundred dollars and the
3 other members of the court one hundred seventy-five
4 dollars per month.

2 Sec. 5-(29). *Mineral County*.—For the county of Min-
2 eral, fifty dollars per month.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo,
2 one hundred seventy-five dollars per month.

2 Sec. 5-(31). *Morgan County*.—For the county of Mor-
2 gan, fifty dollars per month.

2 Sec. 5-(32). *Monroe County*.—For the county of Mon-
2 roe, thirty-five dollars per month.

2 Sec. 5-(33). *Monongalia County*.—For the county of
2 Monongalia, two hundred dollars per month.

2 Sec. 5-(34). *Nicholas County*.—For the county of
2 Nicholas, fifty dollars per month.

2 Sec. 5-(35). *Pendleton County*.—For the county of
2 Pendleton, thirty dollars per month.

2 Sec. 5-(36). *Pleasants County*.—For the county of
2 Pleasants, thirty-five dollars per month.

2 Sec. 5-(37). *Pocahontas County*.—For the county of
2 Pocahontas, twenty-five dollars per month.

2 Sec. 5-(38). *Preston County*.—For the county of Pres-
2 ton, the president of the county court fifty-five dollars,
3 and other members of the court forty dollars per month.

2 Sec. 5-(39). *Putnam County*.—For the county of Putnam, fifty dollars per month.

2 Sec. 5-(40). *Raleigh County*.—For the county of Raleigh, the president of the county court two hundred
3 dollars per month, and other members of the court one
4 hundred ninety dollars per month.

2 Sec. 5-(41). *Randolph County*.—For the county of Randolph, seventy-five dollars per month.

2 Sec. 5-(42). *Ritchie County*.—For the county of Ritchie, fifty dollars per month.

2 Sec. 5-(43). *Roane County*.—For the county of Roane, forty dollars per month.

2 Sec. 5-(44). *Summers County*.—For the county of Summers, forty-five dollars per month.

2 Sec. 5-(45). *Taylor County*.—For the county of Taylor, fifty dollars per month.

2 Sec. 5-(46). *Tucker County*.—For the county of Tucker, twenty-five dollars per month.

2 Sec. 5-(47). *Tyler County*.—For the county of Tyler, fifty dollars per month.

2 Sec. 5-(48). *Upshur County*.—For the county of Upshur, fifty dollars per month.

2 Sec. 5-(49). *Wayne County*.—For the county of Wayne, one hundred fifty dollars per month.

2 Sec. 5-(50). *Webster County*.—For the county of Webster, fifty dollars per month.

2 Sec. 5-(51). *Wetzel County*.—For the county of Wetzel, eighty dollars per month.

2 Sec. 5-(52). *Wirt County*.—For the county of Wirt, thirty dollars per month.

2 Sec. 5-(53). *Wood County*.—For the county of Wood, two hundred fifty dollars per month.

2 Sec. 5-(54). *Wyoming County*.—For the county of Wyoming, one hundred dollars per month.

CHAPTER 41

(House Bill No. 444—By Mr. Booth)

AN ACT to amend article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen, relating to the insuring of moneys collected by county officials.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 3. County Property.

Section

18. Insuring of collections by county officers.

Be it enacted by the Legislature of West Virginia:

That article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen, to read as follows:

Section 18. *Insuring of Collections by County Officers.*

2 —Any county officer, who by the laws of the state of West
3 Virginia, is required to make collections of moneys for
4 such county, or other governmental agencies, may insure
5 the moneys so collected against loss by burglary and
6 robbery, with any reliable insurance company licensed
7 to do business in this state, and the county court may
8 pay the premium therefor out of the general fund of such
9 county, and the insured shall be such county officer and
10 the county court of such county.

—o—

CHAPTER 42

(House Bill No. 459—By Mrs. Walker)

AN ACT to amend and reenact section one, sections one-(one) through one-(fifty-five), inclusive; section two, sections

two-(one) through two-(fifty-two), inclusive; section three, sections three-(one) through three-(fifty-two), inclusive; section five, sections five-(one) through five-(fifty-five), inclusive; and section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to salaries of sheriffs, county clerks, circuit clerks, prosecuting attorneys, and assistants, stenographers and clerks for prosecuting attorneys.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

1. Salaries of sheriffs.
1-(1) to 1-(55). Salaries of sheriffs of the various counties of the state.
2. Salaries of county clerks.
2-(1) to 2-(52). Salaries of county clerks of the various counties of the state.
3. Salaries of circuit clerks.
3-(1) to 3-(52). Salaries of circuit clerks of the various counties of the state.
5. Salaries of prosecuting attorneys.
5-(1) to 5-(55). Salaries of prosecuting attorneys of the various counties of the state.
6. Assistants, stenographers and clerks for prosecuting attorney; salaries; when court may appoint attorney to prosecute.

Be it enacted by the Legislature of West Virginia:

That section one, sections one-(one) through one-(fifty-five), inclusive; section two, sections two-(one) through two-(fifty-two), inclusive; section three, sections three-(one) through three-(fifty-two), inclusive; section five, sections five-(one) through five-(fifty-five), inclusive, and section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

- Section 1. *Salaries of Sheriffs.*—The annual compensation of the sheriff of each county shall on and after January first, one thousand nine hundred fifty-seven, be in the amount set forth in section one-(one) to one-(fifty-five), inclusive, of this article.

2 Sec. 1-(1). *Barbour County*.—For the county of Barbour,
2 three thousand three hundred dollars.

2 Sec. 1-(2). *Berkeley County*.—For the county of Berke-
2 ley, four thousand dollars.

2 Sec. 1-(3). *Boone County*.—For the county of Boone,
2 four thousand dollars.

2 Sec. 1-(4). *Braxton County*.—For the county of Braxton,
2 four thousand dollars.

2 Sec. 1-(5). *Brooke County*.—For the county of Brooke,
2 three thousand six hundred dollars.

2 Sec. 1-(6). *Cabell County*.—For the county of Cabell,
2 seven thousand five hundred dollars.

2 Sec. 1-(7). *Calhoun County*.—For the county of Calhoun,
2 two thousand dollars.

2 Sec. 1-(8). *Clay County*.—For the county of Clay, two
2 thousand dollars.

2 Sec. 1-(9). *Doddridge County*.—For the county of Dod-
2 dridge, two thousand five hundred dollars.

2 Sec. 1-(10). *Fayette County*.—For the county of Fayette,
2 seven thousand five hundred dollars.

2 Sec. 1-(11). *Gilmer County*.—For the county of Gilmer,
2 two thousand four hundred dollars.

2 Sec. 1-(12). *Grant County*.—For the county of Grant,
2 three thousand dollars.

2 Sec. 1-(13). *Greenbrier County*.—For the county of
2 Greenbrier, three thousand six hundred dollars.

2 Sec. 1-(14). *Hampshire County*.—For the county of
2 Hampshire, three thousand dollars.

2 Sec. 1-(15). *Hancock County*.—For the county of Han-
2 cock, four thousand six hundred dollars.

2 Sec. 1-(16). *Hardy County*.—For the county of Hardy,
2 two thousand dollars.

2 Sec. 1-(17). *Harrison County*.—For the county of Har-
2 rison, six thousand dollars.

2 Sec. 1-(18). *Jackson County*.—For the county of Jackson, two thousand four hundred dollars.

2 Sec. 1-(19). *Jefferson County*.—For the county of Jefferson, three thousand two hundred dollars.

2 Sec. 1-(20). *Kanawha County*.—For the county of Kanawha, seven thousand five hundred dollars.

2 Sec. 1-(21). *Lewis County*.—For the county of Lewis, three thousand three hundred dollars.

2 Sec. 1-(22). *Logan County*.—For the county of Logan, seven thousand five hundred dollars.

2 Sec. 1-(23). *Lincoln County*.—For the county of Lincoln, four thousand two hundred dollars.

2 Sec. 1-(24). *Marion County*.—For the county of Marion, six thousand five hundred dollars.

2 Sec. 1-(25). *Marshall County*.—For the county of Marshall, three thousand eight hundred dollars.

2 Sec. 1-(26). *Mason County*.—For the county of Mason, three thousand dollars.

2 Sec. 1-(27). *Mercer County*.—For the county of Mercer, six thousand dollars.

2 Sec. 1-(28). *Mineral County*.—For the county of Mineral, three thousand six hundred dollars.

2 Sec. 1-(29). *Mingo County*.—For the county of Mingo, six thousand dollars.

2 Sec. 1-(30). *Monongalia County*.—For the county of Monongalia, five thousand dollars.

2 Sec. 1-(31). *Monroe County*.—For the county of Monroe, one thousand eight hundred dollars.

2 Sec. 1-(32). *McDowell County*.—For the county of McDowell, seven thousand dollars.

2 Sec. 1-(33). *Morgan County*.—For the county of Morgan, two thousand dollars.

2 Sec. 1-(34). *Nicholas County*.—For the county of Nicholas, three thousand six hundred dollars.

2 Sec. 1-(35). *Ohio County*.—For the county of Ohio, five
2 thousand dollars.

2 Sec. 1-(36). *Pendleton County*.—For the county of Pen-
2 dleton, two thousand one hundred dollars.

2 Sec. 1-(37). *Pleasants County*.—For the county of Plea-
2 sants, two thousand four hundred dollars.

2 Sec. 1-(38). *Pocahontas County*.—For the county of Po-
2 cahontas, three thousand dollars.

2 Sec. 1-(39). *Preston County*.—For the county of Preston,
2 three thousand five hundred dollars.

2 Sec. 1-(40). *Putnam County*.—For the county of Putnam,
2 three thousand six hundred dollars.

2 Sec. 1-(41). *Raleigh County*.—For the county of Raleigh,
2 seven thousand dollars.

2 Sec. 1-(42). *Randolph County*.—For the county of Ran-
2 dolph, four thousand dollars.

2 Sec. 1-(43). *Ritchie County*.—For the county of Ritchie,
2 three thousand dollars.

2 Sec. 1-(44). *Roane County*.—For the county of Roane,
2 two thousand eight hundred dollars.

2 Sec. 1-(45). *Summers County*.—For the county of Sum-
2 mers, three thousand four hundred dollars.

2 Sec. 1-(46). *Taylor County*.—For the county of Taylor,
2 three thousand four hundred dollars.

2 Sec. 1-(47). *Tucker County*.—For the county of Tucker,
2 two thousand seven hundred dollars.

2 Sec. 1-(48). *Tyler County*.—For the county of Tyler,
2 three thousand dollars.

2 Sec. 1-(49). *Upshur County*.—For the county of Upshur,
2 three thousand dollars.

2 Sec. 1-(50). *Wayne County*.—For the county of Wayne,
2 four thousand eight hundred dollars.

2 Sec. 1-(51). *Webster County*.—For the county of Web-
2 ster, three thousand dollars.

Sec. 1-(52). *Wetzel County*.—For the county of Wetzel,
2 three thousand eight hundred dollars.

Sec. 1-(53). *Wirt County*.—For the county of Wirt, two
2 thousand five hundred dollars.

Sec. 1-(54). *Wood County*.—For the county of Wood,
2 five thousand four hundred dollars.

Sec. 1-(55). *Wyoming County*.—For the county of
2 Wyoming, six thousand dollars.

Sec. 2. *Salaries of County Clerks*.—The annual compen-
2 sation of the clerk of the county court of each county
3 shall, on and after January one, one thousand nine hun-
4 dred fifty-seven, be in the amounts set forth in sections
5 two-(one) to two-(fifty-two), inclusive, of this article.

Sec. 2-(1). *Barbour County*.—For the county of Barbour,
2 two thousand two hundred dollars.

Sec. 2-(2). *Berkeley County*.—For the county of Berke-
2 ley, three thousand dollars.

Sec. 2-(3). *Boone County*.—For the county of Boone,
2 three thousand eight hundred dollars.

Sec. 2-(4). *Braxton County*.—For the county of Braxton,
2 three thousand six hundred dollars.

Sec. 2-(5). *Brooke County*.—For the county of Brooke,
2 three thousand dollars.

Sec. 2-(6). *Cabell County*.—For the county of Cabell,
2 six thousand dollars.

Sec. 2-(7). *Calhoun County*.—For the county of Calhoun,
2 two thousand dollars.

Sec. 2-(8). *Clay County*.—For the county of Clay, one
2 thousand nine hundred dollars.

Sec. 2-(9). *Doddridge County*.—For the county of Dod-
2 dridge, two thousand five hundred dollars.

Sec. 2-(10). *Fayette County*.—For the county of Fayette,
2 not less than four thousand two hundred dollars nor more
3 than four thousand eight hundred dollars, to be fixed by
4 the county court.

2 Sec. 2-(11). *Gilmer County*.—For the county of Gilmer,
2 two thousand one hundred dollars.

2 Sec. 2-(12). *Greenbrier County*.—For the county of
2 Greenbrier, three thousand six hundred dollars.

2 Sec. 2-(13). *Hampshire County*.—For the county of
2 Hampshire, not less than two thousand four hundred dol-
3 lars, nor more than three thousand dollars.

2 Sec. 2-(14). *Hancock County*.—For the county of Han-
2 cock, four thousand four hundred dollars.

2 Sec. 2-(15). *Harrison County*.—For the county of Har-
2 rison, five thousand dollars.

2 Sec. 2-(16). *Jackson County*.—For the county of Jack-
2 son, two thousand four hundred dollars.

2 Sec. 2-(17). *Jefferson County*.—For the county of Jef-
2 ferson, two thousand two hundred dollars.

2 Sec. 2-(18). *Kanawha County*.—For the county of Ka-
2 nawha, seven thousand five hundred dollars.

2 Sec. 2-(19). *Lewis County*.—For the county of Lewis,
2 two thousand eight hundred dollars.

2 Sec. 2-(20). *Lincoln County*.—For the county of Lin-
2 coln, three thousand six hundred dollars.

2 Sec. 2-(21). *Logan County*.—For the county of Logan,
2 four thousand five hundred dollars.

2 Sec. 2-(22). *Marion County*.—For the county of Marion,
2 five thousand two hundred dollars.

2 Sec. 2-(23). *Marshall County*.—For the county of Mar-
2 shall, three thousand six hundred dollars.

2 Sec. 2-(24). *Mason County*.—For the county of Mason,
2 three thousand dollars.

2 Sec. 2-(25). *McDowell County*.—For the county of Mc-
2 Dowell, five thousand dollars.

2 Sec. 2-(26). *Mercer County*.—For the county of Mercer,
2 five thousand dollars.

2 Sec. 2-(27). *Mineral County*.—For the county of Min-
2 eral, three thousand six hundred dollars.

2 Sec. 2-(28). *Mingo County*.—For the county of Mingo,
2 four thousand eight hundred dollars.

2 Sec. 2-(29). *Monongalia County*.—For the county of
2 Monongalia, four thousand dollars.

2 Sec. 2-(30). *Monroe County*.—For the county of Mon-
2 roe, one thousand eight hundred dollars.

2 Sec. 2-(31). *Morgan County*.—For the county of Mor-
2 gan, two thousand dollars.

2 Sec. 2-(32). *Nicholas County*.—For the county of
2 Nicholas, three thousand fifty dollars.

2 Sec. 2-(33). *Ohio County*.—For the county of Ohio, six
2 thousand dollars.

2 Sec. 2-(34). *Pleasants County*.—For the county of
2 Pleasants, two thousand four hundred dollars.

2 Sec. 2-(35). *Pocahontas County*.—For the county of
2 Pocahontas, three thousand dollars.

2 Sec. 2-(36). *Preston County*.—For the county of Pres-
2 ton, three thousand dollars.

2 Sec. 2-(37). *Putnam County*.—For the county of Put-
2 nam, three thousand six hundred dollars.

2 Sec. 2-(38). *Raleigh County*.—For the county of Ra-
2 leigh, five thousand four hundred dollars.

2 Sec. 2-(39). *Randolph County*.—For the county of
2 Randolph, four thousand dollars.

2 Sec. 2-(40). *Ritchie County*.—For the county of Ritchie,
2 two thousand five hundred dollars.

2 Sec. 2-(41). *Roane County*.—For the county of Roane,
2 two thousand six hundred dollars.

2 Sec. 2-(42). *Summers County*.—For the county of
2 Summers, two thousand seven hundred dollars.

2 Sec. 2-(43). *Taylor County*.—For the county of Taylor,
2 two thousand eight hundred dollars.

2 Sec. 2-(44). *Tucker County*.—For the county of Tucker,
2 two thousand four hundred dollars.

2 Sec. 2-(45). *Tyler County*.—For the county of Tyler,
2 two thousand four hundred dollars.

2 Sec. 2-(46). *Upshur County*.—For the county of Up-
2 shur, two thousand eight hundred dollars.

2 Sec. 2-(47). *Wayne County*.—For the county of Wayne,
2 four thousand dollars.

2 Sec. 2-(48). *Webster County*.—For the county of Web-
2 ster, two thousand six hundred dollars.

2 Sec. 2-(49). *Wetzel County*.—For the county of Wetzel,
2 three thousand dollars.

2 Sec. 2-(50). *Wirt County*.—For the county of Wirt, one
2 thousand eight hundred dollars.

2 Sec. 2-(51). *Wood County*.—For the county of Wood,
2 four thousand five hundred dollars.

2 Sec. 2-(52). *Wyoming County*.—For the county of
2 Wyoming, four thousand two hundred dollars.

2 Sec. 3. *Salaries of Circuit Clerks*.—The annual compen-
2 sation of the clerk of the circuit court (or clerk of the
3 circuit and criminal or intermediate or other court of
4 limited jurisdiction) in each county shall, on and after
5 January one, one thousand nine hundred fifty-seven, be
6 in the amounts set forth in sections three-(one) to three-
7 (fifty-two), inclusive, of this article.

2 Sec. 3-(1). *Barbour County*.—For the county of Bar-
2 bour, two thousand dollars.

2 Sec. 3-(2). *Berkeley County*.—For the county of Berke-
2 ley, two thousand eight hundred dollars.

2 Sec. 3-(3). *Boone County*.—For the county of Boone,
2 three thousand six hundred dollars.

2 Sec. 3-(4). *Braxton County*.—For the county of Brax-
2 ton, three thousand six hundred dollars.

2 Sec. 3-(5). *Brooke County*.—For the county of Brooke,
2 three thousand dollars.

2 Sec. 3-(6). *Cabell County*.—For the county of Cabell,
2 six thousand dollars.

Sec. 3-(7). *Calhoun County*.—For the county of Calhoun, one thousand two hundred dollars.

Sec. 3-(8). *Clay County*.—For the county of Clay, one thousand six hundred dollars.

Sec. 3-(9). *Doddridge County*.—For the county of Doddridge, two thousand five hundred dollars.

Sec. 3-(10). *Fayette County*.—For the county of Fayette, not less than four thousand two hundred dollars nor more than four thousand eight hundred dollars, to be fixed by the county court.

Sec. 3-(11). *Gilmer County*.—For the county of Gilmer, one thousand eight hundred dollars.

Sec. 3-(12). *Greenbrier County*.—For the county of Greenbrier, three thousand dollars.

Sec. 3-(13). *Hampshire County*.—For the county of Hampshire, not less than one thousand eight hundred dollars nor more than two thousand dollars.

Sec. 3-(14). *Hancock County*.—For the county of Hancock, three thousand eight hundred dollars.

Sec. 3-(15). *Harrison County*.—For the county of Harrison, five thousand dollars.

Sec. 3-(16). *Jackson County*.—For the county of Jackson, two thousand two hundred dollars.

Sec. 3-(17). *Jefferson County*.—For the county of Jefferson, three thousand dollars.

Sec. 3-(18). *Kanawha County*.—For the county of Kanawha, seven thousand five hundred dollars.

Sec. 3-(19). *Lewis County*.—For the county of Lewis, two thousand five hundred dollars.

Sec. 3-(20). *Lincoln County*.—For the county of Lincoln, three thousand dollars.

Sec. 3-(21). *Logan County*.—For the county of Logan, four thousand five hundred dollars.

Sec. 3-(22). *Marion County*.—For the county of Marion, five thousand two hundred dollars.

2 Sec. 3-(23). *Marshall County*.—For the county of Marshall, three thousand dollars.

2 Sec. 3-(24). *Mason County*.—For the county of Mason, two thousand four hundred dollars.

2 Sec. 3-(25). *McDowell County*.—For the county of McDowell, five thousand dollars.

2 Sec. 3-(26). *Mercer County*.—For the county of Mercer, five thousand dollars.

2 Sec. 3-(27). *Mineral County*.—For the county of Mineral, three thousand six hundred dollars.

2 Sec. 3-(28). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2 Sec. 3-(29). *Monongalia County*.—For the county of Monongalia, four thousand dollars.

2 Sec. 3-(30). *Monroe County*.—For the county of Monroe, one thousand three hundred twenty dollars.

2 Sec. 3-(31). *Morgan County*.—For the county of Morgan, one thousand four hundred dollars.

2 Sec. 3-(32). *Nicholas County*.—For the county of Nicholas, two thousand five hundred dollars.

2 Sec. 3-(33). *Ohio County*.—For the county of Ohio, five thousand five hundred dollars.

2 Sec. 3-(34). *Pleasants County*.—For the county of Pleasants, one thousand eight hundred dollars.

2 Sec. 3-(35). *Pocahontas County*.—For the county of Pocahontas, three thousand dollars.

2 Sec. 3-(36). *Preston County*.—For the county of Preston, two thousand seven hundred dollars.

2 Sec. 3-(37). *Putnam County*.—For the county of Putnam, three thousand dollars.

2 Sec. 3-(38). *Raleigh County*.—For the county of Raleigh, four thousand seven hundred dollars.

2 Sec. 3-(39). *Randolph County*.—For the county of Randolph, four thousand dollars.

2 Sec. 3-(40). *Ritchie County*.—For the county of Ritchie,
2 two thousand four hundred dollars.

2 Sec. 3-(41). *Roane County*.—For the county of Roane,
2 two thousand two hundred dollars.

2 Sec. 3-(42). *Summers County*.—For the county of
2 Summers, two thousand seven hundred dollars.

2 Sec. 3-(43). *Taylor County*.—For the county of Taylor,
2 two thousand eight hundred dollars.

2 Sec. 3-(44). *Tucker County*.—For the county of Tucker,
2 two thousand two hundred dollars.

2 Sec. 3-(45). *Tyler County*.—For the county of Tyler,
2 two thousand two hundred dollars.

2 Sec. 3-(46). *Upshur County*.—For the county of Upshur,
2 two thousand eight hundred dollars.

2 Sec. 3-(47). *Wayne County*.—For the county of Wayne,
2 three thousand six hundred dollars.

2 Sec. 3-(48). *Webster County*.—For the county of Web-
2 ster, two thousand four hundred dollars.

2 Sec. 3-(49). *Wetzel County*.—For the county of Wetzel,
2 two thousand six hundred dollars.

2 Sec. 3-(50). *Wirt County*.—For the county of Wirt, one
2 thousand two hundred dollars.

2 Sec. 3-(51). *Wood County*.—For the county of Wood,
2 four thousand five hundred dollars.

2 Sec. 3-(52). *Wyoming County*.—For the county of Wyo-
2 ming, four thousand two hundred dollars.

2 Sec. 5. *Salaries of Prosecuting Attorneys*.—The annual
2 compensation of the prosecuting attorney in each county,
3 including the compensation provided by law for his serv-
4 ices as attorney for boards of education and other admin-
5 istrative boards and officers in the county, shall, on and
6 after July one, one thousand nine hundred fifty-seven,
7 be in the amounts set forth in sections five-(one) to five-
8 (fifty-five), inclusive, of this article.

2 Sec. 5-(1). *Barbour County*.—For the county of Bar-
2 bour, two thousand seven hundred dollars.

2 Sec. 5-(2). *Berkeley County*.—For the county of
2 Berkeley, three thousand dollars.

2 Sec. 5-(3). *Boone County*.—For the county of Boone,
2 three thousand six hundred dollars.

2 Sec. 5-(4). *Braxton County*.—For the county of Brax-
2 ton, two thousand four hundred dollars.

2 Sec. 5-(5). *Brooke County*.—For the county of Brooke,
2 three thousand dollars.

2 Sec. 5-(6). *Cabell County*.—For the county of Cabell,
2 seven thousand dollars.

2 Sec. 5-(7). *Calhoun County*.—For the county of Cal-
2 houn, one thousand two hundred dollars.

2 Sec. 5-(8). *Clay County*.—For the county of Clay, one
2 thousand six hundred dollars.

2 Sec. 5-(9). *Doddridge County*.—For the county of
2 Doddridge, one thousand five hundred dollars.

2 Sec. 5-(10). *Fayette County*.—For the county of Fay-
2 ette, not less than four thousand two hundred dollars nor
3 more than four thousand eight hundred dollars, to be fixed
4 by the county court.

2 Sec. 5-(11). *Gilmer County*.—For the county of Gil-
2 mer, one thousand seven hundred forty dollars.

2 Sec. 5-(12). *Grant County*.—For the county of Grant,
2 one thousand two hundred dollars.

2 Sec. 5-(13). *Greenbrier County*.—For the county of
2 Greenbrier, three thousand dollars.

2 Sec. 5-(14). *Hampshire County*.—For the county of
2 Hampshire, two thousand dollars.

2 Sec. 5-(15). *Hancock County*.—For the county of Han-
2 cock, three thousand eight hundred dollars.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy,
2 one thousand four hundred dollars.

2 Sec. 5-(17). *Harrison County*.—For the county of Har-
2 rison, five thousand dollars.

2 Sec. 5-(18). *Jackson County*.—For the county of Jack-
2 son, one thousand six hundred dollars.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, three thousand six hundred dollars.

2 Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, eight thousand five hundred dollars.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis, not less than two thousand dollars nor more than two thousand four hundred dollars.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, three thousand six hundred dollars.

2 Sec. 5-(23). *Logan County*.—For the county of Logan, four thousand eight hundred dollars.

2 Sec. 5-(24). *Marion County*.—For the county of Marion, six thousand dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Marshall, three thousand six hundred dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason, two thousand four hundred dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of McDowell, six thousand dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer, five thousand dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Mineral, two thousand six hundred dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of Monongalia, five thousand five hundred dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Monroe, one thousand two hundred dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Morgan, not less than one thousand two hundred dollars nor more than one thousand four hundred dollars.

2 Sec. 5-(34). *Nicholas County*.—For the county of Nicholas, three thousand three hundred dollars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio, six thousand dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of Pen-
dleton, one thousand two hundred dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of
Pleasants, one thousand two hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of Po-
cahontas, two thousand dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Preston,
three thousand dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Putnam,
three thousand dollars.

2 Sec. 5-(41). *Raleigh County*.—For the county of Raleigh,
five thousand four hundred dollars.

2 Sec. 5-(42). *Randolph County*.—For the county af Ran-
dolph, four thousand dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of Ritchie,
one thousand eight hundred dollars.

2 Sec. 5-(44). *Roane County*.—For the conuty of Roane,
one thousand five hundred dollars.

2 Sec. 5-(45). *Summers County*.—For the county of Sum-
mers, two thousand four hundred dollars.

2 Sec. 5-(46). *Taylor County*.—For the county of Taylor,
two thousand eight hundred dollars.

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker,
two thousand two hundred dollars.

2 Sec. 5-(48). *Tyler County*.—For the county of Tyler,
one thousand seven hundred dollars.

2 Sec. 5-(49). *Upshur County*.—For the county of Upshur,
two thousand four hundred dollars.

2 Sec. 5-(50). *Wayne County*.—For the county of Wayne,
three thousand six hundred dollars.

2 Sec. 5-(51). *Webster County*.—For the county of Web-
ster, two thousand four hundred dollars.

2 Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,
two thousand two hundred dollars.

2 Sec. 5-(53). *Wirt County*.—For the county of Wirt, one
2 thousand two hundred dollars.

2 Sec. 5-(54). *Wood County*.—For the county of Wood,
2 four thousand dollars.

2 Sec. 5-(55). *Wyoming County*.—For the county of
2 Wyoming, not less than three thousand, nor more than
3 five thousand four hundred dollars.

2 Sec. 6. *Assistants, Stenographers and Clerks for Prosecuting Attorney; Salaries; When Court May Appoint Attorney to Prosecute*.—Any prosecuting attorney may,
3 with the assent of the county court of his county, entered
4 of record, except as hereinafter provided, appoint one
5 (and Ohio county three and Kanawha, Harrison,
6 Fayette, Raleigh, Cabell and McDowell counties two
7 each) practicing attorney to assist him in the discharge
8 of his official duties for and during his term of office, and
9 such assistant shall take the same oath and may perform
10 the same duties as his principal; and he may be removed
11 from office as such at any time by his principal; and
12 further he may be removed from his office as such assistant
13 by the circuit court of the county in which he is appointed,
14 for any cause for which his principal might be removed.
15 The compensation of such assistant shall be paid by the principal,
16 except in the counties of Barbour, Berkeley, Boone, Brooke,
17 Cabell, Calhoun, Clay, Fayette, Harrison, Hancock, Kanawha,
18 Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell,
19 Mercer, Mineral, Mingo, Monongalia, Nicholas, Ohio, Putnam,
20 Raleigh, Randolph, Summers, Taylor, Upshur, Wayne, Webster,
21 Wetzel, Wood and Wyoming, and in the said counties the county
22 court thereof shall allow annually to such assistants such
23 compensation to be paid out of the county treasury as is deemed
24 reasonable by the court, except that in Hancock county
25 the salary of such assistant shall not be less than one thousand
26 eight hundred dollars nor more than two thousand four
27 hundred dollars; in Ohio county for the first assistant,
28 four thousand dollars, for the second assistant three thousand
29 five hundred dollars and for the third assistant three thousand
30 dollars; in Kanawha County for the two

33 assistants, each, not more than seven thousand six hun-
34 dred dollars and not less than six thousand dollars; in Cab-
35 bell county for the two assistants, each five thousand five
36 hundred dollars; in McDowell county, not less than three
37 thousand dollars nor more than four thousand two hun-
38 dred dollars for each assistant; in Marion county, not less
39 than four thousand two hundred nor more than four thou-
40 sand eight hundred dollars; in Raleigh county, four thou-
41 sand two hundred dollars; in Mingo county, not to exceed
42 four thousand dollars; in Harrison county, not less than
43 one thousand five hundred nor more than four thousand
44 five hundred dollars; in Mercer county, four thousand two
45 hundred dollars; in Summers and Wood counties, not less
46 than one thousand nor more than two thousand dollars; in
47 Logan county, not less than three thousand dollars nor
48 more than three thousand six hundred dollars; in Fayette
49 county for the first assistant, not less than three thousand
50 six hundred nor more than four thousand five hundred dol-
51 lars, and for the second assistant not to exceed two thou-
52 sand eight hundred dollars; in Boone county, not less than
53 two thousand dollars nor more than three thousand dol-
54 lars; in Wyoming county, not less than one thousand five
55 hundred nor more than two thousand seven hundred dol-
56 lars; in Barbour county, one thousand dollars; in Monon-
57 galia county, four thousand dollars; in Wayne county, two
58 thousand five hundred dollars; in Lincoln county, not to
59 exceed one thousand eight hundred dollars; in Berkeley
60 county, not to exceed two thousand dollars; in Lewis,
61 Marshall, Mineral, Nicholas and Upshur counties, not to
62 exceed twelve hundred dollars, and in Randolph county,
63 not to exceed two thousand seven hundred dollars; in
64 Webster and Wetzel counties, not less than six hundred
65 nor more than nine hundred dollars; in Putnam county,
66 not to exceed two thousand dollars; and Calhoun county,
67 three hundred dollars. In each case such compensation
68 shall include the compensation provided by law for such
69 assistant's services as attorney for boards of education, and
70 other administrative boards and officers of the county.

71 In any case in which it would, in the opinion of the
72 court, be improper for the prosecuting attorney and his
73 assistant (if he has one), to act, or if the prosecuting at-

74 torney and his assistant be unable to act, such court shall
75 appoint some competent practicing attorney to prosecute
76 such cases; and upon the performance of the service for
77 which he was appointed; the court shall certify that fact,
78 with its opinion of what would be a reasonable allowance
79 to such attorney for the service rendered, to the county
80 court of the county, and such sum, when allowed by the
81 county court, shall be paid out of the county treasury:
82 *Provided*, That nothing in this section shall be construed
83 to prohibit the employment by any person of a competent
84 attorney or attorneys to assist in the prosecution of any
85 person or corporation charged with crime.

86 In each of the counties herein named, except Harrison,
87 Cabell, Wayne and Fayette and including Greenbrier,
88 Hampshire, Pocahontas, Putnam, Ritchie and Upshur, the
89 prosecuting attorney may employ a stenographer for his
90 office at a salary, payable out of the county treasury, of not
91 less than nine hundred nor more than two thousand dol-
92 lars per annum; except, the annual salary of such steno-
93 grapher in Greenbrier county shall not exceed two thou-
94 sand three hundred and forty dollars; except, the annual
95 salary of such stenographer in Pocahontas county shall not
96 exceed one thousand two hundred dollars; in Putnam
97 county shall not exceed two thousand dollars; in Calhoun
98 and Upshur counties, shall not exceed nine hundred dol-
99 lars; in Hampshire county shall not be less than one thou-
100 sand two hundred nor more than two thousand dollars; in
101 Ritchie county shall not be less than one thousand dollars
102 nor more than twelve hundred dollars; in Lewis county,
103 shall not be less than six hundred dollars, nor exceed one
104 thousand five hundred dollars; in Berkeley county, shall
105 be not less than eighteen hundred dollars nor more than
106 two thousand dollars in the discretion of the county court;
107 in Monongalia county, shall be not less than two thousand
108 four hundred dollars nor more than three thousand six
109 hundred dollars; in Boone county, shall be two thousand
110 four hundred dollars; and in Braxton county, shall be four-
111 teen hundred dollars; in Taylor county, shall not be less
112 than one thousand two hundred dollars nor more than two
113 thousand dollars; in Webster county, shall be nine hundred
114 dollars; in Gilmer county, shall not exceed nine hundred

115 dollars: *Provided*, That in each of the last two named
116 counties the prosecuting attorney may not employ a steno-
117 grapher except with the consent of the county court en-
118 tered of record.

119 In the county of Jefferson the prosecuting attorney
120 may employ a stenographer for his office at a salary of
121 not more than one thousand five hundred dollars per
122 annum, payable out of the county treasury, to be fixed by
123 the said prosecuting attorney of said county of Jefferson.

124 In the county of Harrison, the prosecuting attorney
125 may employ two stenographers for his office at a salary
126 for each stenographer of not less than nine hundred nor
127 more than two thousand dollars per annum, payable out
128 of the county treasury.

129 In the county of Cabell the prosecuting attorney may
130 employ two stenographers for his office, each at a salary
131 of not more than three thousand dollars per year, payable
132 out of the county treasury.

133 In the county of Clay, the prosecuting attorney may
134 employ a clerk or stenographer for his office at a salary
135 of one thousand two hundred dollars per annum, payable
136 out of the county treasury; except, that in lieu of the ap-
137 pointment of such clerk or stenographer, the prosecuting
138 attorney may employ a practicing attorney of said county
139 as his assistant at a salary of not less than one thousand
140 nor more than one thousand five hundred dollars per an-
141 num, payable out of the county treasury.

142 In the counties of Mingo and Preston, the prosecuting
143 attorney may employ one stenographer for his office at a
144 salary not to exceed three thousand six hundred dollars
145 per annum for the county of Mingo and one thousand
146 eight hundred dollars per annum for the county of Pres-
147 ton, payable out of the county treasury.

148 In the county of Jackson, the prosecuting attorney may
149 employ one stenographer or clerk for his office at a salary
150 of not to exceed nine hundred dollars per annum, pay-
151 able out of the county treasury.

152 In the county of Mercer, the prosecuting attorney may
153 employ one stenographer or clerk for his office at a salary
154 of not to exceed the sum of three thousand dollars
155 per annum, payable out of the county treasury.

156 In the county of Hardy, the prosecuting attorney may
157 employ one stenographer or clerk for his office at a salary
158 not to exceed one thousand twenty dollars per annum,
159 to be fixed by the prosecuting attorney, payable out of
160 the county treasury, as salaries of county officials are
161 paid.

162 In the county of Grant, the prosecuting attorney may
163 employ one stenographer or clerk for his office at a salary
164 not to exceed eight hundred forty dollars per annum,
165 payable out of the county treasury as salaries of county
166 officials are paid. In the county of Pendleton, the prose-
167 cuting attorney may employ one stenographer or clerk for
168 his office at a salary not to exceed seven hundred eighty
169 dollars per annum, payable out of the county treasury
170 as salaries of county officials are paid.

171 In the county of Wyoming, the prosecuting attorney
172 may employ one stenographer at a salary to be fixed by
173 the county court and payable out of the treasury of said
174 county, and in the counties of Mason and Roane the prose-
175 cuting attorney may employ one stenographer at a salary
176 of not less than eleven hundred dollars nor more than fif-
177 teen hundred dollars per annum, payable out of the treas-
178 ury of said county.

179 In the county of Kanawha, the prosecuting attorney
180 may employ two stenographers, each at a salary of three
181 thousand six hundred dollars per annum, payable out of
182 the treasury of said county.

183 In the county of Hancock, the prosecuting attorney may
184 employ one stenographer at a salary of not more than two
185 thousand four hundred dollars per annum, payable out of
186 the treasury of said county.

187 In the county of Wayne, the prosecuting attorney may
188 employ one stenographer at a salary of not less than twen-
189 ty-four hundred dollars nor more than twenty-seven hun-
190 dred dollars per annum, to be fixed by the county court
191 and payable out of the treasury of the county.

192 In the county of Randolph, the prosecuting attorney
193 may employ one stenographer at a salary of not less than
194 one thousand five hundred dollars per annum and not
195 more than two thousand four hundred dollars per annum

196 to be fixed by the county court and payable out of the
197 treasury of said county.

198 In the county of Fayette, the prosecuting attorney may
199 employ one stenographer at a salary to be fixed by the
200 county court and payable out of the treasury of said
201 county.

202 In the county of McDowell, the prosecuting attorney
203 may employ one stenographer at a salary of not less than
204 one thousand five hundred dollars nor more than three
205 thousand dollars per year to be fixed by the county court
206 and payable out of the treasury of such county.

207 The prosecuting attorney may employ a clerk or a sten-
208 ographer for his office in the counties of Tyler, Wetzel and
209 Marshall at an annual salary not to exceed the following:
210 In the county of Tyler, nine hundred dollars; in the county
211 of Wetzel, eighteen hundred dollars; in the county of Mar-
212 shall, not less than two thousand dollars nor more than
213 twenty-four hundred dollars, payable out of the treasury
214 of the respective counties.

215 In the county of Lincoln, the prosecuting attorney may
216 employ one stenographer or clerk for his office at a salary
217 of not to exceed the sum of two thousand two hundred
218 dollars per annum, payable out of the county treasury.

219 In the county of Logan, the prosecuting attorney may
220 employ one stenographer for his office at a salary of not to
221 exceed the sum of two thousand seven hundred dollars
222 per annum, payable out of the county treasury. In the
223 county of Marion, the prosecuting attorney may employ
224 one stenographer at a salary not to exceed two thousand
225 eight hundred dollars per annum, payable out of the coun-
226 ty treasury.

227 In the county of Raleigh the prosecuting attorney may
228 employ one stenographer at a salary not to exceed three
229 thousand dollars per annum, payable out of the county
230 treasury.

231 In the county of Ohio, the prosecuting attorney may
232 employ one stenographer for his office at a salary of not
233 to exceed two thousand seven hundred dollars per annum,
234 payable out of the county treasury.

235 In the county of Barbour, the prosecuting attorney may
236 employ a stenographer for his office at a salary of not less

237 than one thousand two hundred nor more than one thou-
238 sand eight hundred dollars per annum, to be fixed by the
239 county court of said county, payable out of the county
240 treasury.

241 In the county of Doddridge the prosecuting attorney may
242 employ a stenographer for his office at a salary not to ex-
243 ceed nine hundred dollars per annum, to be fixed by the
244 county court of said county, payable out of the county
245 treasury.

246 In the county of Taylor, the prosecuting attorney may
247 employ a stenographer for his office at a salary of not less
248 than one thousand two hundred nor more than two
249 thousand dollars per annum to be fixed by the county
250 court of said county payable out of the county treasury.

251 In the county of Monroe, the prosecuting attorney may
252 employ a stenographer for his office at a salary not to
253 exceed three hundred dollars per annum payable out of
254 the county treasury.

255 In the county of Pleasants, the prosecuting attorney
256 may employ a stenographer for his office at a salary not
257 to exceed five hundred dollars per annum, to be fixed by
258 the county court of said county, payable out of the county
259 treasury.

CHAPTER 43

(House Bill No. 222—By Mr. Schupbach and Mr. Beneke)

AN ACT to amend article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve-a, relating to the training of sheriffs and deputy sheriffs and payment of expenses thereof by the county court.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

12-a. Training of sheriffs and deputy sheriffs; payment of expenses thereof by county court.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twelve-a, to read as follows:

Section 12-a. *Training of Sheriffs and Deputy Sheriffs; Payment of Expenses Thereof by County Court.*—The county court of each county is authorized at its discretion to expend from the general county fund, upon request and requisition by the sheriff of said county, the necessary and proper travel expenses, per diem allowance of not less than three dollars fifty cents per day and tuition expenses for the training of the sheriff and deputies of said county in the performance of their duties, as sheriff and deputy, at any training school, or academy available therefor located in this state.

CHAPTER 44

(Senate Bill No. 128—By Mr. Love)

AN ACT to amend article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section twelve, providing for the establishment, operation and maintenance of county work farms.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8. Jail and Jailer.

Section

12. County work farms; establishment, operation and maintenance.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section twelve, to read as follows:

Section 12. *County Work Farms; Establishment, Operation and Maintenance.*—The county court of every county shall have authority, in its discretion, to establish, operate and maintain a county work farm to be operated in connection with the county jail and to be used for the confinement of such prisoners as are assigned thereto as hereinafter set forth. The county court of such counties is hereby given authority to purchase land and other property in connection with the establishment of such work farms and to construct such buildings, fences and other facilities and to acquire such personal property as is necessary for the maintenance and operation of such work farm. The cost of such work farm shall be paid out of the general county fund or out of any other funds available to the county court for such purpose.

The county court shall have authority to direct all needed improvements and repairs necessary for the proper upkeep of such work farm and provide for the necessary food, medical treatment and safekeeping of the prisoners confined therein. The work farm shall be operated in conjunction with the county jail. The sheriff of the county shall be responsible for and have the same control of the prisoners assigned to such work farm as he has over the prisoners confined in the county jail and shall make such rules and regulations as are necessary for the care and treatment of such prisoners as are assigned thereto, and shall take proper care for their discipline, diet, clothing and safety. He shall also determine the type and amount of labor each prisoner shall perform, and shall perform all other duties with regard to the prisoners confined at such work farm as he is required to perform with regard to prisoners in the county jail. He shall employ such deputies as guards as may be necessary to supervise and insure the safekeeping of the prisoners. Prisoners committed to said work farm as hereinafter provided shall be required to perform such duties and labor as are reasonably permitted by their physical and mental condition. Provision shall be made for truck and vegetable gardens to be tended by the prisoners, and for the raising of such fruit, hogs, poultry, and other farm products as can be

42 economically and profitably produced. All food products
43 produced on said work farm shall be used first for
44 feeding prisoners either at said work farm or at the
45 county jail and any surplus may be used at any other
46 county institution.

47 The county court shall employ a superintendent for
48 such county work farm, whose duty it shall be to super-
49 vise the work done and to care for and maintain the
50 property and equipment used in connection therewith
51 and who shall serve until his successor is selected and
52 qualified as hereinafter provided. Such superintendent
53 shall also keep an accurate record of the number of
54 prisoners confined at said county work farm and an
55 accurate record of the cost of operating said work farm
56 and shall make a report thereof to the county court at
57 such times as the court may require, but at least twice
58 each year. He shall also keep a record of the farm
59 products produced on such farm, and of the disposition
60 of said products. Such superintendents and his assist-
61 ants shall be employed by the county court on the
62 written recommendation of the sheriff and shall be
63 appointed as deputy sheriffs of said county with all the
64 authority, privileges and immunities of deputy sheriff:
65 *Provided, however,* That the county court shall not em-
66 ploy any such superintendent or assistant superintend-
67 ent unless it is satisfied that he possesses the high char-
68 acter, appropriate ability and energy suitable for such
69 employment.

70 The judge of the circuit, intermediate, common pleas,
71 or such other court as has jurisdiction for the trial of
72 felony cases in such counties, may upon his own motion
73 or upon application of any prisoner confined in the
74 county jail, either in term time or in vacation, transfer
75 any prisoner confined in the county jail except those
76 under conviction for a felony to said work farm or
77 transfer any prisoner confined at said work farm to the
78 county jail. Proper order shall be entered in the order
79 book of such court of every such action. In sentencing
80 any person to the county jail said judge may stipulate
81 in said order of sentence whether such person shall be
82 confined in the county jail or confined at said work farm.

83 This provision, however, shall not be construed to give
84 authority to justices of the peace, judges of police courts,
85 or mayors of municipalities to sentence persons to said
86 work farm, nor to transfer persons from the county jail
87 to said work farm.

88 Should any inmate of such work farm escape there-
89 from he shall be punished under the same provisions of
90 law as if he had escaped from the county jail.

CHAPTER 45

(Senate Bill No. 74—By Mr. Martin)

AN ACT to amend and reenact section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries of judges of circuit courts.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section

4. Salaries of judges of circuit courts; additional compensation from counties.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 4. *Salaries of Judges of Circuit Courts; Additional Compensation from Counties.*—The salaries of the judges of the circuit courts shall be paid out of the state treasury and shall, unless otherwise provided by law, be in the following annual amounts:

(1) In circuits having more than one hundred thousand population, eleven thousand dollars;

(2) In circuits having more than eighty thousand and less than one hundred thousand population, ten thousand dollars;

11 (3) In circuits having more than sixty thousand and
12 less than eighty thousand population, nine thousand five
13 hundred dollars;

14 (4) In circuits having less than sixty thousand popu-
15 lation, nine thousand dollars.

16 Any county court or the board of county commissioners
17 of Ohio county may pay the judge of the circuit court
18 additional compensation, but the salary and additional
19 compensation or combined contribution of the several
20 county courts and board of commissioners shall not ex-
21 ceed seventeen thousand dollars.

22 The population shall be according to the United States
23 census, or the estimate of the United States bureau of
24 census; as certified to the state auditor by the United
25 States director of the census, last preceding the begin-
26 ning of the calendar year in which the salary is payable.

C

CHAPTER 46

(House Bill No. 344—By Mr. Parker)

AN ACT to amend and reenact section one-d, article two, chap-
ter fifty-one of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to terms of the
circuit court in the fourth circuit.

[Passed March 4, 1953; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-d. Fourth circuit.

Be it enacted by the Legislature of West Virginia:

That section one-d, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1-d. *Fourth Circuit.*—For the county of Wood,

- 2 on the fourth Monday in January and April, on the second
 - 3 Monday in July, and the second Monday in October.
 - 4 For the county of Wirt, on the first Monday in January
 - 5 and June, and the second Monday in September.
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* CHAPTER 47

(Senate Bill No. 148—By Mr. Jones)

AN ACT to amend and reenact section one-e, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to judicial circuits, judges and terms of court.

[Passed March 10, 1953; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

- 1-e. Fifth circuit.

Be it enacted by the Legislature of West Virginia:

That section one-e, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 1-e. *Fifth Circuit*.—For the county of Calhoun,
- 2 on the first Monday in April, August and November.
 - 3 For the county of Jackson, on the third Monday in
 - 4 April, the fourth Monday in August and the third Mon-
 - 5 day in November.
 - 6 For the county of Mason, on the first Monday in Jan-
 - 7 uary, May and September.
 - 8 For the county of Roane on the fourth Monday in Jan-
 - 9 uary, May and September.

*H. B. 295 and S. B. 148 were identical bills. Through an inadvertance both bills were passed. H. B. 295 was passed on February 24, 1953. Since the Senate Bill was passed last, it is included in the Acts and the House Bill omitted.

CHAPTER 48

(House Bill No. 37—By Mr. McCormick, of Putnam)

AN ACT to amend and reenact section one-f, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terms of court in the sixth judicial circuit.

[Passed February 17, 1953; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-f. Sixth circuit.

Be it enacted by the Legislature of West Virginia:

That section one-f, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1-f. *Sixth Circuit*.—For the county of Cabell,
2 on the first Monday in January and May, and, on the
3 second Monday in September. For the county of Putnam,
4 on the first Monday in March, and on the second Monday
5 in July and November.

CHAPTER 49

(House Bill No. 39—By Mr. Currence)

AN ACT to amend and reenact section one-k, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eleventh circuit.

[Passed February 17, 1953; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-k. Eleventh circuit.

Be it enacted by the Legislature of West Virginia:

That section one-k, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 1-k. *Eleventh Circuit*.—For the county of Pocahontas, on the second Tuesday in March, the second Tuesday in June, and the first Tuesday in October.
- For the county of Greenbrier, on the third Tuesday in April, the fourth Tuesday in July, and the second Tuesday in November.
- For the county of Monroe, on the first Tuesday in April, the second Tuesday in July, and the third Tuesday in October.
- For the county of Summers, on the second Tuesday in January and the second Tuesday in May and September.
-

CHAPTER 50

(Senate Bill No. 86—By Mr. Love)

AN ACT to amend and reenact section one-m, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the terms of court of the circuit court of Kanawha county.

[Passed February 20, 1953; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

- 1-m. Thirteenth circuit.

Be it enacted by the Legislature of West Virginia:

That section one-m, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 1-m. *Thirteenth Circuit*.—For the county of Kanawha on the second Monday in January, May and September.

CHAPTER 51

(House Bill No. 34—By Mr. Thompson, of Lincoln, and Mr. White)

AN ACT to amend and reenact section one-y, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terms of court in the twenty-fifth judicial circuit.

[Passed February 17, 1953; in effect April 1, 1953. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-y. Twenty-fifth circuit.

Be it enacted by the Legislature of West Virginia:

That section one-y, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1-y. *Twenty-fifth Circuit.*—From and after April 2 first, one thousand nine hundred fifty-three.

3 For the county of Boone, on the third Monday in Jan-
4 uary, the fourth Monday in April and the fourth Monday
5 in August.

6 For the county of Lincoln, on the second Monday in
7 March, June and October.

CHAPTER 52

(House Bill No. 97—By Mr. England and Mr. Bower)

AN ACT to amend and reenact section one-aa, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the terms of court of the circuit court of Wyoming county.

[Passed February 17, 1953; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-aa. Twenty-seventh circuit.

Be it enacted by the Legislature of West Virginia:

That section one-aa, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1-aa. *Twenty-seventh Circuit.*—For the county
2 of Wyoming on the second Monday in March, June and
3 September, and the fourth Monday in November.

CHAPTER 53

(House Bill No. 42—By Mr. Goshorn)

AN ACT to amend and reenact section two, article eight, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to librarian, bond, assistants, compensation.

[Passed March 13, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 8. State Law Libraries.

Section

2. Librarian; bond; assistants; compensation.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Librarian; Bond; Assistants; Compensation.*—

2 The supreme court of appeals, or the judges thereof in
3 vacation, shall appoint a competent librarian to have im-
4 mediate custody and charge of the West Virginia law
5 library under the direction of the court. Such librarian
6 shall give bond in a penalty fixed by the court of not less
7 than two nor more than five thousand dollars, with surety

8 thereon, to be approved by the court, and conditioned as
9 provided for official bonds. Such bond shall be deposited
10 for safekeeping with the clerk of the court. The librarian
11 shall be an officer of the court and shall hold his office
12 and be removable at its pleasure. Vacancies in the office
13 of librarian occurring during a vacation of the court may
14 be filled by appointment in writing made by the judges
15 of the court, or any three of them. When, in the opinion
16 of the court, other employees are needed for the proper
17 protection and use of the library, it may employ such
18 assistants as may be necessary for that purpose. The salary
19 of the librarian shall be fixed by the court and shall be
20 not more than six thousand dollars per annum payable in
21 monthly installments, and the expense of such assistants
22 shall be fixed by the court and shall be paid upon order
23 of the court.

CHAPTER 54

(Senate Bill No. 232—By Mr. Amos)

AN ACT to amend and reenact section five, article nine, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the eligibility for retirement benefits of judges who have elected not to contribute to the judges' retirement fund.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9. Retirement System for Judges of Courts of Record.

Section

5. Election not to contribute.

Be it enacted by the Legislature of West Virginia:

That section five, article nine, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Election Not to Contribute.*—Notwithstanding—

2 ing any provisions of this article, any judge may in
3 writing notify the auditor or the county court, as the case
4 may be, within thirty days after he takes office, or, if he
5 is in office, on the date this article becomes effective, then
6 within thirty days from such latter date, that he elects
7 not to make payments or contributions to the fund, in
8 which event every judge, so electing, shall not thereafter
9 at any time be entitled to receive any retirement pay or
10 benefits under provisions of this article: *Provided, how-*
11 *ever,* That any judge who has so elected not to contribute
12 shall thereafter be permitted to become eligible for re-
13 tirement benefits by paying into the judges' retirement
14 fund all contributions he would have been required to
15 pay into the fund, together with interest thereon at four
16 per cent, if he had not previously elected not to con-
17 tribute. If such notice in writing be given, any deduc-
18 tions theretofore made from the salary of such judge and
19 paid into the fund shall be refunded, without interest, to
20 him by the auditor by warrant drawn on the fund.

CHAPTER 55

(House Bill No. 200—By Mr. Bowles)

AN ACT to amend and reenact section three, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the exceptions as to prohibition against carrying deadly weapons.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7. Dangerous Weapons.

Section

3. Exceptions as to prohibition against carrying deadly weapons.

Be it enacted by the Legislature of West Virginia:

That section three, article seven, chapter sixty-one of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Exceptions as to Prohibition against Carrying Deadly Weapons.*—Nothing in this article shall prevent any person from carrying any such weapon as is mentioned in the first section of this article, in good faith and not having felonious purposes, upon his own premises; nor shall anything herein prevent a person from carrying any such weapon, unloaded, from the place of purchase to his home or residence, or to a place of repair and back to his home or residence; nor shall anything herein prevent a guard at the West Virginia penitentiary duly appointed in conformity with section five, article five, chapter twenty-eight of the code of West Virginia, from carrying any such weapon while on duty; nor shall anything herein prevent a bona fide member of the national guard of West Virginia, or of the reserve officers component of the United States army, while in performance of his official duties as such or any properly organized target shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice, from carrying any revolver or pistol mentioned in this article, unloaded, from his home or place of residence to a place of target practice, and from any such place of target practice back to his home or residence, or using any such weapon at such place of target practice in training and improving his skill in the use of such weapons; but nothing herein shall be construed to authorize any employee of any person, firm or corporation doing business in this state to carry, on or about the premises of such employer, any such pistol, or other weapon mentioned in this article, for which a license is herein required, without having first obtained the license and given the bond as herein provided.

CHAPTER 56

(House Bill No. 442—By Mr. Richardson)

AN ACT to amend article one, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section six-a, relating to right of surety company to become surety with respect to guaranteed arrest bond certificates, and guaranteed arrest bond certificates as cash bail.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Arrest, Commitment and Bail, Searches and Seizures.

Section

6-a. Guaranteed arrest bonds certificates as cash bail.

Be it enacted by the Legislature of West Virginia:

That article one, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section six-a, to read as follows:

Section 6-a. *Guaranteed Arrest Bond Certificates as Cash Bail.*—Any guaranteed arrest bond certificate of any surety company licensed to do business by the insurance commissioner, shall, when presented by the person whose signature appears thereon, be accepted in lieu of cash bail in an amount not to exceed five hundred dollars, as a bail bond, to guarantee the appearance of such person in any court, or before any justice, mayor or municipal judge in this state, at such time as may be required by the court, justice, mayor or municipal judge, when such person is arrested for violation of any motor vehicle law of this state or traffic ordinance of any municipality in this state (except for the offenses of reckless driving, driving while intoxicated or for any felony) committed prior to the date of expiration shown on such guaranteed arrest bond cer-

17 tificate: *Provided*, That any such guaranteed arrest bond
18 certificate so presented as a bail bond in any court in this
19 state shall be subject to the same forfeiture and enforce-
20 ment provisions as any other bail bond.

21 The term, "guaranteed arrest bond certificate", as used
22 herein, means any printed card or other certificate issued
23 by an automobile club or association to any of its mem-
24 bers, which said card or certificate is signed by such
25 member and contains a printed statement that such auto-
26 mobile club or association and a surety company guar-
27 antee the appearance of the person whose signature ap-
28 pears on the card or certificate and that they will, in the
29 event of failure of said person to appear in court at the
30 time of trial, pay any fine or forfeiture imposed on such
31 person in an amount not to exceed five hundred dollars.

CHAPTER 57

(House Bill No. 208—By Mr. Bowles)

AN ACT to amend and reenact section two, article eight, chap-
ter sixty-two of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the punish-
ment of convicts for crimes committed while in the peni-
tentiary.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the
Governor.]

Article 8. Crimes by and Proceedings Against Convicts.

Section

2. Punishment of convicts; no discharge from penitentiary while prosecution is pending.
-

Be it enacted by the Legislature of West Virginia:

That section two, article eight, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. Punishment of Convicts; No Discharge from

2 *Penitentiary While Prosecution Is Pending.*—A convict
3 guilty of such killing as is mentioned in the first section
4 of this article, or any act mentioned therein, from which
5 death ensues to such officer or guard, shall be punished
6 with death. For any other offense mentioned in said sec-
7 tion, a convict, unless he be under a sentence of confine-
8 ment for life, shall be confined in the penitentiary not less
9 than one nor more than five years after the end of the
10 term for which he shall then be subject to confinement.
11 A person prosecuted for an offense under this article shall
12 not be discharged from the penitentiary while such prose-
13 cution is pending. And a person convicted of such offense
14 shall not, by reason thereof, be sentenced under sections
15 eighteen or nineteen, article eleven, chapter sixty-one of
16 this code, except that, if a convict in the penitentiary shall
17 commit any felony, other than is provided for in the first
18 section of this article which is punishable by confinement
19 therein or with death, he shall suffer the same punishment
20 as if he had been discharged before committing it.

CHAPTER 58

(Senate Bill No. 22—By Mr. Love)

AN ACT to amend and reenact section five, article nine, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to the statutory form of indictment for abortion.

[Passed February 17, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9. Forms of Indictments.

Section

5. Indictment for abortion.

Be it enacted by the Legislature of West Virginia:

That section five, article nine, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 5. *Indictment for Abortion.*—An indictment for
2 abortion shall be sufficient if it be in form, tenor or effect
3 as follows (after following the form in section one):
4 That A _____, on the _____ day of _____,
5 nineteen _____, in the said county of _____,
6 did feloniously, wilfully and unlawfully administer to
7 and cause to be taken by one B _____, a female
8 person, who was then and there pregnant with child, a
9 certain drug (or thing) commonly called (name the drug
10 or thing) _____ (or the name and character of
11 which is to the grand jurors aforesaid unknown) (or did
12 feloniously, wilfully and unlawfully employ and use upon
13 the body and womb of one B _____, a female
14 person, who was then and there pregnant with child, a
15 certain instrument called _____) (or the name and
16 character of which instrument is to the grand jurors afore-
17 said unknown) (or did feloniously, wilfully and unlaw-
18 fully employ and use upon the body of one B _____
19 _____, a female person, who was then and
20 there pregnant with child, certain means (describe the
21 means used) (or the character and description of which
22 are to the grand jurors aforesaid unknown), with intent
23 then and there to destroy such unborn child of the said
24 B _____, and to produce the abortion and
25 miscarriage of the said B _____; and that the
26 said A _____, then and there and by the means
27 aforesaid did feloniously, wilfully and unlawfully destroy
28 such unborn child and produce such abortion and mis-
29 carriage of the said B _____, the same not
30 being then and there done by the said A _____,
31 in good faith with the intention of saving the life of said
32 B _____ or that of her said unborn child,
33 against the peace and dignity of the State.

CHAPTER 59

(Senate Bill No. 192—By Mr. Love)

AN ACT to amend and reenact section seven, article nine,
chapter sixty-two of the code of West Virginia, one thou-

sand nine hundred thirty-one, as amended, relating to the statutory form of an indictment for the crime of rape.

[Passed March 5, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9. Forms of Indictments.

Section

7. Indictment for rape.

Be it enacted by the Legislature of West Virginia:

That section seven, article nine, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 7. *Indictment for Rape.*—An indictment for
2 rape shall be sufficient if it be in form, tenor or effect
3 as follows (after following the form in section one):

4 That A_____, on the _____ day of _____,
5 nineteen _____, in the said county of _____, in
6 and upon one B_____, a female person not his wife,
7 violently and feloniously did make an assault, and her,
8 the said B_____, then and there did violently and
9 against her will feloniously did ravish and carnally know,
10 against the peace and dignity of the State.

11 And if the female be a child under the age of sixteen
12 years, the indictment shall be sufficient if it be in form,
13 tenor or effect as follows (after following the form in
14 section one):

15 That A_____, a male person over the age of six-
16 teen years, on the _____ day of _____, nineteen
17 _____, in the said county of _____, in and upon
18 one B_____, a female child, of previous chaste char-
19 acter, not his wife, under the age of sixteen years, did
20 feloniously make an assault, and her, the said B_____,
21 then and there did feloniously and carnally know, against
22 the peace and dignity of the State.

CHAPTER 60

(Senate Bill No. 24—By Mr. Love)

AN ACT to amend and reenact section fifteen, article nine, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to the statutory form of indictment for giving worthless check.

[Passed February 17, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9. Forms of Indictments.

Section

15. Indictment for giving worthless check.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article nine, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 15. *Indictment for Giving Worthless Check.*—

2 An indictment for giving a worthless check shall be
3 sufficient if it be in form, tenor or effect as follows (after
4 following the form in section one):
5 That A _____, on the _____
6 day of _____, nineteen _____
7 in the said county of _____, did unlawfully
8 and feloniously (if for a felony, or 'did unlawfully,' if for
9 a misdemeanor) issue and deliver unto B _____,
10 for value, with intent to defraud the said B _____,
11 his certain check (or draft) of the words and figures fol-
12 lowing: (here copy check or draft), when he, the said A
13 _____, knowingly did not have sufficient
14 funds on deposit in or credit with the said _____
15 bank of _____ with which to pay said check
16 (or draft), against the peace and dignity of the State.

CHAPTER 61

(House Bill No. 447—By Mr. McLaughlin)

AN ACT to amend article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section five-a, relating to probation officer appointments in the fourteenth judicial circuit and in Wayne county in the twenty-fourth judicial circuit.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 12. Probation and Parole.

Section

- 5-a. Probation officers of fourteenth judicial circuit and of Wayne county; salary and expenses.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section five-a, to read as follows:

- Section 5-a. *Probation Officers of Fourteenth Judicial Circuit and of Wayne County; Salary and Expenses.*—The judge of the circuit courts of the fourteenth judicial circuit and of the circuit court of Wayne county in the twenty-fourth judicial circuit each is authorized to appoint a court probation officer to serve during the pleasure of the appointing judge, without first obtaining approval of the county courts of the counties of said judicial circuit and of Wayne County, respectively, as provided in section five of this article. Such appointment shall be effective upon the entry of the appointment order in the court order book. A certified copy of said order shall be delivered to the county court of each of the counties concerned and said county courts respectively, shall arrange for and appropriate funds for payment of and shall pay the salary and expenses of such probation officer in

17 a manner consistent with contribution provisions of said
18 section five. The probation officers so appointed shall have
19 and may exercise all of the powers and perform all the
20 duties and services of probation officers as provided in
21 this article.

CHAPTER 62

(Com. Sub. for Senate Bill No. 29—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact sections nine, eleven, twelve, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen and twenty-one, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to probation and parole.

[Passed March 13, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 12. Probation and Parole.

Section

9. Conditions of release on probation.
11. Probation period; termination or extension; discharge; record.
12. Board of probation and parole.
13. Power and duties of the board.
14. Officers and staff.
15. Powers and duties of state probation and parole officers.
17. Conditions of release on parole.
18. Period of parole; discharge.
19. Violation of parole; revocation and arrest.
21. Repeal of inconsistent laws.

Be it enacted by the Legislature of West Virginia:

That sections nine, eleven, twelve, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen and twenty-one, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 9. *Conditions of Release on Probation.*—Release
- 2 on probation shall be upon the following conditions:
 - 3 (1) That the probationer shall not, during the term
 - 4 of his probation, violate any criminal law of this or any
 - 5 other state, or of the United States.

6 (2) That he shall not, during the term of his probation,
7 leave the state without the consent of the court which
8 placed him on probation.

9 (3) That he shall comply with the rules and regula-
10 tions prescribed by the court or by the board of probation
11 and parole, as the case may be, for his supervision by the
12 probation officer.

13 In addition, the court may impose, subject to modifi-
14 cation at any time, any other conditions which it may
15 deem advisable, including but not limited to any of the
16 following:

17 (1) That he shall make restitution or reparation, in
18 whole or in part, immediately or within the period of
19 probation, to any party injured by the crime for which
20 he has been convicted.

21 (2) That he shall pay any fine assessed and the costs
22 of the proceeding in such installments as the court may
23 direct.

24 (3) That he shall make contribution from his earnings,
25 in such sums as the court may direct, for the support of
26 his dependents.

Sec. 11. *Probation Period; Termination or Extension; Discharge; Record.*—The period of probation together with any extension thereof shall not exceed five years. Upon the termination of the probation period, the probation officer shall report to the court the conduct of the probationer during the period of his probation, and the court may thereupon discharge the probationer or extend the probation period. Whenever, before the end of the probation period the probationer has satisfactorily complied with all the conditions of his probation and it appears to the court that it is no longer necessary to continue his supervision, the court may discharge him. All orders extending the probation period and all orders of discharge shall be entered in the records of the court, and a copy of all such orders shall be sent by the clerk of the court to the board within five days after the making of the order.

Sec. 12. *Board of Probation and Parole.*—There shall be a state board of probation and parole, known as the

3 "West Virginia Board of Probation and Parole". The
4 board shall consist of three members, not more than two
5 of whom shall at any one time belong to the same polit-
6 ical party, and at least one of whom shall be a member
7 of the bar of this state, who shall be appointed by the
8 governor by and with the advice and consent of the
9 Senate. The members shall be appointed for overlapping
10 terms of six years, except that the original appointments
11 shall be for terms of two, four and six years, respectively,
12 such appointments to be made beginning the first day
13 of July, one thousand nine hundred fifty-three. Any
14 member shall be eligible for reappointment. The mem-
15 bers shall receive an annual salary, to be fixed by the
16 governor, not to exceed seventy-two hundred dollars and
17 necessary expenses incurred in the discharge of their
18 official duties. The members of the board shall devote
19 their full time and attention to their duties as members
20 thereof.

Sec. 13. *Power and Duties of the Board.*—The board
2 of probation and parole, whenever it shall be of the
3 opinion that the best interests of the state and of the
4 prisoner will be subserved thereby, shall have authority
5 to release on parole, with the approval of the governor,
6 for such terms and upon such conditions as are provided
7 by this article, any person who is eligible for parole. In
8 the case of a person sentenced to any penal or correc-
9 tional institution of this state, it shall be the duty of the
10 board, as soon as such person becomes eligible, to con-
11 sider the advisability of his or her release on parole.
12 In considering such eligibility, the board shall meet at
13 each penal or correctional institution within the state
14 at least twice a year and consider the case of every per-
15 son so eligible, which consideration shall include a per-
16 sonal interview by the board or a member thereof. If
17 parole be denied, the board shall furnish the prisoner
18 so refused parole with a written statement of the reasons
19 therefor. In the case of a person sentenced to any city
20 or county jail in the state, the board shall act only upon
21 written application for parole. No order of the board
22 granting release on parole shall be valid unless signed
23 by the governor.

24 The board shall, with the approval of the governor,
25 adopt rules and regulations governing the procedure in
26 the granting of parole. It shall secure all available in-
27 formation which may aid in determining the advisability
28 of releasing a prisoner on parole, including such a report
29 as is required by section seven of this article in the case
30 of prospective probationers.

31 The board shall have general supervisory control over
32 all court or county probation officers. It shall be charged
33 with the duty of supervising all persons released on pro-
34 bation and placed in the charge of a state probation and
35 parole officer, and of all persons released on parole under
36 this or any former law of this state. It shall also be
37 charged with the duty of supervising all probationers
38 and parolees whose supervision may have been under-
39 taken by this state by reason of any interstate compact
40 entered into pursuant to the uniform act for out-of-state
41 parolee supervision. The board shall prescribe rules and
42 regulations for the supervision of probationers and pa-
43 rolees. All information, records and reports received by
44 it shall be kept on permanent file.

45 The board and its designated agents shall at all times
46 have access to inmates imprisoned in any penal or cor-
47 rectional institution of this state or in any city or county
48 jail in this state, and shall have power to obtain any
49 information or aid necessary to the performance of their
50 duties from other departments and agencies of the state
51 or from any political subdivision thereof.

52 The board shall, if so requested by the governor, in-
53 vestigate and consider all applications for pardon, re-
54 prievie or commutation, and shall make recommendations
55 thereon to the governor.

Sec. 14. *Officers and Staff.*—The board shall have au-
2 thority to appoint such state probation and parole of-
3 ficers as may be necessary to the proper administration
4 of this article, and to employ clerical assistants. It shall
5 determine the qualifications of probation and parole
6 officers and may from time to time conduct competitive
7 examinations as a basis for their selection.

8 The state probation and parole officers shall receive an-
9 nual salaries not in excess of four thousand eight hundred

10 dollars, to be fixed in each case by the board. The board
11 shall also fix the salary of all clerical assistants. All per-
12 sons appointed or employed by the board shall be paid
13 all necessary expenses incurred in the discharge of their
14 duties.

Sec. 15. *Powers and Duties of State Probation and*
2 *Parole Officers.*—Each state probation and parole officer
3 shall investigate all cases referred to him for investiga-
4 tion by any court or by the board and shall report in
5 writing thereon. He shall furnish to each person re-
6 leased on probation or parole under his supervision a
7 written statement of the conditions of his probation or
8 parole together with a copy of the rules and regulations
9 prescribed by the court or by the board, as the case may
10 be, for the supervision of probationers and parolees. He
11 shall keep himself informed concerning the conduct and
12 condition of each person under his supervision and shall
13 report thereon in writing as often as the court or the
14 board may require. He shall use all practicable and suit-
15 able methods to aid and encourage persons on probation
16 or parole and to bring about improvement in their con-
17 duct and condition. He shall keep detailed records of his
18 work, shall keep accurate and complete accounts of and
19 give receipts for all money collected from persons under
20 his supervision, and shall pay over the money to such
21 persons as the court or the board may designate. He shall
22 give bond with good security, to be approved by the
23 board, in a penalty of not less than one thousand nor
24 more than three thousand dollars, as the board may de-
25 termine. He shall also perform such other duties as the
26 board may require. He shall have authority, with or
27 without an order or warrant, to arrest any probationer or
28 parolee. He shall have all the powers of a notary public,
29 with authority to act as such anywhere within the state.

Sec. 17. *Conditions of Release on Parole.*—Release on
2 parole shall be upon the following conditions:
3 (1) That the parolee shall not, during the period of
4 his parole, violate any criminal law of this or any other
5 state, or of the United States.

6 (2) That he shall not, during the period of his parole,
7 leave the state without the consent of the board.

8 (3) That he shall comply with the rules and regula-
9 tions prescribed by the board for his supervision by the
10 probation and parole officer.

11 In addition, the board may impose, subject to modifica-
12 tion at any time, any other conditions which the board
13 may deem advisable.

Sec. 18. *Period of Parole; Discharge.*—The period of
2 parole shall be the maximum period for which, at the
3 time of his release, the parolee was subject to imprison-
4 ment under his definite term or general sentence, as the
5 case may be. At any time after the expiration of his defi-
6 nite term or general sentence, less time deductions for
7 good conduct and work as provided by law for inmates
8 of the penitentiary, the board may, when in its judgment
9 the ends of parole have been attained, release the parolee
10 from further supervision and discharge him from parole.

Sec. 19. *Violation of Parole; Revocation and Arrest.*—
2 If at any time during the period of parole, there shall be
3 reasonable cause to believe that the parolee has violated
4 any of the conditions of his parole, the probation and
5 parole officer may arrest him with or without an order
6 or warrant, or the board of probation and parole may
7 issue a written order for his arrest, which order shall be
8 a sufficient warrant for his arrest by any officer charged
9 with the duty of executing an ordinary criminal process;
10 whereupon, unless the board shall otherwise order, he
11 shall be returned to the prison from which he was re-
12 leased. Any such parolee shall be given a prompt and
13 summary hearing, at which the parolee and his counsel
14 shall be given an opportunity to attend. If at such hearing
15 it shall appear to the satisfaction of the board that the
16 parolee has violated any condition of parole, the board
17 may revoke the parole and may require him to serve in
18 prison the whole or any part of the maximum period for
19 which, at the time of his release, he was subject to im-
20 prisonment under his sentence: *Provided, however, That*
21 *if he has violated his parole by committing a felony, he*

22 shall be required to serve such maximum period, and
23 during this period he shall be ineligible for further parole.
24 If, despite a violation of the conditions of parole, the
25 board shall be of the opinion that the interests of justice
26 do not require that the parole be revoked, it may, except
27 when the violation was the commission of a felony, again
28 release him on parole.

Sec. 21. *Repeal of Inconsistent Laws.*—All other laws
2 or parts of laws inconsistent with this article are hereby
3 repealed: *Provided, however,* That nothing in this article
4 shall be construed to affect in any way the laws relating
5 to juvenile probation and parole. Wherever in the official
6 code of West Virginia the words "director of probation
7 and parole" are used they shall be construed to mean the
8 board of probation and parole.

CHAPTER 63

(House Bill No. 185—By Mr. Ambler)

AN ACT to repeal section four, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section two of said article, relating to the department of archives and history and the distribution of state publications.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Department of Archives and History.

Section

2. State historian and archivist; duties, annual report.

Be it enacted by the Legislature of West Virginia:

That section four, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that section two of said article be amended and reenacted to read as follows:

Section 2. *State Historian and Archivist; Duties, Annual*

2 *Report.*—The department shall be in charge of a person
3 who shall be appointed by the governor for a term of four
4 years, and who shall be known as the state historian and
5 archivist. He shall be the custodian of the collections of
6 this department and it shall be his duty to carry into
7 operation and full effect the provisions of section one of
8 this article. He shall have power and authority to adopt
9 and establish such by-laws and regulations for its govern-
10 ment as may seem necessary and proper to effect the
11 objects of the department, subject in all matters, how-
12 ever, to the approval of the governor; and he shall cause
13 to be enforced such library rules and regulations as will
14 aid students, readers, investigators and research workers
15 in the use of the material of the department and in the
16 proper protection thereof. He shall employ the necessary
17 clerical assistants and make rules and regulations for
18 their government. He shall arrange for the publication
19 of such matter as the legislature may from time to time
20 provide for printing, including the editing and publishing
21 of a quarterly historical magazine devoted to the history,
22 biography, bibliography and genealogy of West Virginia.
23 He shall cause the rooms of the department to be kept
24 open to the public daily, except Sunday, from nine
25 o'clock in the morning until five o'clock in the afternoon,
26 throughout the year; and upon the request of the president
27 of the senate or the speaker of the house of delegates,
28 from seven o'clock until nine o'clock in the evening dur-
29 ing the sessions of the Legislature. He shall make annually
30 a report to the governor to be transmitted by him to the
31 Legislature, which report shall contain a list of all the
32 state's papers, public documents, books, pamphlets, and
33 other property belonging to the department, not thereto-
34 fore published, also a statement of its annual accumula-
35 tions, and a statement of the receipts and expenditures,
36 accompanied by such recommendations as he deems best
37 for the state's interest in said department.

38 It shall be the duty of each state official in the executive
39 department of the state, board, commission and agency
40 of the state, and the president or superintendent of each
41 state institution to furnish the department of archives

42 and history with a sufficient number of all state papers,
43 public records, reports, documents and pamphlets, printed
44 by the respective official, board, commission, agency
45 and institution at state expense, to supply the library
46 of every state institution of higher learning with two
47 copies of each such publication. The state historian and
48 archivist shall cause two copies of each such publication
49 to be sent to each state institution of higher learning
50 to be deposited in the library thereof.

CHAPTER 64

(House Bill No. 431—By Mr. Maxwell)

AN ACT to amend article one, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by amending and reenacting sections one, eleven, twelve, thirteen and fourteen thereof, and by adding thereto a new section, designated section nineteen, to amend article two of said chapter by amending and reenacting sections one, two, three, four, eight and ten thereof, and by adding thereto three new sections, designated sections twelve, thirteen and fourteen, and to amend article three of said chapter, by amending and reenacting section one thereof and by adding thereto a new section, designated section eleven, and to amend article four of said chapter, by adding thereto two new sections, designated sections three-a and three-b, all relating to the rights, powers and duties of the state department of purchases, its director and employees, and providing penalties for violations thereof.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article

1. General Provisions.
2. Purchases; Contracts; Sales; Inventory of Removable Property.
3. Public Printing and Stationery; State Publications.
4. Chapter Subject to Conditions; Financial Interest of Director, etc.; Penalties.

Be it enacted by the Legislature of West Virginia:

That article one, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by amending and reenacting sections one, four, eleven, twelve, thirteen and fourteen thereof, and by adding thereto a new section, designated section nineteen, that article two of said chapter be amended by amending and reenacting section one, two three, eight and ten thereof, and by adding thereto three new sections, designated sections twelve, thirteen and fourteen, that article three of said chapter be amended, by amending and reenacting section one thereof and by adding thereto a new section, designated section eleven, and that article four of said chapter be amended, by adding thereto two new sections, to be designated sections three-a and three-b, to read as follows:

Article 1. General Provisions.

Section

1. Definitions.
11. Powers and duties of director.
12. Rules and regulations of director.
13. Standard specifications; promulgation and adoption by director; to apply to all purchases.
14. Director may appoint advisers on standard specifications to act as herein provided.
19. Examination and testing of purchases.

Section 1. Definitions.—For the purpose of this chapter:

- 2 (1) "Director" shall mean the state director of pur-
- 3 chases.
- 4 (2) "Department" shall mean an office, department,
- 5 institution or any other agency of the state government.
- 6 (3) "Commodities" shall include supplies, materials,
- 7 equipment, contractual services, and any other articles or
- 8 things used by or furnished to a department.
- 9 (4) "Contractual services" shall include telephone,
- 10 telegraph, electric light and power, water and similar
- 11 services.
- 12 (5) "Printing" shall include printing, binding, ruling,
- 13 lithographing, engraving and any other similar process.
- 14 (6) "Expended commodities" shall include those com-
- 15 modities which, when used in the ordinary course of
- 16 business, will become consumed or of no market value
- 17 within the period of one year or less.

18 (7) "Removable property" shall include any personal
19 property not permanently affixed to or forming a part of
20 real estate.

Sec. 11. *Powers and Duties of Director.*—The director
2 shall be the executive officer of the department of pur-
3 chases and shall have the power and duty to:

4 (1) Purchase or contract for, in the name of the state,
5 the commodities, printing and contractual services re-
6 quired by the departments of the state government.

7 (2) Apply and enforce standard specifications estab-
8 lished in accordance with section thirteen of this article,
9 as hereinafter provided.

10 (3) Negotiate for all grounds, buildings, office or other
11 space required by state departments.

12 (4) Have charge of central store rooms for the supply
13 of departments.

14 (5) Transfer to or between departments or sell com-
15 modities that are surplus, obsolete, or unused, as herein-
16 after provided. ✓

17 (6) Make and keep current an inventory of all remov-
18 able equipment belonging to the state, as hereinafter pro-
19 vided. ✓

20 (7) Establish and maintain a laboratory for the testing
21 of commodities and make use of existing facilities in state
22 institutions for that purpose, as hereinafter provided. ✓

23 (8) Provide for the maintenance and repair of all
24 office furniture, machinery and equipment belonging to
25 the state, either by employing personnel and facilities un-
26 der his direction or by contracting with private parties.

27 (9) Suspend the right and privilege of any person to
28 bid on state commodities who has violated any provisions
29 of the purchasing law or rules and regulations of the di-
30 rector: *Provided, however,* That every person so sus-
31 pended shall receive notice of and reason for such suspen-
32 sion by letter posted by registered mail: *And provided*
33 *further,* That such suspension shall not exceed one year. new

Sec. 12. *Rules and Regulations of Director.*—The direc-
2 tor shall adopt and amend rules and regulations to:

3 (1) Authorize a department to purchase directly, speci-
4 fied commodities and contractual service and prescribe
5 the manner in which such purchases shall be made;

6 (2) Authorize, in writing, a department to purchase
7 commodities or contractual services in the open market
8 for immediate delivery in emergencies, define such emer-
9 gencies, and prescribe the manner in which such pur-
10 chases shall be made and reported to the director; and
11 for the purposes mentioned in paragraphs (1) and (2) of
12 this section, the head of any department, or the financial
13 governing board of any institution, may, with the ap-
14 proval of the director, make requisitions upon the auditor
15 for a sum to be known as an advance allowance account,
16 in no case to exceed five per cent of the total of the appro-
17 priations for any such department; and the auditor shall
18 draw his warrant upon the treasurer for such accounts.
19 All such advance allowance accounts shall be accounted
20 for by the head of the department or institution once
21 every thirty days or oftener if required by the state audi-
22 tor or director;

23 (3) Prescribe the manner in which commodities shall
24 be purchased, delivered, stored and distributed;

25 (4) Prescribe the time for making requisitions and
26 estimates of commodities, the future period which they
27 are to cover, the form in which they shall be submitted,
28 and the manner of their authentication;

29 (5) Prescribe the manner of inspecting all deliveries
30 of commodities, and making chemical and physical tests
31 of samples submitted with bids and samples of deliveries
32 to determine compliance with specifications;

33 (6) Prescribe the amount of deposit or bond to be sub-
34 mitted with a bid or contract and the amount of deposit
35 or bond to be given for the faithful performance of a
36 contract;

37 (7) Provide for such other matters as may be neces-
38 sary to give effect to the foregoing rules and regulations
39 and the provisions of this chapter.

2 Sec. 13. *Standard Specifications; Promulgation and*
3 *Adoption by Director; to Apply to All Purchases.*—The
4 director shall classify all commodities and shall promul-
5 gate and adopt a schedule of standard specifications based
6 on scientific and technical data, which schedule shall
7 establish the quality within each particular classification
or subclassification to which all commodities to be pur-

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8 chased and services to be contracted for by the state must
9 conform. After adoption the standard specifications shall
10 apply to every future purchase of or contract for the com-
11 modities or contractual services described in the specifica-
12 tions. The purchases of no department may be exempt
13 from compliance with the standard specifications so es-
14 tablished, but the director, whenever he deems it neces-
15 sary and advisable, may exempt therefrom the purchase
16 of particular items.

17 It shall be the duty of the director to keep such standard
18 specifications up to date and in conformity with all tech-
19 nical and scientific advancements pertaining to commodi-
20 ties and services covered in such schedule and to that end
21 he may, from time to time, revise and amend the standard
22 specifications therein included.

Sec. 14. *Director May Appoint Advisers on Standard Specifications to Act as Herein Provided.*—The director,
2 acting at his discretion, may from time to time appoint
3 any official or employee of any department to aid and
4 advise the director in formulating, revising or amending
5 the schedule of standard specifications provided for in
6 section thirteen of this article. Such official or employee
7 shall act at the request of the director and shall be entitled
8 to receive his necessary expenses incurred in compliance
9 therewith, but shall receive no additional compensation
10 therefor.
11

Sec. 19. *Examination and Testing of Purchases.*—Within
2 the limits of funds available for the purpose, the director,
3 or some person appointed by him for that purpose, shall
4 examine and test upon delivery all commodities purchased
5 by the state to determine whether such commodities con-
6 form to the standard specifications promulgated pursuant
7 to section thirteen of this article, and whether the quan-
8 tity delivered conforms with the purchase contracts there-
9 for.

Article 2. Purchases; Contracts; Sales; Inventory of Removable Property.

Section

1. Competitive bids.
2. Publication of solicitation for sealed bids.
3. Purchase in open market on competitive bids.

4. Bids based on standard specifications; awards to lowest responsible bidder; uniform bids; record of bids.
8. Special fund; purposes; how composed.
10. Purchase or substitution of particular trade name or brand.
12. Department heads to submit inventory of removable property and list of expendable commodities.
13. Inventory of all removable property to be kept by director.
14. Disposition by director of unused, obsolete or unusable commodities; application of proceeds from sale.

Section 1. *Competitive Bids*.—A purchase of and contract for commodities and contractual services shall be based, wherever possible, on competitive bids.

Sec. 2. *Publication of Solicitation for Sealed Bids*.—The director shall solicit sealed bids for an expenditure that is estimated to exceed two thousand dollars. Bids shall be obtained by public notice inserted at least twice in a newspaper of state-wide circulation, at least two weeks before the final date of submitting bids. The director may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in his office.

Sec. 3. *Purchase in Open Market on Competitive Bids*.—The director may make a purchase of less than two thousand dollars in amount in the open market, but such purchase shall, wherever possible, be based on at least three competitive bids.

Sec. 4. *Bids Based on Standard Specifications; Awards to Lowest Responsible Bidder; Uniform Bids; Record of Bids*.—Bids shall be based on the standard specifications promulgated and adopted in accordance with the provisions of section thirteen, article one, of this chapter. All open market orders or contracts made by the director or by a state department shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the state government, and the delivery terms. Any or all bids may be rejected. If all bids received on a pending contract are for the same unit price or total amount, the director shall have authority to reject all bids, and to purchase the required commodities or contractual services in the open market, if the price paid in the open market does not exceed the bid prices.

18 Each bid, with the name of the bidder, shall be entered
19 on a record, and each record, with the successful bid in-
20 dicated thereon, shall, after the award of the order or con-
21 tract, be open to public inspection.

Sec. 8. *Special Fund; Purposes; How Composed.*—There
2 is hereby created a special revenue fund to be adminis-
3 tered by the director to finance and facilitate the following
4 functions of the director:

5 (1) Purchase in volume and maintenance of stocks of
6 commodities to supply the needs of state departments.

7 (2) Performance for state departments of all mimeo-
8 graphing, photostating, microfilming, multilithing, multi-
9 graphing, and other work as provided by article three,
10 section eleven of this chapter.

11 (3) Repair and maintenance of office furniture, equip-
12 ment and machinery.

13 The amount of the fund shall be fixed and changed by the
14 governor upon the recommendation of the director. If at
15 the end of each fiscal year the cash balance plus value of
16 commodity inventories on hand exceeds the amount so
17 fixed, the excess in cash shall be transferred by the state
18 auditor to the general revenue fund and become a part of
19 the general revenue of the state. The fund shall be com-
20 posed of the following:

21 (1) The cash balance and inventories of the fund here-
22 tofore established by this section.

23 (2) Charges made by the director for commodities sold
24 and services rendered to the state departments as herein
25 described: *Provided*, That charge shall not exceed total
26 cost to the fund, which total cost shall include storage,
27 supplies, equipment and salaries and wages of employees
28 necessary to supplying commodities and services in addi-
29 tion to purchase prices of commodities.

30 (3) Such additional money for volume purchase as the
31 director may at his discretion require the state auditor
32 to transfer from effective current expense appropriations
33 of state departments to the fund. For this purpose the
34 director shall have authority to require the auditor to
35 make such transfers and shall credit such transfers to the
36 account of each department. The total cost of commodities
37 delivered shall be charged to the accounts of the respec-

38 tive departments. At the end of each fiscal year the bal-
39 ance of the accounts shall be returned to the appropria-
40 tions from which they were transferred.

Sec. 10. *Purchase or Substitution of Particular Trade*

2 *Name or Brand.*—If a department requests the purchase
3 of a commodity bearing a particular trade name or brand,
4 and if the commodity is covered by standard specifications
5 adopted as provided by section thirteen, article one of
6 this chapter, the director may substitute a commodity
7 bearing a different trade name or brand, if the substituted
8 commodity reasonably conforms to the adopted standard
9 specifications and can be obtained at a lower price.

Sec. 12. *Department Heads to Submit Inventory of Re-*

2 *movable Property and List of Expendable Commodities.*—
3 The head of every department shall on or before July
4 fifteenth of each year submit to the director an inventory
5 of all removable property with which such department
6 is chargeable as of the close of the preceding fiscal year,
7 and whenever requested to do so by the director shall
8 submit a list of all expendable commodities such depart-
9 ment has on hand.

Sec. 13. *Inventory of All Removable Property to Be*

2 *Kept by Director.*—The director shall make and keep cur-
3 rent an accurate inventory of all removable property be-
4 longing to or hereafter acquired by the state. Such inven-
5 tory shall be kept on file as a public record in the office
6 of the director and the entry thereon of any property
7 purchased after the effective date of this act, shall be
8 equivalent to a certification by the director that the same
9 fully complies with the standard specifications promul-
10 gated pursuant to section thirteen, article one of this chap-
11 ter and to terms of purchase contract. The inventory shall
12 disclose the name and address of the vendor, the date of
13 the purchase, the price paid for the property therein de-
14 scribed and the disposition thereof.

Sec. 14. *Disposition by Director of Unused, Obsolete or*

2 *Unusable Commodities; Application of Proceeds From*
3 *Sale.*—The director shall have the exclusive power and
4 authority to make disposition of commodities or expend-

5 able commodities now owned or in the future acquired
6 by the state which are or shall have become obsolete, un-
7 usable or are not being used.

8 It shall be the duty of the director to determine what
9 commodities or expendable commodities should be dis-
10 posed of and he shall make such disposition either by
11 transferring the particular commodities or expendable
12 commodities between departments without monetary ex-
13 change or by public sale thereof to the highest bidder
14 after having first advertised the time, terms and place of
15 such sale once a week for two successive weeks in some
16 newspaper published or having a general circulation in
17 the county wherein the sale is to be conducted. The pro-
18 ceeds of such sale shall be deposited in the state fund "gen-
19 eral revenue" without regard to the fund from which the
20 particular commodity or expendable commodity was pur-
21 chased.

Article 3. Public Printing and Stationery; State Publications.

Section

1. Contracts for public printing and paper for departments.
11. Director to establish a central duplicating department; exclusion by director of certain departments from provisions.

Section 1. *Contracts for Public Printing and Paper for*
2 *Departments.*—The director shall contract for public
3 printing and for printing paper for the use of departments
4 in the manner provided for contracts under article two
5 of this chapter, and in accordance with the specifications
6 adopted as provided by section thirteen of article one of
7 this chapter.

Sec. 11. *Director to Establish a Central Duplicating De-*
2 *partment; Exclusion by Director of Certain Departments*
3 *from Provisions.*—All mimeographing, photostating, mi-
4 crofilming, multilithing, multigraphing, and other dupli-
5 cating work required to be done by or for any department
6 shall be done by a central duplicating department which
7 department shall be established by and under the super-
8 vision of the director.

9 All mimeographing, photostating, microfilming, multi-
10 lithing, multigraphing and other duplicating equipment
11 and supplies shall be transferred to the central duplicat-
12 ing department.

13 If the director be of the opinion that any department is
14 capable of doing such duplicating work as may be required
15 by such particular department more efficiently and eco-
16 nomically than can the central duplicating department,
17 he may, in his discretion, exempt such particular depart-
18 ment from the provisions of this section, or if the director
19 believes economy or efficiency can be effected by letting
20 such work or any part thereof to contract then he may do
21 so in the manner provided for contracts under article two
22 of this chapter.

**Article 4. Chapter Subject to Conditions; Financial Interest of
Director, etc.; Penalties.**

Section

3-a. Obtaining money and property under false pretenses; defrauding
state; penalties.

3-b. Conspiracy to affect market and prices; penalties.

Section 3-a. *Obtaining Money and Property Under
2 False Pretenses; Defrauding State; Penalties.*—It shall be
3 unlawful for any person to obtain from the state under
4 any contract made under the provisions of this chapter,
5 by false pretense, token or representation, or by delivery
6 of inferior commodities, with intent to defraud, money,
7 goods or other property, and upon violation thereof, such
8 person shall be guilty of a felony and upon conviction
9 therefor shall be confined in the penitentiary not less than
10 one year nor more than five years, and be fined not exceed-
11 ing one thousand dollars.

Sec. 3-b. *Conspiracy to Affect Market and Prices; Pen-
2 alties.*—It shall be unlawful for any person to jointly com-
3 bine or collude or conspire in any way to affect the mar-
4 ket, or price, or supply of commodities or contractual serv-
5 ices obtained or to be obtained by the state under the
6 provisions of this chapter, and upon violation thereof
7 such person shall be guilty of a felony and upon conviction
8 therefor shall be confined in the penitentiary not less than
9 one year nor more than five years, and be fined not ex-
10 ceeding one thousand dollars.

CHAPTER 65

(House Bill No. 168—By Mr. Beneke and Mr. Snyder)

AN ACT to amend and reenact section nine, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment and recordation of descent.

[Passed March 4, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Descent.

Section

9. Establishment and recordation of descent.

Be it enacted by the Legislature of West Virginia:

That section nine, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 9. *Establishment and Recordation of Descent.*—

2 Where any person having title to an estate of inheritance
3 in real estate within this state has died intestate, or tes-
4 tate, without having devised his real estate, his heirs,
5 or any of them, or any person deriving title from or
6 through such heirs, or any of them, may at any time with-
7 in twenty years after the death of such person present to
8 the circuit court of the county where such real estate, or
9 any part thereof, is situated, a petition, under oath, de-
10 scribing such real estate, setting forth the interest or
11 share of the petitioner and of each other heir of the de-
12 cedent in such real estate, and praying for a decree estab-
13 lishing the right of inheritance thereto, and that all the
14 heirs of the decedent, and other parties in interest may
15 be summoned to show cause why the prayer of the peti-
16 tion should not be granted. There shall also be set out
17 in the petition and be made parties, the heirs or devisees
18 of any person who inherited from the decedent but who
19 has died before the proceeding is instituted, and any pur-
20 chasers or successors in title from such a person, and any
21 holders of liens on the whole property or on the share of

22 any person interested in the property. Upon the presenta-
23 tion of such petition a rule to show cause, returnable with-
24 in such time as the court shall direct, shall be issued
25 accordingly, except in a case where all the interested par-
26 ties unite in such petition or appear and waive service of
27 the rule. Guardians ad litem for all infants, convicts in
28 confinement and insane persons, who may be parties to
29 such proceeding, shall be appointed and attend, and non-
30 resident persons may be proceeded against by order of
31 publication, as in other cases. Upon the return of the
32 rule to show cause the circuit court shall hear the allega-
33 tions and proofs of the parties and determine all the
34 issues raised. The petitioner shall establish the fact of
35 the decedent's death; the place of his residence at the
36 time of his death; his will or intestacy, either generally,
37 or as to the real estate in question; the heirs entitled to
38 inherit the real estate in question; the name, age, resi-
39 dence and relationship to the decedent, of each; and the
40 interest or share of each heir or other person in such real
41 estate. The court, when these facts are established, shall
42 make a decree describing the real estate, and declaring
43 that the right of inheritance thereto has been established
44 to the court's satisfaction, in accordance with the facts
45 which shall be recited in the decree, and that at the death
46 of the testator or intestate certain persons, who shall be
47 named in the decree, were entitled to take the property
48 in certain proportions, which shall also be set out in the
49 decree. A certified copy of such decree shall be recorded
50 in the office of the clerk of the county court of the county
51 or counties in which such real estate is situated, in the
52 record of deeds, and indexed in the general index of deeds
53 in the name of the decedent as if grantor, and in the name
54 of each heir as if grantee, and the fees for such recording
55 and indexing shall be the same as for deeds. From the
56 time when such copy is so recorded, the decree, or the
57 record thereof, shall be conclusive evidence of the facts
58 so declared to be established thereby against all parties
59 to such proceeding.

60 An appeal from such decree shall lie to the supreme
61 court of appeals as in other cases, and any person under
62 disability or proceeded against by publication and not ap-
63 pearing may have the matter reheard as in other cases.

CHAPTER 66

(House Bill No. 167—By Mr. Seibert and Mr. Watson)

AN ACT to amend chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five, providing for the disposition of property where there is no sufficient evidence that persons have died otherwise than simultaneously, and to make uniform the law with reference thereto.

[Passed February 18, 1953; in effect from passage. Approved by the Governor.]

Article 5. Uniform Simultaneous Death Act.

Section

1. No sufficient evidence of survivorship.
2. Beneficiaries of another person's disposition of property.
3. Joint tenants or tenants by the entirety.
4. Insurance policies.
5. Act not retroactive.
6. Article does not apply if decedent provides otherwise.
7. Uniformity of interpretation.
8. Short title.
9. Repeal of inconsistent laws.
10. Severability.

Be it enacted by the Legislature of West Virginia:

That chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five, to read as follows:

Section 1. *No Sufficient Evidence of Survivorship.*—

- 2 Where the title to property or the devolution thereof de
- 3 pends upon priority of death and there is no sufficient
- 4 evidence that the persons have died otherwise than simul
- 5 taneously, the property of each person shall be disposed of
- 6 as if he had survived, except as provided otherwise in
- 7 this article.

Sec. 2. *Beneficiaries of Another Person's Disposition of*

- 2 *Property.*—Where two or more beneficiaries are desig
- 3 nated to take successively by reason of survivorship under
- 4 another person's disposition of property and there is no

5 sufficient evidence that these beneficiaries have died oth-
6 erwise than simultaneously the property thus disposed of
7 shall be divided into as many equal portions as there are
8 successive beneficiaries and these portions shall be dis-
9 tributed respectively to those who would have taken in
10 the event that each designated beneficiary had survived.

Sec. 3. *Joint Tenants or Tenants by the Entirety.*—
2 Where there is no sufficient evidence that two joint tenants
3 or tenants by the entirety have died otherwise than simul-
4 taneously the property so held shall be distributed one-
5 half as if one had survived and one-half as if the other
6 had survived. If there are more than two joint tenants
7 and all of them have so died the property thus distributed
8 shall be in the proportion that one bears to the whole
9 number of joint tenants.

Sec. 4. *Insurance Policies.*—Where the insured and the
2 beneficiary in a policy of life or accident insurance have
3 died and there is no sufficient evidence that they have died
4 otherwise than simultaneously the proceeds of the policy
5 shall be distributed as if the insured had survived the
6 beneficiary.

Sec. 5. *Act Not Retroactive.*—This article shall not ap-
2 ply to the distribution of the property of a person who has
3 died before it takes effect.

Sec. 6. *Article Does Not Apply if Decedent Provides*
2 *Otherwise.*—This article shall not apply in the case of
3 wills, living trusts, deeds, or contracts of insurance where-
4 in provision has been made for distribution of property
5 different from the provisions of this article.

Sec. 7. *Uniformity of Interpretation.*—This article shall
2 be so construed and interpreted as to effectuate its gen-
3 eral purpose to make uniform the law in those states
4 which enact it.

Sec. 8. *Short Title.*—This article may be cited as the
2 Uniform Simultaneous Death Act.

Sec. 9. *Repeal of Inconsistent Laws.*—All laws or parts
2 of laws inconsistent with the provisions of this article are
3 hereby repealed.

Sec. 10. *Severability*.—If any of the provisions of this
2 article or the application thereof to any persons or circum-
3 stances is held invalid such invalidity shall not affect other
4 provisions or applications of the article which can be given
5 effect without the invalid provisions or application, and to
6 this end the provisions of this article are declared to be
7 severable.

CHAPTER 67

(House Bill No. 67—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section eight, article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salary and expenses of the director of the budget.

[Passed March 13, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 5. State Budget Office.

Section

8. Director; compensation.

Be it enacted by the Legislature of West Virginia:

That section eight, article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 8. *Director: Compensation*.—The director shall
2 receive an annual compensation to be fixed by the gover-
3 nor, but not in excess of eight thousand dollars. He shall
4 receive, in addition, the necessary traveling expenses in-
5 cident to the performance of his duties. Requisitions for
6 traveling expenses shall be filed with the auditor and
7 shall be preserved as a public record.

CHAPTER 68

(House Bill No. 362—By Mr. Beneke)

AN ACT to amend article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one,

as amended, by adding thereto a new section, designated section eight-a, relating to the joint ownership, leasing, operation and maintenance of dog pounds by counties and municipalities, and the joint employment of dog wardens.

[Passed March 10, 1953; in effect from passage. Approved by the Governor.]

Article 20. Dogs.

Section

8-a. Joint ownership and operation by counties and municipalities of dog pounds and joint employment of dog wardens.

Be it enacted by the Legislature of West Virginia:

That article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eight-a, to read as follows:

Section 8-a. *Joint Ownership and Operation by Counties and Municipalities of Dog Pounds and Joint Employment of Dog Wardens.*—The county court of any county may contract with any municipality within the county for the joint ownership, leasing, operation and maintenance within the county of a dog pound and may jointly employ a dog warden or dog wardens.

CHAPTER 69

(House Bill No. 68—By Mr. Brotherton)

AN ACT to amend and reenact section nine, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to venue of annulment suits and suits for divorce.

[Passed February 17, 1953; in effect from passage. Approved by the Governor.]

Article 2. Divorce.

Section

9. Venue of annulment suits and suits for divorce.

Be it enacted by the Legislature of West Virginia:

That section nine, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 9. *Venue of Annulment Suits and Suits for Divorce.*—The suit for annulling or affirming a marriage, or for divorce, shall, if the defendant be a resident of this state, be brought in the county in which the parties last cohabited, or, at the option of the plaintiff, in the county in which the defendant resides; but if the defendant be not a resident of this state, the suit shall be brought either in the county in which the plaintiff resides, or in the county in which the parties last cohabited. In the case of a suit to annul a marriage performed in this state, where neither party is a resident of the state, the suit shall be brought in the county where the marriage was performed.

CHAPTER 70

(Senate Bill No. 239—By Mr. Martin)

AN ACT to amend and reenact section fifteen, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to alimony, custody and maintenance of children.

[Passed March 12, 1953; in effect from passage. Approved by the Governor.]

Article 2. Divorce.

Section

15. Alimony; custody and maintenance of children.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 15. *Alimony; Custody and Maintenance of*

2 *Children.*—Upon decreeing a divorce, the court may make
3 such further decree as it shall deem expedient, concerning
4 the maintenance of the parties, or either of them; and
5 upon decreeing the annulment of a marriage, or a divorce,
6 the court may make such further decree as it shall deem
7 expedient, concerning the care, custody, education and
8 maintenance of the minor children, and may determine
9 with which of the parents or other proper person or per-
10 sons the children or any of them, may remain; and the
11 court, or the judge thereof in vacation, may, from time
12 to time afterward, on the petition of either of the parties,
13 revise or alter such decree concerning the maintenance
14 of the parties, or either of them, and make a new decree
15 concerning the same, as the altered circumstances or
16 needs of the parties may render necessary to meet the
17 ends of justice; and the court, or the judge thereof in
18 vacation, may also from time to time afterward, on the
19 petition of either of the parties, revise or alter such
20 decree concerning the care, custody, education and main-
21 tenance of the children, and make a new decree con-
22 cerning the same, as the circumstances of the parents
23 or other proper person or persons and the benefit of the
24 children may require. In any case where the divorce or
25 the annulment is denied, if the parties are living separate
26 and apart from each other, the court shall retain juris-
27 diction of the case for the purpose of determining with
28 which of the parents or other proper person or persons
29 the children or any of them may remain and of making
30 such order or decree concerning the care, custody, edu-
31 cation and maintenance of the minor children, or any of
32 them, as to the court, or judge thereof, in vacation, may
33 seem proper and the benefit of the child or children may
34 require; and such order or decree may, from time to time
35 afterward, on petition of either of the parties, be revised
36 or altered, and a new order or decree made, as the cir-
37 cumstances of the parties or the needs of the children
38 may require. For the purpose of making effectual any
39 order or decree provided for in this section the court,
40 or judge thereof in vacation, may make any order or
41 decree concerning the estate of the parties, or either of
42 them, as it shall deem expedient.

CHAPTER 71

(House Bill No. 83—By Mr. Beneke and Mr. Hubbard)

AN ACT to amend and reenact section twenty-four, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to divorce commissioner, by adding a provision pertaining to Ohio county.

[Passed February 27, 1953; in effect from passage. Approved by the Governor.]

Article 2. Divorce.

Section

24. Divorce commissioner; duties; fees.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 24. *Divorce Commissioner; Duties; Fees.*—The
2 circuit court of each county, or the judge thereof in vaca-
3 tion, may in his discretion, appoint a competent attorney
4 in each county as a commissioner in chancery, to investi-
5 gate divorce cases, who shall be designated as "Divorce
6 Commissioner". He shall be a man of good moral charac-
7 ter, of standing in his profession, and a resident of the
8 county for which he is appointed, and shall, before assum-
9 ing the duties of such commissioner, take the oath re-
10 quired of other commissioners in chancery; such commis-
11 sioner shall discharge his duties and hold his office at the
12 pleasure of the court, and may be removed at any time
13 by the court. It shall be the duty of the divorce commis-
14 sioner to investigate all divorce suits; to appear at all
15 trials and examine witnesses when necessary, and defend
16 the interests of the state; to bring before the court, at the
17 trial, all witnesses necessary to develop the true facts, and
18 generally take all steps to prevent fraud and collusion in
19 divorce cases. For which services he shall be allowed the
20 sum of not less than five dollars nor more than fifteen
21 dollars, to be fixed by the court, which amount shall be

22 taxed as a part of the costs of the case. In Ohio county,
23 however, each judge of the circuit court may respectively
24 appoint a divorce commissioner who shall be so designated
25 and shall meet the qualifications herein set forth. The
26 clerk of the circuit court of Ohio county, West Virginia,
27 shall make reference of divorces and other matters as
28 may be proper from time to time to said commissioners
29 in rotation, so as to effect an equitable distribution of
30 work between and among them.

CHAPTER 72

(House Bill No. 345—By Mr. Moreland)

AN ACT to amend and reenact section twenty-five, article three, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the removal of the disability of minority of veterans and their spouses for the purpose of obtaining benefits under the servicemen's readjustment act of one thousand nine hundred forty-four, as heretofore or hereafter amended.

[Passed March 7, 1953; in effect from passage. Approved by the Governor.]

Article 3. Property, Rights and Liabilities of Married Women; Husband and Wife.

Section

25. Disability of minority of veterans and their spouses removed in certain cases.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article three, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 25. *Disability of Minority of Veterans and their Spouses Removed in Certain Cases.*—The disability of
3 minority of any person otherwise eligible for a loan, or
4 for the guaranty or insurance of a loan pursuant to an act
5 of the Congress of the United States entitled "Service-

6 men's Readjustment Act of one thousand nine hundred
7 and forty-four", (58 Stat. 284), as heretofore or hereafter
8 amended, or the disability of minority of the spouse of any
9 such person, irrespective of the age of either of them, is
10 hereby removed for all purposes in connection with any
11 transaction entered into by them or either of them pur-
12 suant to such act, as heretofore or hereafter amended, in-
13 cluding, but not limited to, the incurring of obligations
14 and indebtedness, the entering into of contracts and agree-
15 ments, the acquiring, encumbering, selling, releasing or
16 conveying of property or of any interest therein, and the
17 litigating, compromising and settling of controversies
18 arising therefrom, if all or part of any obligation incident
19 to such transaction be guaranteed or insured pursuant to
20 such act, as heretofore or hereafter amended; or if the
21 United States be the creditor by reason of a loan or of a
22 sale made by it pursuant to such act, as heretofore or
23 hereafter amended: *Provided, however,* That this section
24 shall not create or render enforceable any other or greater
25 rights or liabilities than would exist if neither such person
26 nor such spouse were a minor.

CHAPTER 73

(Senate Bill No. 28—By Mr. Bean, Mr. President)

AN ACT to amend chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article nine, relating to reciprocal enforcement of the support of dependents and providing for procedure therefor.

[Passed February 17, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9. Reciprocal Dependency Law.

Section

1. Purpose.
2. Definitions.
3. Remedies additional to those now existing.
4. Extent of duties of support.
5. Interstate rendition.

6. No rendition during compliance.
7. What duties are enforceable.
8. Remedies of a state or political subdivision thereof furnishing support.
9. How duties of support are enforced.
10. Contents of petition or complaint for support.
11. Duty of court of this state as initiating state.
12. Duty of the court of this state as responding state.
13. Order of support.
14. Responding state to transmit copies to initiating state.
15. Additional powers of court.
16. Additional duties of the court of this state when acting as a responding state.
17. Additional duty of the court of this state when acting as an initiating state.
18. Evidence of husband and wife.
19. Review.
20. Severability.

Be it enacted by the Legislature of West Virginia:

That chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, by adding thereto a new article, to be designated article nine, to read as follows:

Section 1. *Purpose.*—The purposes of this article are to
2 improve and extend by reciprocal legislation the en-
3 forcement of support of dependents and to make uniform
4 the law with respect thereto.

Sec. 2. *Definitions.*—As used in this article unless the
2 context requires otherwise:

3 (1) "State" includes any state, territory or possession
4 of the United States and the District of Columbia in
5 which this or a substantially similar reciprocal law has
6 been enacted.

7 (2) "Initiating state" means any state in which a pro-
8 ceeding pursuant to this or a substantially similar re-
9 ciprocal law is commenced.

10 (3) "Responding state" means any state in which any
11 proceeding pursuant to the proceeding in the initiating
12 state is or may be commenced.

13 (4) "Court" means the criminal, intermediate, or cir-
14 cuit court, or any other court having jurisdiction in this
15 state, and when the context requires, means the court of
16 any other state as defined in a substantially similar re-
17 ciprocal law.

- 18 (5) "Law" includes both common and statute law.
19 (6) "Duty of support" includes any duty of support
20 imposed or imposable by law, or by any court order, de-
21 crees or judgment, whether interlocutory or final, wheth-
22 er incidental to a proceeding for divorce, legal separation,
23 separate maintenance or otherwise.
24 (7) "Obligor" means any person owing a duty of
25 support.
26 (8) "Obligee" means any person to whom a duty
27 of support is owed.

Sec. 3. *Remedies Additional to Those Now Existing.*—

- 2 The remedies herein provided are in addition to and not
3 in substitution for any other remedies.

Sec. 4. *Extent of Duties of Support.*—The duty of sup-
2 port imposed by the laws of this state or by the laws of
3 the state where the obligee was present when the failure
4 to support commenced as provided in section seven and
5 the remedies provided for enforcement thereof, including
6 any penalty imposed thereby, bind the obligor who is a
7 resident or claims residence in this state, temporary or
8 otherwise, regardless of the presence or residence of the
9 obligee.

Sec. 5. *Interstate Rendition.*—The governor of this
2 state may demand from the governor of any other state
3 the surrender of any person found in such other state who
4 is charged in this state by warrant, presentment, informa-
5 tion or indictment with the crime of failing to provide for
6 the support of any person in this state upon whom the law
7 imposes a duty to support, and may surrender on demand
8 by the governor of any other state any person found in
9 this state who is charged by warrant, information or in-
10 dictment in such other state with the crime of failing to
11 provide for the support of a person in such other state.
12 The provisions for extradition of criminals not incon-
13 sistent herewith shall apply to any such demand al-
14 though the person whose surrender is demanded was not
15 in the demanding state at the time of the commission of
16 the crime and although he had not fled therefrom. Neith-
17 er the demand, the oath nor any proceedings for extra-

18 dition pursuant to this section need state or show that the
19 person whose surrender is demanded has fled from just-
20 ice, or at the time of the commission of the crime was in
21 the demanding or the other state.

Sec. 6. *No Rendition During Compliance.*—Any obligor
2 contemplated by section five, who submits to the juris-
3 diction of the court of such other state and complies with
4 the court's order of support, shall be relieved of extra-
5 dition for desertion or nonsupport entered in the courts
6 of this state during the period of such compliance.

Sec. 7. *What Duties Are Enforceable.*—Duties of sup-
2 port enforceable under this article are those imposed or
3 impossible under the laws of any state where the alleged
4 obligor is present during the period for which support is
5 sought or where the obligee was present when the fail-
6 ure to support commenced, at the election of the obligee.

Sec. 8. *Remedies of a State or Political Subdivision*
2 *Thereof Furnishing Support.*—Whenever the state or a
3 political subdivision thereof has furnished support to an
4 obligee, it shall have the same right to invoke the pro-
5 visions hereof as the obligee to whom the support was
6 furnished for the purpose of securing reimbursement of
7 expenditures so made.

Sec. 9. *How Duties of Support Are Enforced.*—All duties
2 of support, including alimony cases if they are properly
3 certified as relief cases, are enforceable by petition or
4 complaint, with warrant or indictment attached thereto
5 and made a part thereof, irrespective of relationship be-
6 tween the obligor and obligee. Jurisdiction of all pro-
7 ceedings hereunder shall be vested in the court, or judge
8 thereof in vacation, including justice of peace. When
9 the petition or complaint is filed before a justice of the
10 peace a copy shall be immediately transmitted to the
11 clerk of the circuit court and considered as though it
12 had been initiated originally in the circuit court.

Sec. 10. *Contents of Petition or Complaint for Support.*
2 —The petition or complaint shall be verified and shall
3 state the name and, so far as known to the plaintiff, the

4 address and circumstances of the defendant and his de-
5 pendents for whom support is sought and all other pert-
6 inent information, and attach thereto or incorporate
7 therein a copy of the warrant, presentment, information
8 or indictment.

Sec. 11. *Duty of Court of This State as Initiating State.*

2 —If the court of this state or the judge thereof in vacation
3 acting as an initiating state finds that the petition sets
4 forth facts from which it may be determined that the
5 defendant owes a duty of support and that a court of the
6 responding state may obtain jurisdiction of the defendant
7 or his property, it shall so certify and shall cause certified
8 copies of the petition or complaint, including such war-
9 rant, presentment, information or indictment as the case
10 may be, the certificate and an authenticated copy of this
11 act to be transmitted to the court of the responding state.

Sec. 12. *Duty of the Court of This State as Responding*

2 *State.*—When the court of this state or the judge in vaca-
3 tion thereof, acting as a responding state, receives from
4 the court of an initiating state the aforesaid copies, it
5 shall (1) docket the cause, (2) notify the prosecuting at-
6 torney or his representative, (3) set a time and place
7 for a hearing, and (4) take such action as is necessary in
8 accordance with the laws of responding state to obtain
9 jurisdiction, including issuance and service of summons
10 on defendant. It shall be the duty of the prosecuting
11 attorney, upon the request of any judge or the state de-
12 partment of public assistance to represent the plaintiff
13 in any proceeding under this article.

Sec. 13. *Order of Support.*—If the defendant submits to

2 the jurisdiction of the court of the responding state in
3 term or to the judge thereof in vacation, the judge may
4 order him to furnish support or reimbursement therefor
5 including costs and fees if any incurred or accumulated
6 by the laws of the initiating and responding states, and
7 subject the property of the defendant to such order.

Sec. 14. *Responding State to Transmit Copies to Initiat-*
2 *ing State.*—The court of this state when acting as a re-

3 sponding state shall cause to be transmitted to the court
4 of the initiating state a copy of all orders of support or
5 orders for reimbursement therefor. Such orders shall be
6 recorded by the clerk in the proper record book of his
7 office.

Sec. 15. *Additional Powers of Court.*—In addition to
2 the foregoing powers, the court of this state when acting
3 as the responding state has the power to subject the de-
4 fendant to such terms and conditions as the court may
5 deem proper to assure compliance with its orders with
6 respect to the following:

7 (a) To require the defendant to furnish recognizance
8 in the form of a cash deposit or bond of such character
9 and in such amount as the court may deem proper to
10 assure payment of any amount required to be paid by
11 the defendant.

12 (b) To require the defendant to make payments at
13 specified intervals to the clerk of the court and to report
14 personally to such clerk at such times as may be deemed
15 necessary.

16 (c) To punish the defendant who shall violate any
17 order of the court to the same extent as is provided by
18 the law for contempt of the court in any other suit or
19 proceeding cognizable by the court.

Sec. 16. *Additional Duties of the Court of This State*
2 *When Acting as a Responding State.*—The court of this
3 state when acting as a responding state shall have the fol-
4 lowing duties which may be carried out through the
5 clerk of the court or other person designated by the
6 court:

7 (a) Upon the receipt of a payment made by the de-
8 fendant pursuant to any order of court or otherwise, to
9 transmit the same forthwith to the court of initiating
10 state.

11 (b) Upon request to furnish to the court of the initi-
12 ating state a certified statement of all payments made by
13 the defendant.

Sec. 17. *Additional Duty of the Court of This State*
2 *When Acting as An Initiating State.*—The court of this

3 state when acting as an initiating state shall have the duty
4 to receive and disburse forthwith all payments made by
5 the defendant or transmitted by the court of the respond-
6 ing state. Such duty may be carried out through the clerk
7 of the court or other person designated by the court.

Sec. 18. *Evidence of Husband and Wife.*—Laws provid-
2 ing a privilege against the disclosure of communications
3 between husband and wife are inapplicable to proceed-
4 ings under this article. Husband and wife are competent
5 witnesses and may be compelled to testify to any rel-
6 evant matter including marriage and parentage.

Sec. 19. *Review.*—Any party to an action brought under
2 the provisions of this article shall have the same right of
3 review by appeal, writ of error or otherwise as provided
4 by statute. Any order for support made by the court shall
5 not be affected by any such review but shall continue in
6 effect until the case is decided and thereafter, if such
7 review is denied, until changed by further order of the
8 court.

Sec. 20. *Severability.*—If any provision hereof or the
2 application thereof to any person or circumstance is held
3 invalid, such invalidity shall not affect other provisions
4 or applications of this article which can be given effect
5 without the invalid provision or application, and to this
6 end the provisions of this article are declared to be sev-
7 erable.



CHAPTER 74

(Senate Bill No. 164—By Mr. McKown)

AN ACT to amend article two, chapter eighteen of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, to be designated
section twelve, relating to the authority of the state board
of education to grant sabbatical leaves to faculty members
of institutions under its control.

[Passed February 26, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 2. State Board of Education.**Section****12. Authority to grant sabbatical leaves.**

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section twelve, to read as follows:

Section 12. *Authority to Grant Sabbatical Leaves.*—The
2 state board of education shall have authority to grant
3 sabbatical leaves to faculty members at the educational
4 institutions under its control for the purpose of permit-
5 ting them to engage in graduate study, research or other
6 activities calculated to improve their teaching ability.
7 Such leaves shall be granted only in conformity with a
8 uniform plan adopted by the board and shall be subject
9 to such reasonable rules and regulations as the board may
10 prescribe. Any plan adopted by the board shall not pro-
11 vide for the granting of sabbatical leave to any faculty
12 member who has served less than six years at the insti-
13 tution where he is employed, nor shall such leave be for
14 more than one semester at full pay or two semesters at
15 half pay. Any faculty member receiving a sabbatical
16 leave shall be required to return and serve for at least
17 three years at the institution from which he was granted
18 the leave or to repay to the institution the compensation
19 received by him during his leave. Compensation to a
20 faculty member on sabbatical leave shall be paid from
21 the regular personal services appropriation of the insti-
22 tution where he is employed.

CHAPTER 75

(House Bill No. 177—By Mr. Fumich and Mr. Moreland)

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen-b, conferring upon the state board of edu-

cation additional authority with respect to the issuance of revenue bonds to finance the construction of dormitories and similar facilities at institutions under its control.

[Passed March 9, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 2. State Board of Education.

Section

13-b. Additional authority of state board of education concerning revenue bonds for dormitories.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section thirteen-b, to read as follows:

Section 13-b. *Additional Authority of State Board of Education Concerning Revenue Bonds for Dormitories.*—
In addition to the authority conferred upon the state board of education, by virtue of the preceding section, with respect to the issuance of revenue bonds to finance the construction of dormitories, homes or refectories for teachers and students at institutions under its control, the board, whenever the revenue from any such existing facility shall no longer be needed to meet the requirements of the sinking fund established in connection with the bond issue for which such revenue was originally pledged, shall also have authority to pay such unneeded revenue into the sinking fund pledged as security for any other unliquidated bonds issued for such facilities at the institution where the revenue was collected, or to pledge such revenue as added security for the payment of any new issue of revenue bonds sold to finance the construction of any such additional facility at that institution. The board shall also have authority to pledge the revenue from any such existing facility at any institution, even though it was not originally financed by revenue bonds, as added security for any new issue of revenue bonds sold to finance the construction of any such additional facility at the institution.

CHAPTER 76

(Senate Bill No. 159—By Mr. Taylor, of Mingo)

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections ten, ten-a and eleven, article two thereof, and by adding thereto a new article, to be designated article two-a, relating to the adoption of textbooks for use in the public schools.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 2-a. Textbook Adoption.

Section

1. Adoption by groups.
2. Request for samples and bids.
3. Disposition of samples.
4. Execution of contracts; bond.
5. Selection by county boards.
6. Retail prices.
7. Retail outlets.
8. General provisions.
9. Gifts and bribes to influence adoption of textbooks; penalties.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing sections ten, ten-a and eleven, article two thereof, and by adding thereto a new article, to be designated article two-a, to read as follows:

- Section 1. *Adoption by Groups.*—On or before January
- 2 first, one thousand nine hundred fifty-six, the state board
 - 3 of education shall classify the elementary school subjects
 - 4 now required to be taught in the schools of our state into
 - 5 four adoption groups. The four adoption groups shall
 - 6 be grouped by related subject fields as nearly as possible.
 - 7 The schedule for the periods of adoption shall be as
 - 8 follows:
 - 9 (a) Adoptions in Group I shall be made in one thou-
 - 10 sand nine hundred fifty-seven for a period of four years.
 - 11 (b) Adoptions in Group II shall be made in one thou-

12 sand nine hundred fifty-seven for a period of three years.

13 (c) Adoptions in Group III shall be made in one thou-
14 sand nine hundred fifty-seven for a period of two years.

15 (d) Adoptions in Group IV shall be made in one thou-
16 sand nine hundred fifty-seven for a period of one year.

17 Upon the expiration of the periods of adoption, as set
18 out in the aforesaid adoption schedule, the period of adop-
19 tion and contract of each adoption group in which text-
20 books for all the subjects are adopted shall be for a period
21 of four years.

Sec. 2. *Request for Samples and Bids.*—Not later than
2 April first, one thousand nine hundred fifty-six, the state
3 board by written request or otherwise shall ask the vari-
4 ous publishers of textbooks in the United States to sub-
5 mit samples and prices on all textbooks required to be
6 taught in the public elementary schools of the state. Prior
7 to each adoption year after the one thousand nine hun-
8 dred fifty-seven adoption, and not later than April first,
9 the state board by written request or otherwise shall ask
10 the various publishers of textbooks in the United States
11 to submit samples and prices on all textbooks required
12 to be taught in the public elementary schools of the state
13 for which adoptions will be made.

14 All bids or proposals shall be under seal, and each
15 bidder shall deposit in the state treasury such sum of
16 money as the state board may designate, such deposit
17 to be not less than one thousand dollars and not more
18 than three thousand dollars; and such deposit shall be
19 forfeited to the general school fund if such bidder shall
20 fail or refuse to make and execute such contract and bond
21 as are herein required in case of acceptance of all or part
22 of his bid, and otherwise shall be returned to such bidder
23 after the contract has been made.

24 All bids shall be opened by the state board in public
25 session. After considering the subject matter, printing,
26 binding, general suitableness, and prices of books sub-
27 mitted, the board shall, with the aid of a committee of
28 teachers not to exceed fifteen members, on or before
29 July first, prior to any adoption year, select, approve and
30 publish a list of at least five books or series of books in

31 each subject and grade in the elementary subjects re-
32 quired to be taught. Not more than two books for any
33 subject and grade so listed shall be from the same pub-
34 lisher. If less than five books or series of books in any
35 subject and grade are offered, the state board may list
36 fewer than five.

Sec. 3. *Disposition of Samples.*—Sample books sub-
2 mitted to the state board for examination shall remain
3 the property of the publisher submitting them if claimed
4 within thirty days after adoption of the multiple list.
5 If not claimed within that period, the books shall be
6 sold by the state board and the money credited to the
7 general school fund.

Sec. 4. *Execution of Contracts; Bond.*—When the selec-
2 tion and approval of the multiple list have been properly
3 made, it shall be the duty of the state board to execute
4 contracts for the selected books with the publishers
5 within twenty days of the approval and adoption of the
6 multiple list, prepare a list of the adopted books on the
7 multiple list and publish same, and send a copy to each
8 county superintendent not later than September fifteenth
9 of the year preceding the adoption. Such contracts for
10 adoption, except for the introductory period in making
11 the transition to a staggered adoption plan, shall run for
12 four years.

13 Each publisher awarded a textbook contract by the
14 state board shall enter into a bond payable to the state
15 of West Virginia in the penal sum of not less than two
16 thousand dollars and not more than five thousand dollars
17 to be approved by the state board of public works, such
18 bond to be executed as surety by some responsible surety
19 company authorized to carry on its business in West Vir-
20 ginia. Such contract shall be prepared by the attorney
21 general in accordance with the terms and provisions of
22 this article. Such contract shall be executed in duplicate,
23 one copy to be held by the publisher and one by the state
24 board of education.

25 Bonds required of successful publishers shall provide
26 that:

27 (a) The publisher will furnish any of the books on the

28 multiple list which he publishes for the period of the
29 adoption, from the date of the bond, to any county school
30 unit, or to a dealer appointed by the county, at the lowest
31 wholesale price contained in the bid, f.o.b. publisher's
32 nearest shipping point.

33 (b) The publisher will automatically reduce such prices
34 in West Virginia when prices are reduced anywhere in
35 the United States, so that no such book shall at any time
36 be sold in West Virginia at a higher wholesale price
37 than received for that book elsewhere in the United
38 States, like conditions prevailing.

39 (c) All books sold in West Virginia will be identical
40 with the official samples filed with the state board of
41 Education as regards size, paper, binding, print, illustra-
42 tions, subject matter, and other particulars which may
43 affect the value of the books. The state board of educa-
44 tion, may, however, during the period of the contract,
45 approve revised editions of an adopted book or series,
46 which will authorize a publisher to furnish such revi-
47 sions.

Sec. 5. *Selection by County Boards.*—Textbook pub-
2 lishers, upon requests of county superintendents, shall
3 furnish to county boards of education the requested sam-
4 ple copies of books that were selected and placed on
5 the state multiple list of textbooks by the state board
6 of education. The textbook publishers shall ship and bill
7 to the county boards of education at the lowest wholesale
8 prices with shipping charges prepaid. After the counties
9 have made their textbook adoptions and certified them
10 to the state board of education, all sample copies of books
11 may be returned to the publishers from whom obtained
12 by May first, shipping charges to be paid by the publisher.
13 County boards may, if they elect to do so, retain the
14 sample books, but shall pay the publishers the lowest
15 wholesale prices for them.

16 The county board of education shall, upon recommen-
17 dation of the county superintendent with the aid of a
18 committee of teachers not to exceed five members and not
19 later than April first of any adoption year, select from
20 the state multiple list one book or series of books for each
21 subject and grade to be used as exclusive basal in the

22 county for a period of four years, except, however, for the
23 one thousand nine hundred fifty-seven adoptions which
24 shall be made as provided in this article.

25 After the county board of education has adopted the
26 basal textbooks for use in the county, and not later than
27 April fifteenth, the county superintendent shall send to
28 the state board of education a complete list of books
29 adopted, properly certified by the president of the county
30 board of education, in such form as the state board of
31 education shall prescribe.

Sec. 6. *Retail Prices.*—It shall be the duty of the state
2 board of education to fix prices at which the various
3 books adopted shall be sold to patrons, the excess of
4 which above contract price shall represent the profit to
5 the retailer; but in no case shall such profit exceed twenty
6 per cent of the contract price. The state board of educa-
7 tion shall notify each county superintendent of the list
8 of books adopted on the state multiple list and the prices
9 at which they are to be sold, and any person selling such
10 books at a higher price than that fixed by the state board
11 of education shall be guilty of a misdemeanor, and, upon
12 conviction thereof, shall be fined not less than ten nor
13 more than fifty dollars.

Sec. 7. *Retail Outlets.*—It shall be the duty of each
2 contractor at his own expense to place with responsible
3 dealers, in no fewer than three magisterial districts in
4 each county, at least two weeks before the beginning of
5 school in any district in the county where such books
6 are used, a sufficient number of books to supply the de-
7 mand. He shall also arrange for the exchange of books
8 at such places, allowing pupils or boards of education
9 an exchange price as liberal as granted on the same books
10 to any city, county, or state in the United States, like
11 conditions prevailing. The exchange privilege shall ex-
12 tend through one entire school year. Nothing in this
13 article is to be construed as preventing the use of supple-
14 mentary books, provided they do not displace the adopted
15 books, nor the use of more advanced books in such schools
16 as may be ready for the same.

Sec. 8. *General Provisions.*—No textbook shall be used

2 in any public elementary school in West Virginia as a
3 basal textbook unless it has been approved and listed on
4 the state multiple list of textbooks by the state board of
5 education. Any changes of textbooks made by the state
6 board of education shall not become effective until grades
7 and classes of the respective county school districts have
8 completed work for which the adopted book then in use
9 was originally intended. Nothing in this section shall
10 apply to the supplementary books that are needed from
11 time to time.

Sec. 9. *Gifts and Bribes to Influence Adoption of Text-*
2 *books; Penalties.*—Any member of the state board of
3 education, any county superintendent, any member of a
4 county board of education or any other person who shall
5 receive, solicit, or accept any gift, present, or thing of
6 value to influence him in his vote for the adoption of
7 books, or any person who shall either directly or in-
8 directly give or offer to give any such gift, present, or
9 thing of value to any person to influence him in voting
10 for the adoption of books, shall be guilty of a felony, and,
11 upon conviction thereof, shall be punished by confine-
12 ment in the penitentiary for not less than one year nor
13 more than three years.

CHAPTER 77

(House Bill No. 224—By Mr. Hager and Mr. England)

AN ACT to amend and reenact section four, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to meetings, quorums and the compensation of members of boards of education.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

4. Meetings; quorum; compensation of members.

Be it enacted by the Legislature of West Virginia:

That section four, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 4. *Meetings; Quorum; Compensation of Members.*—The board shall meet on the first Monday of July and the first and third Tuesdays in August and at such other times as the board may fix upon its records. The board shall meet at its office on the first Monday in June in each year and shall appoint the teachers for their district. At which time, it shall be the duty of the superintendent of schools to furnish each member of the board an approved list of all qualified teachers for the schools of said district for the ensuing year.

Special meetings may be called by the president or any three members, but no business shall be transacted other than that designated in the call.

A majority of the members shall constitute the quorum necessary for the transaction of official business.

Board members shall receive compensation at the rate of fifteen dollars per meeting. But they shall not receive pay for more than eighteen meetings in any one year.

Members shall also be paid, upon the presentation of an itemized sworn statement, for all necessary traveling expenses incurred on official business, at the order of the board.

CHAPTER 78

(Senate Bill No. 335—By Mr. McKown)

AN ACT to amend and reenact section eight, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the acquisition by county boards of education, by condemnation or otherwise, of lands necessary for educational purposes.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 5. District Board of Education.**Section**

8. School site; condemnation.

Be it enacted by the Legislature of West Virginia:

That section eight, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 8. *School Site; Condemnation.*—The board shall purchase by condemnation, or otherwise, the land necessary for school buildings, playgrounds, athletic fields, experiments in agriculture, warehouses, bus garages, and other educational purposes, and may make necessary expenditures for the improvement of the land.

The board may petition the circuit court to condemn such lands, or easements in such lands, necessary or convenient for educational purposes for school buildings, playgrounds, athletic fields, experiments in agriculture, warehouses, bus garages, or extensions, improvements, or additions thereto. The rights, powers, and privileges of eminent domain in a board shall be co-extensive with the rights, powers, and privileges of the state.

Condemnation proceedings shall be in the name of the board and according to the provisions of chapter fifty-four of the code.

CHAPTER 79

(Senate Bill No. 324—By Mr. McKown)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section sixteen-a, relating to the transfer of pupils between school districts.

[Passed March 12, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 5. District Board of Education.**Section**

16-a. Transfer of pupils between districts; counting of such pupils in net enrollment.

Be it enacted by the Legislature of West Virginia:

That article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section sixteen-a, to read as follows:

Section 16-a. *Transfer of Pupils Between Districts; Counting of Such Pupils in Net Enrollment.*—On and after the effective date hereof, no tuition on account of transfer pupils shall be paid by any district from which pupils are transferred to any other district within the state. For purposes of computing net enrollment, however, any pupils so transferred shall be counted by the district to which they were transferred and not by the district making the transfer.

CHAPTER 80

(House Bill No. 162—By Mr. Watts)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-four, relating to compensation for suppression of fires on school property.

[Passed March 6, 1953; in effect from passage. Approved by the Governor.]

Article 5. District Board of Education.**Section**

34. Payment for fire services; public school property.

Be it enacted by the Legislature of West Virginia:

That article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended by adding thereto a new section, designated section thirty-four, to read as follows:

Section 34. Payment for Fire Services; Public School

- 2 *Property.*—Where a fire company or fire department neces-
3 sarily renders services in preventing or extinguishing
4 fires upon public school property situated beyond their
5 legal sphere of operation, the county board of education
6 may pay, as a consideration for said services, a reasonable
7 compensation to such fire company or fire department and
8 such expenditures therefor shall be made from the general
9 current expense fund as an incidental expense.
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CHAPTER 81

(Com. Sub. for Senate Bill No. 73—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section two-a, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sick leave compensation for teachers.

[Passed March 12, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 7. Teachers.

Section

2-a. Sick leave compensation.

Be it enacted by the Legislature of West Virginia:

That section two-a, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 2-a. Sick Leave Compensation.*—Any county
2 board of education may establish and maintain in its
3 annual budget a separate fund to be known as the
4 "teachers' sick leave fund".
5 Any full-time teacher employed by a county board of
6 education that establishes such fund shall be entitled to
7 at least five days' sick leave per year, cumulative to a

8 total of twenty days. Money allocated to the sick leave
9 fund shall be used to pay the salary of all full-time
10 teachers for time lost from assigned duties due to per-
11 sonal accident or sickness.

12 All sick leave benefits shall be paid at the end of each
13 school year. If funds budgeted for sick leave are insuf-
14 ficient to pay the amount due, the per diem salaries for
15 all teachers claiming sick leave benefits shall be reduced
16 proportionately. The board shall carry over from year
17 to year the accumulated balance in the sick leave fund.
18 The board is authorized to prescribe such other regula-
19 tions as it may deem necessary.

20 All moneys received by a county board of education
21 from any appropriation made by the Legislature for sick
22 leave benefits, if not used for the purposes of this sec-
23 tion, may be expended only to provide salary increases
24 for existing teachers, to pay the salaries of necessary ad-
25 ditional teachers, or if so required to pay the legal min-
26 imum salaries of existing teachers.

CHAPTER 82

(Com. Sub. for House Bill No. 273—Originating in the House Committee on Education)

AN ACT to amend and reenact sections three, fourteen, fifteen, sixteen, seventeen, and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state teachers' retirement system and to the contributions and benefits provided for the members thereof.

[Passed March 13, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

3. Definitions.
14. Contributions by members.
15. Collection of membership contributions.
16. Transfer of appropriations.
17. Statement and computation of teacher's service.
26. Allowance upon retirement.

Be it enacted by the Legislature of West Virginia:

That sections three, fourteen, fifteen, sixteen, seventeen and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Definitions.*—"Teacher" shall include the following persons, if regularly employed for at least half time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) principals; (c) public school librarians; (d) county superintendents of schools and assistant county superintendents of schools; (e) any county school attendance director holding a West Virginia teachers' certificate; (f) the executive secretary of the retirement board; (g) members of the research, extension, administrative or library staffs of the public schools; (h) the state superintendent of schools, heads and assistant heads of the divisions under his supervision, or any other employee thereunder performing services of an educational nature; (i) employees of the state board of education who are performing services of an educational nature; (j) any person employed in a non-teaching capacity by the state board of education, the board of governors of West Virginia university, any county board of education, the state department of education or the teachers retirement board, if such person was formerly employed as a teacher in the public schools; (k) all class-room teachers, principals and educational administrators in schools under the supervision of the state board of control.

"Members of the administrative staff of the public schools" shall include deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

"Members of the extension staff" of the public schools shall include every agricultural agent, boys' and girls' club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical or secretarial.

"Retirement system" shall mean the state teachers' retirement system provided for in this article.

36 "Present teacher" shall mean any person who was
37 a teacher within the seven years beginning July first,
38 one thousand nine hundred thirty-nine and whose mem-
39 bership in the retirement system has been continuous.

40 "New entrant" shall mean a teacher who is not a
41 present teacher.

42 "Present member" shall mean a present teacher who
43 is a member of the retirement system.

44 "Total service" shall mean all service as a teacher
45 while a member of the retirement system since last be-
46 coming a member and, in addition thereto, his credit for
47 prior service, if any.

48 "Prior service" shall mean all service as a teacher
49 completed prior to July first, one thousand nine hun-
50 dred forty-one and all service of a present member
51 who was employed as a teacher, and did not contri-
52 bute to retirement account because he was legally in-
53 eligible for membership during such service.

54 "Average final salary" shall mean the average annual
55 salary earned as a teacher during the last fifteen years
56 of prior service, including military service, as provided
57 herein, or if prior service is less than fifteen years,
58 the average annual salary for that period. If the records
59 for determining each annual salary needed cannot rea-
60 sonably be established by the retirement board, then
61 the term shall mean the average annual salary of
62 the teacher for the years for which records are avail-
63 able.

64 "Accumulated contributions" shall mean all deposits
65 and all deductions from the earnable compensation of a
66 contributor minus the total of all supplemental fees de-
67 ducted from his compensation.

68 "Regular interest" shall mean interest at three per cent
69 compounded annually, or a higher earnable rate if ap-
70 proved by the retirement board.

71 "Refund interest" shall mean the interest on refunds
72 of the accumulated contributions and deposits payable
73 to former members or to the beneficiaries of deceased
74 members, as provided in this article. The rate for refund
75 interest shall be the average annual rate of interest, cal-
76 culated to one decimal place, earned on retirement board

investments in effect at the end of the fiscal year for which the interest is due, according to the sworn statement of the fund custodian required by section nineteen of this article.

"Employer" shall mean the agency of and within the state which has employed or employs a member.

"Contributor" shall mean a member of the retirement system who has an account in the teachers' accumulation fund.

"Beneficiary" shall mean the recipient of annuity payments made under the retirement system.

"Refund beneficiary" shall mean the estate of a deceased contributor, or such person as he shall have nominated as beneficiary of his contributions by written designation duly executed and filed with the retirement board.

"Earnable compensation" shall mean the full compensation actually received by members for service as teachers whether or not a part of such compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions. Allowances from employers for maintenance of members shall be deemed a part of earnable compensation of such members.

"Annuities" shall mean the annual retirement payments for life granted beneficiaries in accordance with this article.

"Member" shall mean a member of the retirement system.

"Public schools" shall mean all publicly supported schools, including normal schools, colleges, and universities in this state.

"Deposit" shall mean a voluntary payment to his account by a member.

The masculine gender shall be construed so as to include the feminine.

Age in excess of seventy years shall be deemed to be seventy years.

Sec. 14. *Contributions by Members.*—At the end of 2 each month, every member of the retirement system

3 shall contribute six per cent of his monthly earnable
4 compensation to the retirement board, but in no case
5 shall such contributions by any member exceed one hun-
6 dred eighty-four dollars in any fiscal year. Such con-
7 tributions shall be deemed to include the annual supple-
8 mentary fee of the contributor, determined as herein-
9 after provided, which fee shall be used to help finance
10 the additional retirement benefit provided for in sub-
11 section (e), section twenty-six of this article. Annually,
12 the contributions of each member, minus his supple-
13 mentary fee, shall be credited to his account in the teach-
14 ers' accumulation fund. The contributions shall be de-
15 ducted from the salaries of the members as herein pre-
16 scribed, and every member shall be deemed to have given
17 his consent to such deductions. No deductions, however,
18 shall be made from the earnable compensation of any
19 teacher who retired because of age or service, and then
20 resumed service as a teacher.

21 The retirement board shall each year determine to the
22 nearest dollar the amount of the supplementary fee to be
23 paid by each member, so that the sum of such fees paid
24 by all members shall be sufficient to defray one-half of
25 the cost of the retirement benefit provided for in sub-
26 section (e), section twenty-six of this article. The amount
27 so fixed shall not exceed twenty dollars, nor shall it in
28 any case exceed one per cent of the annual earnable
29 compensation of the member. All supplementary fees
30 shall be deposited in the benefit fund.

31 The aggregate of employer contributions, due and pay-
32 able under this article, shall equal annually the total de-
33 ductions from the earnable compensation of members
34 required by this section. All employer contributions
35 shall be credited to the employers' accumulation fund,
36 from which fund an amount equalling annually the sup-
37plementary fees of members, shall be transferred to the
38 benefit fund. When a member withdraws or dies, the
39 employer's contributions for that member, equalling his
40 withdrawn contributions, shall be transferred to the re-
41 serve fund.

42 Payment by an employer to a member of the sum spec-
43 ified in the employment contract minus the amount of the

44 employee's contributions shall be deemed to be a full
45 discharge of the employer's contractual obligation as to
46 earnable compensation.

47 Each contributor shall file with the retirement board
48 or with the employer to be forwarded to the retirement
49 board an enrollment form showing his date of birth and
50 other data needed by the retirement board. Upon notice
51 from the retirement board to the employer that a con-
52 tributor has failed to file such form as prescribed, the
53 employer shall withhold the salary of the contributor
54 until the needed form is filed with the retirement board.

Sec. 15. *Collection of Membership Contributions.*—Each
2 employer shall each month deduct six per cent from the
3 salary of each employee who is a member of the retire-
4 ment system, in an amount not to exceed the amount
5 named in section fourteen of this article, and shall at the
6 end of each month remit to the retirement board the
7 amounts so deducted, and shall transmit therewith a list
8 of all new members employed and the name and number
9 of members transferring from another county. At such
10 times as the retirement board may deem advisable each
11 employer shall report to the retirement board the total
12 amount so deducted from the salary of each employee.
13 The monthly payments which members would receive
14 from employers as compensation for service in the ab-
15 sence of this article, shall be decreased by the amount
16 of the contribution due hereunder.

17 Each employer shall be held accountable for the sum
18 composing the contributions made by its member em-
19 ployees. Whenever any county board of education shall
20 fail to make timely remittance of the member contribu-
21 tions deducted as provided in this section, the board of
22 school finance shall, upon request of the retirement board,
23 deduct from the next allotment of state aid for schools
24 made to such county board, and shall transfer to the re-
25 tirement board, the amount so in default.

Sec. 16. *Transfer of Appropriations.*—The retirement
2 board, on receipt of contributions from teachers deducted
3 and remitted by employers as provided in the preceding
4 section, shall make requisition on the state auditor for

5 an amount equal to such contributions. On receipt of the
6 requisitions duly certified, the state auditor shall transfer
7 the amount so requisitioned from the general state revenue
8 fund to the employers' accumulation fund, such
9 transfers not to exceed the amount appropriated for the
10 employers' accumulation fund.

11 At the beginning of each quarter the governor shall
12 transfer to the benefit fund one-fourth of the annual
13 appropriation therefor.

Sec. 17. *Statement and Computation of Teacher's*
2 *Service.*—Under such rules and regulations as the retire-
3 ment board may adopt, each teacher shall file a detailed
4 statement of his length of service as a teacher for which
5 he claims credit. The retirement board shall determine
6 what part of a year is the equivalent of a year of service.
7 In computing such service, however, it shall credit no
8 period of more than a month's duration during which a
9 member was absent without pay, nor shall it credit for
10 more than one year service performed in any calendar
11 year.

12 For the purposes of this article the retirement board
13 shall grant prior service credit to new entrants and other
14 members of the retirement system for service in any of
15 the armed forces of the United States in any period of
16 national emergency within which a federal selective
17 service act was in effect. For purposes of this section,
18 "armed forces" shall include women's army corps, wom-
19 en's appointed volunteers for emergency service, army
20 nurse corps, spars, women's reserve, and other similar
21 units officially parts of the military service of the United
22 States. Such military service shall be deemed equivalent
23 to public school teaching, and the salary equivalent for
24 each year of such service shall be the actual salary of the
25 member as a teacher for his first year of teaching after
26 discharge from military service. Prior service credit for
27 military service shall not exceed ten years for any one
28 member, nor shall it exceed twenty-five per cent of total
29 service at the time of retirement.

30 For service as a teacher in the employment of the fed-
31 eral government, or a state or territory of the United

32 States, or a governmental subdivision of such state or
33 territory, the retirement board shall grant credit to the
34 same extent and on the same conditions, if any, as a re-
35 tirement system established for teachers in such employ-
36 ment would grant credit for service as a teacher in the
37 public schools of West Virginia.

38 Subject to the above provisions, the board shall verify
39 as soon as practicable, the statements of service submit-
40 ted. The retirement board shall issue prior service cer-
41 tificates to all persons eligible therefor under the pro-
42 visions of this article. Such certificates shall state the
43 length of such prior service credit, but in no case shall
44 the prior service credit exceed forty years.

Sec. 26. *Allowance Upon Retirement.*—Upon establish-
2 ment of eligibility for a retirement allowance, a member
3 shall be granted an annuity which shall be the sum of the
4 following:

5 (a) The actuarial equivalent of the contributions and
6 deposits of the member in his individual account up to
7 the time of his retirement, with regular interest.

8 (b) The actuarial equivalent of the contributions of
9 the employer up to the time of the member's retirement,
10 which shall equal the sum in subsection (a) of this sec-
11 tion minus deposits with regular interest on such de-
12 posits.

13 (c) Where prior service credit has been granted, an
14 allowance of one and one-half per cent of the member's
15 average final salary multiplied by the number of years
16 of prior service credited to him.

17 (d) The actuarial equivalent of the amounts that
18 would have accumulated under subsections (a) and (b)
19 of this section, if the member had contributed to his in-
20 dividual account until he was fifty years old, at the annual
21 rate of his past actual contributions, but this subsection
22 shall apply only as additional income to members who
23 qualify for disability retirement before they are fifty
24 years old.

25 (e) Twelve dollars multiplied by his total service as
26 a teacher.

27 The disability annuities of all teachers retired for dis-

28 ability shall be based upon a disability table prepared by
29 a competent actuary, approved by the retirement board.

30 For the purposes of subsection (c):

31 (1) An allowance for prior service shall in no case
32 exceed three-fifths of the member's average final salary.

33 (2) Average final salary for this purpose shall in no
34 case exceed two thousand five hundred dollars, nor shall
35 it be less than twelve hundred dollars.

36 All annuities shall be paid in twelve monthly pay-
37 ments. In computing such monthly payments, fractions
38 of a cent shall be deemed a cent. Such monthly pay-
39 ments shall cease with the payment for the month
40 within which the beneficiary dies, and shall begin with
41 the payment for the month succeeding the month within
42 which the annuitant became eligible under this article
43 for the annuity granted; in no case, however, shall an
44 annuitant qualifying for an annuity because of age or
45 service, receive more than four monthly payments which
46 are retroactive after the board receives his application
47 for annuity.

48 In case the retirement board receives data affecting the
49 approved annuity of a retired teacher, the annuity shall
50 be changed in accordance with such data, the change
51 being effective with the payment for the month within
52 which the board received the new data.

53 An annuity application shall be cancelled immediately
54 if the applicant dies before the retirement board approves
55 such application.

56 The provisions of this section shall apply to the compu-
57 tation of all monthly allowances paid to beneficiaries
58 after the effective date hereof.

CHAPTER 83

(House Bill No. 389—By Mr. Schupbach)

AN ACT to amend and reenact section twenty, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to investment of funds of state teachers' retirement system.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

20. Investment of funds.

Be it enacted by the Legislature of West Virginia:

That section twenty, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 20. *Investment of Funds.*—The members of the retirement board shall be the trustees of the several funds created by this article, and shall determine from time to time what part of the moneys belonging to the retirement system shall be invested. When such board shall determine to invest any moneys or to convert or sell any securities, it shall by resolution so direct the custodian. The board of public works is hereby empowered to determine in what securities the investments shall be made, but such investments shall be made only in those securities to which the board of public works is limited in the investment of workmen's compensation funds under section two, article three, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, or in bonds, notes, or other instruments evidencing loans secured by mortgages or deed of trust insured, or with respect to which commitments to insure have been made by the United States, or by the secretary of agriculture, pursuant to the Bankhead-Jones Farm Tenant Act of 1937, as heretofore or hereinafter amended. It shall be the duty of every county, school district or municipality issuing any bonds to offer them in writing to the board of public works, prior to advertising the bonds for sale. The board of public works, within fifteen days after receipt of such offer, may accept or reject such offer in whole or in part. It shall be the duty of the custodian to collect the principal and the interest on investments when they become due and payable and to credit such collections to the retirement system.

CHAPTER 84

(House Bill No. 25—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allocation of state aid for schools.

[Passed February 25, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9-a. Allocation of State Aid for Schools.

Section

1. Distribution of state aid to free schools.
2. Definitions.
3. Computation of local share.
4. Total state foundation program.
5. Allocation of weighted pupils: elementary schools.
6. Allocation of weighted pupils: high schools: total weighted pupils for county.
7. Foundation program allowance for instructional salaries.
8. Foundation program allowance for transportation.
9. Foundation program allowance for other current expenses.
10. Foundation program allowance for general improvement.
11. Total county foundation program: amount of state aid.
12. Temporary supplemental state aid.
13. County request schedule.
14. Rules and regulations.

Be it enacted by the Legislature of West Virginia:

That article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Distribution of State Aid to Free Schools.*—

- 2 The purpose of this article is to provide for the distribu-
- 3 tion of state aid for free schools among the several coun-
- 4 ties of the state. In enacting this method of computation
- 5 and distribution, the Legislature has in mind the follow-
- 6 ing specific purposes:
- 7 1. To provide a method of distribution that will supply
- 8 each county with the funds reasonably necessary to oper-
- 9 ate its schools on a basis that accords with the relative
- 10 educational needs of the several counties.
- 11 2. To establish a method of computation and allocation

12 that so far as may be possible eliminates the need for the
13 exercise of state administrative discretion concerning the
14 requirements of the several counties.

15 3. To give to each county every possible incentive to the
16 constructive development of its school system, and to
17 place with the county boards of education the responsi-
18 bility for the preservation and improvement of the stand-
19 ards of local education.

20 4. To coordinate the administration of state aid more
21 closely with the general fiscal policies of the state.

22 With the foregoing purposes in view, the allocation and
23 administration of state aid is hereby conferred upon the
24 state board of school finance.

Sec. 2. *Definitions.*—For the purposes of this article:

2 "State board" or "board" means the state board of
3 school finance.

4 "County board" means a county board of education.

5 "Teacher" shall include any principal, supervisor of
6 instruction or coach, and any special teacher who devotes
7 the majority of his school time to the instruction of school
8 age children.

9 "Average annual legal minimum salary for teachers"
10 for any county means the sum of the basic salaries and
11 the increments for experience for all teachers employed
12 therein at the end of the third month of the current school
13 year, divided by the total number of such teachers. Basic
14 salaries and increments for experience shall be those des-
15 ignated by the laws of West Virginia.

16 "Net enrollment" means the number of pupils enrolled
17 in grades one to twelve, inclusive, of the public schools
18 of the county at the close of the third month of the cur-
19 rent school year, but no pupil shall be counted more than
20 once by reason of transfer within the county or from an-
21 other county within the state, and no pupil shall be
22 counted who attends school in this state from another
23 state.

24 "High school" means a school consisting only of grades
25 above the sixth, organized for instruction by departments,
26 or the seventh and eighth grades of a school in which
27 these grades are organized for instruction by depart-

28 ments and which has at least four teachers in these
29 grades.

30 "Levies for general current expense purposes" means
31 on each hundred dollars of valuation, nineteen and six-
32 tenths cents on class one property, thirty-nine and two-
33 tenths cents on class two property, and seventy-eight and
34 four-tenths cents on classes three and four property.

Sec. 3. *Computation of Local Share.*—On the basis of
2 the most recent survey of property valuations in the state,
3 determined by the tax commissioner under present or
4 former provisions of this article, the board shall for each
5 county compute, by application of the levies for general
6 current expense purposes, as defined in the preceding
7 section, the amount of revenue which such levies would
8 produce if levied upon one hundred per cent of the true
9 and actual value of each of the several classes of property
10 contained in the report or revised report of such value,
11 made to it by the tax commissioner, as follows: (1) The
12 board shall first take ninety-seven and one-half per cent
13 of the amount ascertained by applying these rates to the
14 total assessed public utility valuation in each classifica-
15 tion of property in the county. (2) The board shall then
16 apply these rates to the appraised value of other property
17 in each classification in the county, as determined by the
18 tax commissioner, and shall deduct therefrom five per
19 cent as an allowance for the usual losses in collections
20 due to discounts, exonerations, delinquencies and the
21 like. Fifty per cent of the amount so determined shall
22 be added to the ninety-seven and one-half per cent of
23 public utility taxes computed as provided above, and this
24 total shall be the local share of the particular county.

25 The tax commissioner shall reappraise the property in
26 each county of the state at least once every four years.
27 The commissioner for this purpose shall be allowed an-
28 nually not to exceed fifty thousand dollars from moneys
29 appropriated and available for state aid during the fiscal
30 year.

Sec. 4. *Total State Foundation Program.*—The total
2 state foundation school program for any year shall be
3 the appropriation for state aid to schools available for

4 distribution during that year, plus the total local share
 5 for all counties in the state, determined for that year as
 6 provided in the preceding section. The amount of the
 7 total state foundation program so determined shall be
 8 used to meet the requirements of each successive division
 9 or step of the allocation formula provided for in this
 10 article, in the order of priority stated in the following
 11 section. Whenever the amount applicable to any divi-
 12 sion or step is insufficient to meet fully the stated require-
 13 ment, the amount for each unit of cost in such division
 14 or step shall be reduced proportionately, and the re-
 15 maining divisions or steps of the formula shall necessarily
 16 be disregarded.

Sec. 5. *Allocation of Weighted Pupils: Elementary*
 2 *Schools.*—For every elementary school in each county,
 3 and for every other school that does not qualify as a high
 4 school as defined in section two of this article, weighted
 5 pupils shall be allocated to each such school by applica-
 6 tion of the following scale to the net enrollment for such
 7 school as shown by the superintendent's certified attend-
 8 ance report for the third month of the current school
 9 year:

10 **SCALE FOR COMPUTING FROM ACTUAL ENROLL-**
 11 **MENT THE NUMBER OF WEIGHTED PUPILS FOR**
 12 **EACH ELEMENTARY SCHOOL**

Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils
		Net Enrollment multiplied by 1.8, but not more than 30 times the number of such schools.			
34 and below					
35	45.89	45	56.43	55	65.53
36	46.98	46	57.34	56	66.44
37	48.07	47	58.25	57	67.35
38	49.16	48	59.16	58	68.26
39	50.25	49	60.07	59	69.17
40	51.34	50	60.98	60	70.08
41	52.43	51	61.89	61	70.99
42	53.52	52	62.80	62	71.90
43	54.61	53	63.71	63	72.81
44	55.52	54	64.62	64	73.72

Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils
		Net Enrollment multiplied by 1.8, but not more than 30 times the number of such schools			
34 and below					
65	74.63	79	87.37	93	98.40
66	75.54	80	88.28	94	98.95
67	76.45	81	89.19	95	99.50
68	77.36	82	90.10	96	100.05
69	78.27	83	91.01	97	100.60
70	79.18	84	91.92	98	101.15
71	80.09	85	92.83	99	101.70
72	81.00	86	93.74	100	102.25
73	81.91	87	94.65	101	102.80
74	82.82	88	95.56	102	103.35
75	83.73	89	96.20	103	103.90
76	84.64	90	96.75	104	104.45
77	85.55	91	97.30	105 and above	Net Enrollment multiplied by 1.
78	86.46	92	97.85		

- 13 The sum of the weighted pupils so determined shall be
 14 the total number of weighted pupils allocated to the
 15 elementary schools in the county.

Sec. 6. Allocation of Weighted Pupils: High Schools:

- 2 **Total Weighted Pupils for County.**—For every high school
 3 in each county, weighted pupils shall be allocated to each
 4 such school by application of the following scale to the
 5 net enrollment of the school as shown by the superintendent's
 6 certified attendance report for the third month of
 7 the current school year:

- 8 **SCALE FOR COMPUTING FROM ACTUAL ENROLLMENT THE NUMBER OF WEIGHTED PUPILS FOR EACH HIGH SCHOOL**

Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils
79 and below		Net Enrollment multiplied by 1.89			
80	151.18	84	156.77	88	162.17
81	152.59	85	158.14	89	163.49
82	153.99	86	159.49	90	164.80
83	155.39	87	160.83	91	166.10

Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils	Net Enrollment	Weighted Pupils
79 and below		multiplied by 1.89			
92	167.39	129	206.75	166	230.07
93	168.66	130	207.59	167	230.47
94	169.92	131	208.41	168	230.87
95	171.17	132	209.23	169	231.25
96	172.42	133	210.04	170	231.62
97	173.64	134	210.84	171	231.99
98	174.86	135	211.62	172	232.33
99	176.06	136	212.38	173	232.67
100	177.26	137	213.14	174	233.00
101	178.44	138	213.89	175	233.31
102	179.63	139	214.63	176	233.61
103	180.76	140	215.35	177	233.91
104	181.91	141	216.07	178	234.18
105	183.04	142	216.77	179	234.45
106	184.16	143	217.45	180	234.70
107	185.27	144	218.13	181	234.95
108	186.38	145	218.80	182	235.18
109	187.47	146	219.45	183	235.40
110	188.54	147	220.09	184	235.61
111	189.60	148	220.73	185	235.80
112	190.65	149	221.34	186	235.99
113	191.69	150	221.95	187	236.16
114	192.72	151	222.54	188	236.32
115	193.74	152	223.13	189	236.47
116	194.75	153	223.69	190	236.61
117	195.74	154	224.26	191	236.74
118	196.72	155	224.81	192	236.86
119	197.69	156	225.34	193	236.96
120	198.65	157	225.87	194	237.05
121	199.60	158	226.38	195	237.13
122	200.53	159	226.89	196	237.20
123	201.45	160	227.37	197	237.25
124	202.36	161	227.85	198	237.30
125	203.26	162	228.31	199	237.33
126	204.15	163	228.77	200 and above	
127	205.03	164	229.21	Net Enrollment	
128	205.89	165	229.64	multiplied by 1.1868	

11 The sum of the weighted pupils so determined shall be
 12 the total number of weighted pupils allocated to the high
 13 schools in the county.

14 The sum of the weighted pupils computed for the
 15 county under this and the preceding section shall be the

16 total number of weighted pupils allocated to the county
 17 for the purpose of calculating the total foundation school
 18 program of the county, for the next fiscal year, as pro-
 19 vided in the following sections.

Sec. 7. *Foundation Program Allowance for Instructional Salaries.*—The allowance in the foundation school program of each county for instructional salaries for the next fiscal year shall be the total number of weighted pupils in the county, determined on the basis of attendance reports for the current school year, multiplied by one-thirtieth of the average annual legal minimum salary for teachers in the county for that year.

Sec. 8. *Foundation Program Allowance for Transportation.*—The allowance in the foundation school program of each county for transportation for the next fiscal year shall be computed as follows:

From data for the third month of the current school year, the state board shall determine for each county the average number of pupils transported per mile of bus route one way in county-owned buses and in contract buses by dividing the total number of pupils scheduled to ride such buses on regularly scheduled routes each day by the total length one way of all regularly scheduled bus routes traveled by such buses. The allowance of the county for such transportation shall be the average number of pupils transported per mile of bus route one way, so determined, multiplied by the annual allowance per pupil provided for in the following scale:

17 **TRANSPORTATION ALLOWANCE SCALE**

Number of Pupils Transported Per Mile of Bus	Annual Allowance Per Pupil
Route One Way	
2.59—and less	\$41.00
2.60—2.69	39.66
2.70—2.79	38.40
2.80—2.89	37.30
2.90—2.99	36.30
3.00—3.09	35.40
3.10—3.19	34.50

**Number of Pupils Trans-
ported Per Mile of Bus**

Route One Way

**Annual
Allowance Per Pupil**

3.20—3.29	33.70
3.30—3.39	32.90
3.40—3.49	32.10
3.50—3.59	31.50
3.60—3.69	30.90
3.70—3.79	30.30
3.80—3.89	29.70
3.90—3.99	29.20
4.00—4.09	28.70
4.10—4.19	28.30
4.20—4.29	27.90
4.30—4.39	27.50
4.40—4.49	27.10
4.50—4.59	26.70
4.60—4.69	26.30
4.70—4.79	25.90
4.80—4.89	25.50
4.90—4.99	25.20
5.00—5.09	25.00
5.10—5.19	24.60
5.20—5.29	24.30
5.30—5.39	24.00
5.40—5.49	23.70
5.50—5.59	23.40
5.60—5.69	23.10
5.70—5.79	22.80
5.80—5.89	22.50
5.90—5.99	22.20
6.00—6.09	21.90
6.10—6.19	21.60
6.20—6.29	21.30
6.30—6.39	21.00
6.40—6.49	20.70
6.50—and up	20.40

- 18 Whenever it appears to the satisfaction of the board that
 19 average transportation costs per pupil in the state have
 20 increased or decreased five per cent or more as compared

21 with the scale of annual transportation allowance per
22 pupil used in computing the foundation program for the
23 previous year, the board may recompute the scale to de-
24 termine justifiable increases or decreases in such allow-
25 ances.

26 The board shall determine the state average annual cost
27 per pupil paid during the previous school year by all
28 county boards of education for public utility transporta-
29 tion and for aid in lieu of transportation. On the basis
30 of data for the third month of the current school year,
31 each county shall then be allowed the sum of the amounts
32 computed by multiplying the number of pupils reported
33 by the county in each such category by the state average
34 annual cost per pupil in that category.

35 The sum of the amounts allowed each county under
36 the provisions of this section shall be the total transporta-
37 tion allowance for the county in its foundation school pro-
38 gram for the next fiscal year.

Sec. 9. *Foundation Program Allowance for Other Cur-*
2 *rent Expenses.*—The allowance in the foundation school
3 program of each county for other current expenses shall
4 be computed as follows:

5 Step (1). Thirty-five dollars each for the first thousand
6 weighted pupils plus ten dollars each for all weighted
7 pupils in the county in excess of one thousand.

8 Step (2). Fifteen dollars for each net-enrolled pupil in
9 the county.

10 Step (3). Five dollars for each weighted pupil in the
11 county.

12 The sum of the amounts allowed each county under
13 these steps shall be the total allowance for the county in
14 its foundation school program for other current expenses
15 for the next fiscal year.

Sec. 10. *Foundation Program Allowance for General*
2 *Improvement.*—The allowance in the foundation school
3 program of each county for the general improvement of
4 educational services and facilities in the county shall be
5 computed as follows:

6 Step (1). One-half of the undistributed remainder of
7 the total state foundation school program shall be allo-

8 cated among the counties on the basis of weighted pupils.
9 The allowance of each county shall be the total number
10 of weighted pupils in the county multiplied by the total
11 amount available for distribution under this step divided
12 by the total number of weighted pupils in the state.

13 Step (2). The other half of the undistributed remainder
14 of the total state foundation school program shall be allo-
15 cated among the counties on the basis of net-enrolled
16 pupils. The allowance of each county shall be the total
17 number of net-enrolled pupils in the county multiplied
18 by the total amount available for distribution under this
19 step divided by the total number of net-enrolled pupils
20 in the state.

21 The sum of the amounts allowed each county under
22 these two steps shall be the total allowance for the county
23 for the general improvement of its foundation school pro-
24 gram for the next fiscal year.

Sec. 11. *Total County Foundation Program: Amount of*
2 *State Aid.*—The total foundation school program for each
3 county for the next fiscal year shall be the sum of the
4 amounts allowed the county under the preceding provi-
5 sions of the formula.

6 Prior to the first day of July in each year the state board
7 shall determine the total foundation school program for
8 each county for the next fiscal year. The board shall
9 then allocate to each county its share of the total funds
10 available for state aid to schools during such fiscal year.
11 The amount of state aid for each county shall be the total
12 foundation school program of the county for the year
13 minus the local share of the county, determined for the
14 year as provided in this article.

15 After such computation is completed, the state board
16 shall immediately certify to each county board the amount
17 of state aid allocated to the county for the next fiscal year.

Sec. 12. *Temporary Supplemental State Aid.*—Out of
2 funds specially appropriated for the purpose for the fiscal
3 year beginning on the first day of July, one thousand nine
4 hundred fifty-three, and for each of the next three fiscal
5 years, temporary supplemental state aid shall be paid as
6 provided in this section.

7 In order to determine which counties are entitled to
8 temporary supplemental state aid and the amount of such
9 aid, the state board shall first compute the amount to
10 be received by each county from the regular state aid
11 appropriation for the fiscal year beginning on the first
12 day of July, one thousand nine hundred fifty-three, allo-
13 cated as provided in the preceding sections. The board
14 shall then compare such amount with the state aid the
15 county would have received from an appropriation suf-
16 ficient to meet the minimum requirements of the school
17 aid formula and the allocation plan in effect during the
18 fiscal year one thousand nine hundred fifty-two—one
19 thousand nine hundred fifty-three, with necessary correc-
20 tions to take care of the change in the method of count-
21 ing transfer pupils in net enrollment. From any funds
22 appropriated for the purpose, the state board shall then
23 allocate to each county showing a loss in state aid on the
24 basis of such comparison, eighty per cent of such loss the
25 first year, sixty per cent the second year, forty per cent
26 the third year, and twenty per cent the fourth and last
27 year. If the appropriation for this purpose in any year is
28 insufficient to pay the full amount of temporary state aid
29 provided for in this section, every allocation of such aid
30 shall be reduced proportionately.

Sec. 13. *County Request Schedule.*—Each county board
2 of education shall file a request schedule with the state
3 board for payments of state aid to which it is entitled in
4 each fiscal year. The state board shall have authority to
5 examine and approve, disapprove or modify the schedule
6 of payments, so long as its action does not unreasonably
7 curtail the educational program of any county. The state
8 board shall pay state aid by requisition upon the state
9 auditor in favor of the fiscal officer of each county board
10 in installments according to the schedule as finally ap-
11 proved or modified.

Sec. 14. *Rules and Regulations.*—The state board shall
2 have authority to make such reasonable rules and regula-
3 tions as may be necessary to enable it to carry out the
4 purposes and intent of this article with respect to the allo-
5 cation of state aid for schools.

CHAPTER 85

(House Bill No. 176—By Mr. Fumich and Mr. Moreland)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section one-b, conferring upon the board of governors of West Virginia university additional authority with respect to the issuance of revenue bonds to finance the construction of dormitories and similar facilities at institutions under its control.

[Passed March 9, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

1-b. Additional authority of board of governors concerning revenue bonds for dormitories.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section one-b, to read as follows:

Section 1-b. *Additional Authority of Board of Governors Concerning Revenue Bonds for Dormitories.*—In addition to the authority conferred upon the board of governors, by virtue of the preceding section, with respect to the issuance of revenue bonds to finance the construction of dormitories, homes or refectories for teachers and students at institutions under its control, the board, whenever the revenue from any such existing facility shall no longer be needed to meet the requirements of the sinking fund established in connection with the bond issue for which such revenue was originally pledged, shall also have authority to pay such unneeded revenue into the sinking fund pledged as security for any other unliquidated bonds issued for such facilities at the institution where the revenue was collected, or to pledge

16 such revenue as added security for the payment of any
17 new issue of revenue bonds sold to finance the construc-
18 tion of any such additional facility at that institution.
19 The board shall also have authority to pledge the revenue
20 from any such existing facility at any institution, even
21 though it was not originally financed by revenue bonds,
22 as added security for any new issue of revenue bonds sold
23 to finance the construction of any such additional facility
24 at the institution.

CHAPTER 86

(Senate Bill No. 165—By Mr. McKown)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section five-a, relating to the authority of the board of governors to grant sabbatical leaves to faculty members of institutions under its control.

[Passed February 26, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 11. West Virginia University.

Section

5-a. Authority to grant sabbatical leaves.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section five-a, to read as follows:

Section 5-a. *Authority to Grant Sabbatical Leaves.*—

2 The board of governors of West Virginia university shall
3 have authority to grant sabbatical leaves to faculty mem-
4 bers at the educational institutions under its control for
5 the purpose of permitting them to engage in graduate
6 study, research or other activities calculated to improve
7 their teaching ability. Such leaves shall be granted only

8 in conformity with a uniform plan adopted by the board
9 and shall be subject to such reasonable rules and regula-
10 tions as the board may prescribe. Any plan adopted by
11 the board shall not provide for the granting of sabbatical
12 leave to any faculty member who has served less than
13 six years at the institution where he is employed, nor
14 shall such leave be for more than one semester at full
15 pay or two semesters at half pay. Any faculty member
16 receiving a sabbatical leave shall be required to return
17 and serve for at least three years at the institution from
18 which he was granted the leave or to repay to the in-
19 stitution the compensation received by him during his
20 leave. Compensation to a faculty member on sabbatical
21 leave shall be paid from the regular personal services
22 appropriation of the institution where he is employed.

CHAPTER 87

(House Bill No. 425—By Mr. Speaker, Mr. Flannery)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section six-a, relating to the authority of the board of governors to contract with an institution outside the state for the purpose of providing training for West Virginia students in veterinary medicine.

[Passed March 11, 1953: in effect ninety days from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

6-a. State aid for students of veterinary medicine.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section six-a, to read as follows:

Section 6-a. *State Aid For Students of Veterinary Medicine.*—The board of governors is hereby authorized to enter into a contract with an educational institution or institutions outside the state that offer training in veterinary medicine, by the terms of which the board of governors may obligate itself to pay to such institution within the limits of any appropriation made for the purpose, a stated amount per year for each West Virginia student the institution will agree to accept for training in veterinary medicine.

The board of governors shall each year send to any institution with which such contract is made a certified list of all persons, applying to the board for training in veterinary medicine, who have been residents of this state for at least five years prior to the filing of their applications, and who have completed either within or without the state the course of study required by such institution as a prerequisite to the study of veterinary medicine.

CHAPTER 88

(House Bill No. 19—By Mr. Moreland and Mr. Fumich)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-four, relating to the promotion and financing of a general university research program.

[Passed February 23, 1953; in effect from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

24. Promotion and financing of general research; authority to contract for patents; special research fund.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended by adding thereto a new section, designated section twenty-four, to read as follows:

Section 24. *Promotion and Financing of General Research; Authority to Contract for Patents; Special Research Fund.*—In order to promote technical scientific investigation, research, experimentation and education, and to encourage the development of patentable inventions by members of the faculty, associates and employees of the university, the board of governors is hereby authorized to contract with any research foundation, firm, individual or agency for the procurement of patents on such inventions. The compensation of the research foundation, firm, individual or agency shall be limited to a share of the income from such patents, and the contract shall provide for the payment of part of the income to the university and part to the member of the faculty, associate or employee who developed the invention.

All moneys received by the university under any such contract shall be paid into a special research fund, which is hereby created in the state treasury, and shall be expended only for the furtherance of a university program of general scientific research, through payments for personal services, for the purchase of equipment and supplies, and for other expenses necessarily incident to such a program.

3

CHAPTER 89

(Com. Sum. for House Bill No. 149—Originating in the Committee on Education)

AN ACT to amend and reenact section one, article sixteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the control, supervision and management of Potomac state school of West Virginia university.

[Passed March 9, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 16. Potomac State College.**Section**

1. Continuation; name changed; management.

Be it enacted by the Legislature of West Virginia:

That section one, article sixteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. Continuation; Name Changed; Management.

- 2 —The Potomac state school of West Virginia university
- 3 heretofore established and located at Keyser, in Mineral
- 4 county, shall be continued and shall be known as the
- 5 "Potomac State College of West Virginia University." The
- 6 business and educational affairs of the college shall be
- 7 under the control, supervision and management of the
- 8 board of governors of the West Virginia university. The
- 9 college shall offer instruction in such subjects as the board
- 10 of governors may direct. The board of governors shall
- 11 have authority to extend all instructional facilities and
- 12 resources of West Virginia university for use from time
- 13 to time within the Potomac state college of West Virginia
- 14 university.

CHAPTER 90

(Senate Bill No. 84—By Mr. Allen)

AN ACT to amend and reenact sections two and three, article nineteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the eligibility of children of deceased soldiers, sailors and marines for educational benefits, tuition fees and allowances in connection therewith.

[Passed February 25, 1953; in effect from passage. Approved by the Governor.]

Article 19. Educational Opportunities for Children of Deceased Soldiers, Sailors and Marines.**Section**

2. Eligibility of applicant for benefits; application forms; preference.

3. No tuition fees to be charged; allowances expended by West Virginia department of veterans affairs; when to cease.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article nineteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Eligibility of Applicant for Benefits; Application Forms; Preference.*—To be eligible for the benefits of this article, said children must be at least sixteen and not more than twenty-two years of age and have had their domiciles in this state for at least twelve months preceding their application for said benefits. Such application shall be made to, and upon forms provided by, the West Virginia department of veterans affairs, which department shall determine the eligibility of those who make such application and the yearly amount to be allotted each applicant, which amount in the discretion of the department may vary from year to year, but shall not exceed the sum of three hundred dollars in any one year. In selecting those to receive the benefits of this article, preference shall be given those who are otherwise financially unable to secure said educational opportunities and to those whose parent was domiciled in this state during the period of such parent's war service.

Sec. 3. *No Tuition Fees to Be Charged; Allowances Expended by West Virginia Department of Veterans Affairs; When to Cease.*—No tuition fees shall be charged such applicants attending any state educational or training institution, and the funds herein appropriated shall be expended by said West Virginia department of veterans affairs only for matriculation fees, board, room rent, books, supplies and other necessary living expenses of such children. Said department is charged with the duty of disbursing the funds herein provided and shall draw its requisitions upon the auditor for that purpose. In the discretion of said department, such requisitions may be made payable to said education or training institutions or to those furnishing to said children board,

15 room rent, books, supplies and other necessary living
16 expenses, the department being first satisfied as to the
17 correctness and amounts of such expenditures. Should
18 any child withdraw from any such institution, all allow-
19 ances to such child shall cease. No member or employee
20 of said department shall receive any additional compen-
21 sation for the services herein required.

CHAPTER 91

(Senate Bill No. 36—By Mr. McKown)

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article twenty, relating to provisions for educating exceptional children, defining minimum standards, approving the qualifications of professional personnel, prescribing necessary rules, regulations and procedures, and administering such appropriations as the Legislature may make in support of such program.

[Passed March 4, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 20. Education of Exceptional Children.

Section

1. Establishment and maintenance of special schools and classes for exceptional children.
2. Providing suitable educational facilities.
3. County reports.
4. Examination and report.
5. Establishment of division of special education.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article twenty, to read as follows:

- Section 1. *Establishment and Maintenance of Special*
2 *Schools and Classes for Exceptional Children.*—In accord-

3 ance with the following provisions county boards of
4 education throughout the state having five or more ex-
5 ceptional children of any of the types or classifications
6 hereinafter named may establish and maintain special
7 schools, classes, home-teaching, or visiting-teacher serv-
8 ices in order to provide for educating exceptional children
9 between the ages of three and twenty-one who are edu-
10 cable, but who differ from the average or normal in
11 physical, mental, or emotional characteristics to the
12 extent that they cannot be educated safely or profitably
13 in the regular grades of the public schools, and for whom
14 special educational provisions need to be made in order
15 to educate them in accordance with their capacities,
16 limitations and needs.

17 The general types and classifications of exceptional
18 children for whom provision may be made under this ar-
19 ticle without reference to the order named are: The Blind,
20 the partially-seeing, the deaf and defened, the hard-of-
21 hearing, the crippled, including the cardiopathic and
22 cerebral palsied, children with lowered vitality includ-
23 ing the tuberculous and malnourished, the epileptic, the
24 defective in speech, the mentally retarded, the mentally
25 gifted, and the socially or emotionally maladjusted in-
26 cluding the delinquent.

Sec. 2. Providing Suitable Educational Facilities.—The
2 board of education of each county is empowered and is
3 responsible for providing suitable educational facilities,
4 special equipment, and such special services as may be
5 necessary. Special services include provisions and pro-
6 cedures for finding and enumerating exceptional children
7 of each type, diagnosis by appropriate specialists who will
8 certify the child's need and eligibility for special edu-
9 cation and make recommendations for such treatment and
10 prosthesis as may alleviate his disability, special teaching
11 by qualified and especially trained teachers, transporta-
12 tion, lunches, and remedial therapeutic services.

13 The selection and location of special class facilities,
14 provision of special equipment, and the qualifications of
15 teachers and therapists shall be in accordance with stand-
16 ards prescribed or approved by the state superintendent

17 of free schools. All teachers shall be appointed as are
18 other public school teachers, and all therapists shall
19 comply with standards prescribed and approved by the
20 West Virginia medical licensing board.

21 Where there are less than five exceptional children of
22 any one type, or when such children cannot be grouped
23 together in special classes, or when for any reason any
24 child cannot be educated safely or profitably in a special
25 school or class, said county may provide for his education
26 by providing home-teaching and/or visiting-teacher ser-
27 vices.

28 Counties which do not provide and maintain special
29 schools, classes, home or visiting-teacher services for ex-
30 ceptional children resident of said county may provide for
31 educating their own resident exceptional children by con-
32 tracting with other counties which do maintain such
33 special educational facilities. The sending county may
34 contract and pay the receiving county the per capita cost
35 of instruction, special equipment, and special services not
36 reimbursed to the receiving county from state appropri-
37 ated monies, plus the costs of transportation and of living
38 maintenance if the non-resident children must reside
39 away from their home.

Sec. 3. *County Reports.*—Counties maintaining special
2 schools, classes, home-teaching or visiting services and
3 receiving or requesting reimbursement from state appro-
4 priated funds shall file with the state superintendent of
5 free schools on forms supplied by his office, applications,
6 annual reports and such other reports as he may require.

7 Such reports shall include the names and ages of all
8 children enrolled, a record of their school attendance,
9 such diagnostic and disability date as may be necessary
10 to insure their eligibility and educability, and evidence of
11 educational progress. These reports must also include the
12 listing of all special teachers and therapists together with
13 their salaries and travel expenses incident to their work,
14 all special equipment purchased together with the cost
15 of same and an itemization of costs for all special services
16 provided.

Sec. 4. *Examination and Report.*—Each child prior to

2 being placed in a special class, home-teaching or visiting
3 teacher program shall be examined by appropriate medical
4 specialists and/or psychologists who shall report to the
5 county superintendent of schools. The specialists' report
6 shall carry recommendation for eligibility and placement
7 in regular school or in the special education facility, in-
8 dicate the nature and extent of disability, and advise
9 with reference to treatment and prosthesis for alleviat-
10 ing the child's disability.

11 No educationally exceptional child shall be excused or
12 excluded from attending school except with expressed
13 written approval of the county superintendent of schools.

Sec. 5. *Establishment of Division of Special Education.*

2 —The state superintendent of free schools shall have
3 power to organize, promote and administer this program
4 under his present organization and be responsible for:

5 1. Stimulating and assisting county boards of education
6 in establishing, organizing, and maintaining special
7 schools, classes, home-teaching, and visiting-teacher ser-
8 vices.

9 2. Cooperating with all other public and private agen-
10 cies engaged in relieving, caring for, curing, educating,
11 and rehabilitating exceptional children, and in helping
12 coordinate the services of such agencies.

13 3. Preparing the necessary rules, regulations, formula
14 for distribution of available appropriated funds, reporting
15 forms and procedures necessary to define minimum stan-
16 dards in providing suitable facilities for education of
17 exceptional children, insuring the employment, certifica-
18 tion and approval of qualified teachers and therapists
19 subject to approval by the state board of education.

20 4. Receiving from county boards of education their
21 applications, annual reports and claims for reimburse-
22 ment from such monies as are appropriated by the Legis-
23 lature, auditing such claims and preparing vouchers to
24 reimburse said counties the amounts reimbursable to
25 them.

26 5. Performing such other duties and assuming such
27 other responsibilities in connection with this program as

28 may be specified and delegated by the state superintend-
29 ent of free schools.

30 6. Nothing herein contained shall be construed to pre-
31 vent any county board of education from establishing
32 and maintaining such special schools, classes, home-teach-
33 ing or visiting-teaching services out of funds available
34 from local revenue.

CHAPTER 92

(Senate Bill No. 42—By Mr. Holden and Mr. Vassar)

AN ACT to amend and reenact chapter seventy-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, authorizing county boards of education to qualify during the next biennium for state aid for repair and construction of public schools.

[Passed February 25, 1953; in effect from passage. Approved by the Governor.]

Section

1. County boards of education authorized to qualify for school building funds during next biennium.

Be it enacted by the Legislature of West Virginia:

That chapter seventy-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

- Section 1. *County Boards of Education Authorized to Qualify for School Building Funds During Next Biennium.*—Any county board of education that failed to qualify for a full share of state aid for the repair and construction of public school buildings, allocated to it from the funds appropriated by Item 53, section 5, Title II of the one thousand nine hundred forty-nine budget act, may qualify at any time during the next biennium for all or any part of such allocation that may be reappropriated by the fifty-first Legislature. Eligibility therefor may be established by any of the methods prescribed

12 in section two, article nine-c, chapter eighteen of the
13 code, or by proof that the total assessed valuations in the
14 county have been increased as much as fifty per cent
15 between the years one thousand nine hundred forty and
16 one thousand nine hundred fifty-five.

C

CHAPTER 93

(House Bill No. 3—By Mr. Seibert and Mr. Curtis)

AN ACT to amend and reenact sections one, two, three and six, article six, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to elections and to voting by absentee voters.

[Passed February 19, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 6. Voting by Absentees.

Section

1. Persons who may vote by absent voters' ballot.
2. Application for absent voter's ballot.
3. Blanks furnished by clerks; oath.
6. Ballot envelopes.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three and six, article six, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 1. *Persons Who May Vote by Absent Voters' Ballot.*—Any qualified elector of the state of West Virginia, having duly registered, who by reason of the nature of his employment, business, or on account of other unavoidable causes, expects to be absent from the state on the date of any primary, general or special election, or who by reason of physical disability, illness or injury will be unable to vote in person at the polls at such election as otherwise required by law, may vote at any such election as hereinafter provided. The provisions of this article

11 shall apply only to electors necessarily absent from the
12 state or from the polls on election day for the reasons
13 specified in this section.

Sec. 2. *Application for Absent Voter's Ballot.*—An elec-
2 tor, as designated in section one of this article, expecting
3 to be absent from the state or from the polls on the day
4 of any primary, general or special election, may, not more
5 than thirty nor less than ten days prior to the date of any
6 such election, make application to the clerk of the circuit
7 court of the county in which his voting precinct is situated
8 for an official absent voter's ballot or ballots to be voted
9 at such election: *Provided*, That for those voters who by
10 reason of physical disability, illness or injury will be un-
11 able to vote in person at the polls at such election as other-
12 wise required by law, the time for application to the
13 clerk of the circuit court shall be not more than thirty or
14 less than ten days prior to the date of any such election.

Sec. 3. *Blanks Furnished by Clerks; Oath.*—Application
2 for an absent voter's ballot shall be made in person or
3 by mail, on a blank to be furnished by the clerk of the
4 circuit court of the county in which the applicant is a
5 qualified elector. Such blank shall, upon request, be sent
6 to the applicant by mail by such clerk, or delivered to such
7 applicant in person upon his appearance at the office of
8 such clerk. Application for an absent voter's ballot shall
9 be substantially in the following form, and shall be signed
10 and sworn to by the applicant, as hereinafter provided,
11 before some officer authorized by law to administer oaths,
12 and having an official seal. If the applicant appears in
13 person at the office of the clerk of the circuit court, such
14 clerk shall administer the necessary oath.

15 VERIFIED APPLICATION FOR ABSENT VOTER'S
16 BALLOT

17 State of _____,

18 County of _____, to wit:

19 I, _____, solemnly swear (or affirm)
20 that I am now, or will have been, a resident of the State
21 of West Virginia for twelve months, and of the county
22 of _____, for sixty days, next preceding
23 the date of the ensuing election; that I am now a resident

24 of election precinct No....., in the magisterial
25 district of....., in said county; that I am a
26 duly qualified elector entitled to vote in such election;
27 that I am registered in the precinct of my residence as
28 provided by law; that (as the case may be) I am.....
29 (stating business,) and because of the
30 nature of my business or employment, or for the follow-
31 ing reasons..... (relating unavoidable
32 cause of absence), I expect to be absent from the
33 State of West Virginia on the date of such election, or
34 because of physical disability, illness or injury (here
35 state reason, whether physical disability, illness or in-
36 jury) I will be unable to vote in person at such elec-
37 tion, as evidenced below by the statement of a duly
38 licensed physician; and I hereby make application for
39 an official ballot (or ballots if more than one are to
40 be used) to be voted by me at such election; and
41 that I will return such ballot (or ballots) to the officer
42 issuing them not later than four days prior to the day
43 of such election.

44 (If application is made for a primary ballot, the appli-
45 cant shall also designate the party whose candidates he
46 expects to vote for:)

47 Signed.....

48 Home address of Applicant.....

49 P. O. Address to which ballot is to be sent.....

50 Subscribed and sworn to before me, as witness my hand
51 and seal this..... day of....., 19.....

52

53 (Official Title)

54 My commission expires.....

55 The following statement must be executed if the reason
56 stated above is physical disability of the voter:

57 STATEMENT OF PHYSICIAN

58 I,, a physician duly licensed
59 to practice in the State of....., do
60 hereby certify under penalty of false swearing, as pro-
61 vided in section two, article seven, chapter three of the
62 code of West Virginia, as amended, that I have examined
63, the applicant whose signature
64 appears above, and that in my opinion, because of physi-

65 cal disability, illness or injury..... (here state
66 reason, whether physical disability, illness or injury), he
67 will be unable to vote in person at such election.

68 Signed.....

69 If such absent voter is a person serving in any branch
70 of the armed forces of the United States he may take and
71 subscribe the oath to the above application before any
72 commissioned officer of any branch of the armed services
73 of the United States, under the same provisions and in
74 the same form as required in section twenty-four, article
75 two of this chapter.

Sec. 6. *Ballot Envelopes.*—The clerk of the circuit court
2 of the county shall enclose the ballot or ballots in an
3 envelope, unsealed, to be furnished by such clerk, which
4 envelope shall bear upon the face thereof the name, official
5 title and post office address of such clerk and upon
6 the other side a printed affidavit in substantially the following
7 form:

8 State of.....,

9 County of....., to wit:

10 I,, solemnly swear (or
11 affirm) that I am a resident of precinct No..... of
12 the magisterial district of..... residing
13 at..... in the County of.....
14 and State of West Virginia, and am entitled to vote in
15 such precinct at the election to be held on,
16 19.....: that (as the case may be) I am.....
17 (stating business) and because of the nature of my employment,
18 or for the following reasons.....
19 (relating unavoidable cause of absence), I expect to be
20 absent from the State of West Virginia on the date of
21 such election, or because of physical disability, illness
22 or injury....., (here state reason whether
23 physical disability, illness or injury), I will be unable
24 to vote in person at such election. I further swear (or
25 affirm) that I have personally marked the enclosed ballot
26 (or ballots) in secret, and have enclosed the same in this
27 envelope and sealed the same without exhibiting it to any
28 other person.

29 Signed.....

30 I, the undersigned authority, certify that, on this day,
31 the person whose name is signed to the foregoing affidavit
32 made oath (or affirmation) thereto in due form before
33 me. I further do certify that the affiant exhibited the
34 enclosed ballot (or ballots) to me unmarked; that he then
35 in my presence and in the presence of no other person,
36 but in such manner that I could not see how it was done,
37 marked such ballot (or ballots) and enclosed and sealed
38 the same in this envelope, that the affiant was not solicited
39 or advised by me to vote for or against any candidate or
40 measure.

41 Given under my hand and seal, this.....day
42 of....., 19____.

43

44

Signature of official.

45

46

(Official Title)

47 My Commission expires.....

CHAPTER 94

(Senate Bill No. 10—By Mr. Love)

AN ACT to amend and reenact section seven, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to filling vacancy in office of clerk of circuit court.

[Passed February 11, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 10. Filling Vacancies.

Section

7. Clerk of circuit court; filling vacancies in office of.

Be it enacted by the Legislature of West Virginia:

That section seven, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 7. *Clerk of Circuit Court; Filling Vacancies in*

2 Office of.—When a vacancy occurs in the office of clerk
3 of the circuit court, the circuit court, or the judge thereof
4 in vacation, shall fill the same by appointment until the
5 next general election, and the person so appointed shall
6 hold office until his successor is elected and qualified.
7 At such general election a clerk shall be elected for the
8 unexpired term. The circuit court, or the judge thereof
9 in vacation, shall cause a notice of such election to be
10 published once each week for two successive weeks in
11 two newspapers of opposite politics, printed in the county,
12 if there be any such papers printed therein, or in such
13 other manner as will give ample notice of such election.
14 If the vacancy occur more than thirty days before the
15 date of the primary election held to nominate candidates
16 to be voted for at the general election, at which any such
17 vacancy is to be filled, candidates to fill such vacancy
18 shall be nominated at such primary election. Otherwise,
19 they shall be nominated by the county executive com-
20 mittee in the manner provided in section twenty-three,
21 article four of this chapter, as in the case of filling vacan-
22 cies in nominations, and the names of the persons, so
23 nominated and certified to the clerk of the circuit court
24 of such county, shall be placed upon the ballot to be
25 voted at such next general election.

—o—

CHAPTER 95

(Com. Sub. for House Bill No. 85—Originating in the House Committee on the
Judiciary)

AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article six, relating to the ascertainment of principal and income and the apportionment of receipts and expenses among tenants and remaindermen, and to make uniform the law with reference thereto.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 6. Uniform Principal and Income Act.**Section**

1. Definition of terms.
 2. Application of the article; powers of settlor.
 3. Income and principal; disposition.
 4. Apportionment of income.
 5. Corporate dividends and share rights.
 6. Premiums and discount bonds.
 7. Principal used in business.
 8. Principal comprising animals.
 9. Disposition of natural resources.
 10. Principal subject to depletion.
 11. Unproductive estate.
 12. Expenses: trust estates.
 13. Expenses: non-trust estates.
 14. Uniformity of interpretation.
 15. Short title.
 16. Repeal.
 17. Time of taking effect.
-

Be it enacted by the Legislature of West Virginia:

That chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article six, to read as follows:

- Section 1. *Definition of Terms.*—"Principal" as used
- 2 in this article means any realty or personalty which has
 - 3 been so set aside or limited by the owner thereof or a
 - 4 person thereto legally empowered that it and any substi-
 - 5 tutions for it are eventually to be conveyed, delivered
 - 6 or paid to a person, while the return therefrom or use
 - 7 thereof or any part of such return or use is in the mean-
 - 8 time to be taken or received by or held for accumulation
 - 9 for the same or another person;
- 10 "Income" as used in this article means the return
- 11 derived from principal;
- 12 "Tenant" as used in this article means the person to
- 13 whom income is presently or currently payable, or for
- 14 whom it is accumulated or who is entitled to the beneficial
- 15 use of the principal presently and for a time prior to its
- 16 distribution;
- 17 "Remainderman" as used in this article means the
- 18 person ultimately entitled to the principal, whether
- 19 named or designated by the terms of the transaction by

20 which the principal was established or determined by
21 operation of law;
22 "Trustee" as used in this article includes the original
23 trustee of any trust to which the principal may be subject
24 and also any succeeding or added trustee.

Sec. 2. *Application of Article; Powers of Settlor.*—

2 This article shall govern the ascertainment of income
3 and principal, and the apportionment of receipts and
4 expenses between tenants and remaindermen, in all cases
5 where a principal has been established with or, unless
6 otherwise stated hereinafter, without the interposition of
7 a trust; except that in the establishment of the principal
8 provision may be made touching all matters covered by
9 this article, and the person establishing the principal
10 may himself direct the manner of ascertainment of in-
11 come and principal and the apportionment of receipts
12 and expenses or grant discretion to the trustee or other
13 person to do so, and such provision and direction, where
14 not otherwise contrary to law, shall control notwith-
15 standing this article.

Sec. 3. *Income and Principal; Disposition.*—(1) All

2 receipts of money or other property paid or delivered
3 as rent of realty or hire of personalty or dividends on
4 corporate shares payable other than in shares of the
5 corporation itself, or interest on money loaned, or interest
6 on or the rental or use value of property wrongfully
7 withheld or tortiously damaged, or otherwise in return
8 for the use of principal, shall be deemed income unless
9 otherwise expressly provided in this article.

10 (2) All receipts of money or other property paid or
11 delivered as the consideration for the sale or other trans-
12 fer, not a leasing or letting, of property forming a part
13 of the principal, or as a repayment of loans, or in liquida-
14 tion of the assets of a corporation, or as the proceeds of
15 property taken on eminent domain proceedings where
16 separate awards to tenant and remainderman are not
17 made, or as proceeds of insurance upon property forming
18 a part of the principal except where such insurance has
19 been issued for the benefit of either tenant or remainder-
20 man alone, or otherwise as a refund or replacement or

21 change in form or principal, shall be deemed principal
22 unless otherwise expressly provided in this article. Any
23 profit or loss resulting upon any change in form of princi-
24 pal shall enure to or fall upon principal.

25 (3) All income after payment of expenses properly
26 chargeable to it shall be paid and delivered to the tenant
27 or retained by him if already in his possession or held for
28 accumulation where legally so directed by the terms of the
29 transaction by which the principal was established; while
30 the principal shall be held for ultimate distribution as
31 determined by the terms of the transaction by which
32 it was established or by law.

Sec. 4. *Apportionment of Income.*—Whenever a tenant
2 shall have the right to income from periodic payments,
3 which shall include rent, interest on loans, and annuities,
4 but shall not include dividends on corporate shares, and
5 such right shall cease and determine by death or in any
6 other manner at a time other than the date when such
7 periodic payments should be paid, he or his personal
8 representative shall be entitled to that portion of any
9 such income next payable, which amounts to the same
10 percentage thereof as the time elapsed from the last due
11 date of such periodic payments to and including the day
12 of the determination of his right is of the total period
13 during which such income would normally accrue. The
14 remaining income shall be paid to the person next entitled
15 to income by the terms of the transaction by which the
16 principal was established. But no action shall be brought
17 by the trustee or tenant to recover such apportioned in-
18 come or any portion thereof until after the day on which
19 it would have become due to the tenant but for the
20 determination of the right of the tenant entitled thereto.
21 The provisions of this section shall apply whether an
22 ultimate remainderman is specifically named or not.
23 Likewise when the right of the first tenant accrues at a
24 time other than the payment dates of such periodic pay-
25 ments, he shall only receive that portion of such income
26 which amounts to the same percentage thereof as the
27 time during which he has been so entitled is of the total
28 period during which such income would normally accrue;
29 the balance shall be a part of the principal.

Sec. 5. *Corporate Dividends and Share Rights.*—(1) All dividends on shares of a corporation forming a part of the principal which are payable in the shares of the corporation shall be deemed principal. Subject to the provisions of this section, all dividends payable otherwise than in the shares of the corporation itself, including ordinary and extraordinary dividends and dividends payable in shares or other securities or obligations of corporations other than the declaring corporation, shall be deemed income. Where the trustee shall have the option of receiving a dividend either in cash or in the shares of the declaring corporation, it shall be considered as a cash dividend and deemed income, irrespective of the choice made by the trustee.

(2) All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in such corporation, and the proceeds of any sale of such rights, shall be deemed principal. All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in another corporation, and the proceeds of any sale of such rights, shall be deemed income.

(3) Where the assets of a corporation are liquidated, amounts paid upon corporate shares as cash dividends declared before such liquidation occurred or as arrears of preferred or guaranteed dividends shall be deemed income; all other amounts paid upon corporate shares on disbursement of the corporate assets to the stockholders shall be deemed principal. All disbursements of corporate assets to the stockholders, whenever made, which are designated by the corporation as a return of capital or division of corporate property shall be deemed principal.

(4) Where a corporation succeeds another by merger, consolidation or reorganization or otherwise acquires its assets, and the corporate shares of the succeeding corporation are issued to the shareholders of the original corporation in like proportion to, or in substitution for, their shares of the original corporation, the two corporations shall be considered a single corporation in applying the provisions of this section. But two corporations shall

42 not be considered a single corporation under this section
43 merely because one owns corporate shares of or other-
44 wise controls or directs the other.

45 (5) In applying this section the date when a dividend
46 accrues to the person who is entitled to it shall be held
47 to be the date specified by the corporation as the one on
48 which the stockholders entitled thereto are determined,
49 or in default thereof the date of declaration of the
50 dividend.

Sec. 6. *Premiums and Discount Bonds.*—(1) Where
2 any part of the principal consists of bonds or other obliga-
3 tions for the payment of money, they shall be deemed
4 principal at their inventory value or in default thereof
5 at their market value at the time the principal was
6 established, or at their cost where purchased later, regard-
7 less of their par or maturity value; and upon their
8 respective maturities or upon their sale any loss or gain
9 realized thereon shall fall upon or enure to the principal.

10 (2) When any part of the principal of a trust consists
11 of a bond or other obligation for the payment of money,
12 bearing no stated interest but redeemable at maturity
13 or a future time at an amount in excess of the amount in
14 consideration of which it was issued, the amount of such
15 accretion earned during the period that such bond or
16 other obligation was held by the trustee, shall enure to
17 income.

18 (3) When any part of the principal of a trust consists
19 of a bond or other obligation for the payment of money,
20 bearing interest at a stated rate payable at stated times,
21 but redeemable prior to maturity at an amount less than
22 the amount in consideration of which it was issued, the
23 full amount of such interest payments received during
24 the period that such bond or other obligation was held
25 by the trustee, shall enure to income.

26 (4) When said bonds or other obligations are held as
27 principal of a trust, the income of which is payable at a
28 time or times prior to the maturity of said bonds or
29 other obligations, the trustee or other fiduciary may pay
30 to the tenant the amount of the increment described in
31 subsection (2) above and may make payment from any

32 principal funds in his hands or may transfer from princi-
33 pal account to income account the amount of such incre-
34 ment, and in case such payment or transfer is so made,
35 the increment in value of such bond or other obligation
36 shall be added to and held as a part of the principal of
37 the trust; and the trustee or other fiduciary may pay to
38 the tenant the full amount of interest received described
39 in subsection (3) above, but in the event said bonds or
40 other obligations are redeemed prior to maturity at an
41 amount less than the cost thereof, the difference between
42 cost and redemption value shall be transferred from the
43 income account to the principal account and shall be
44 added to and held as a part of the principal of the trust.

Sec. 7. *Principal Used in Business.*—(1) Whenever
2 a trustee or a tenant is authorized by the terms of the
3 transaction by which the principal was established, or
4 by law to use any part of the principal in the continuance
5 of a business which the original owner of the property
6 comprising the principal had been carrying on, the net
7 profits of such business attributable to such principal
8 shall be deemed income.

9 (2) Where such business consists of buying and selling
10 property, the net profits for any period shall be ascer-
11 tained by deducting from the gross returns during and
12 the inventory value of the property at the end of such
13 period, the expenses during and the inventory value of
14 the property at the beginning of such period.

15 (3) Where such business does not consist of buying
16 and selling property, the net income shall be computed
17 in accordance with the customary practice of such busi-
18 ness, but not in such way as to decrease the principal.

19 (4) Any increase in the value of the principal used
20 in such business shall be deemed principal, and all losses
21 in any one calendar year, after the income from such
22 business for that year has been exhausted, shall fall upon
23 principal.

Sec. 8. *Principal Comprising Animals.*—Where any part
2 of the principal consists of animals employed in business,
3 the provisions of section seven shall apply; and in other
4 cases where the animals are held as a part of the principal,

5 partly or wholly because of the offspring or increase
6 which they are expected to produce, all offspring or in-
7 crease shall be deemed principal to the extent necessary
8 to maintain the original number of such animals and
9 the remainder shall be deemed income; and in all other
10 cases such offspring or increase shall be deemed income.

Sec. 9. *Disposition of Natural Resources.*—Where any
2 part of the principal consists of property in lands from
3 which may be taken timber, minerals, oils, gas or other
4 natural resources and the trustee or tenant is authorized
5 by law or by the terms of the transaction by which the
6 principal was established to sell, lease or otherwise de-
7 velop such natural resources, and no provision is made
8 for the disposition of the net proceeds thereof after the
9 payment of expenses and carrying charges on such
10 property, such proceeds, if received as rent on a lease,
11 shall be deemed income, but if received as consideration,
12 whether as royalties or otherwise, for the permanent
13 severance of such natural resources from the lands, shall
14 be deemed principal to be invested to produce income.
15 Nothing in this section shall be construed to abrogate or
16 extend any right which may otherwise have accrued by
17 law to a tenant to develop or work such natural resources
18 for his own benefit.

Sec. 10. *Principal Subject to Depletion.*—Where any
2 part of the principal consists of property subject to de-
3pletion, such as leaseholds, patents, copyrights and royalty
4 rights, other than royalties from natural resources, and the
5 trustee or tenant in possession is not under a duty to
6 change the form of the investment of the principal, the
7 full amount of rents, royalties or return from the property
8 shall be income to the tenant; but where the trustee or
9 tenant is under a duty, arising either by law or by the
10 terms of the transaction by which the principal was estab-
11 lished, to change the form of the investment, either at
12 once or as soon as it may be done without loss, then the
13 return from such property not in excess of five per centum
14 per annum of its fair inventory value or in default thereof
15 its market value at the time the principal was established,

16 or at its cost where purchased later, shall be deemed in-
17 come and the remainder principal.

Sec. 11. *Unproductive Estate*.—(1) Where any part of
2 a principal in the possession of a trustee consists of realty
3 or personalty which for more than a year and until dis-
4 posed of as hereinafter stated has not produced an average
5 net income of at least one per centum per annum of its
6 fair inventory value or in default thereof its market value
7 at the time the principal was established or of its cost
8 where purchased later, and the trustee is under a duty to
9 change the form of the investment as soon as it may be
10 done without sacrifice of value and such change is delayed,
11 but is made before the principal is finally distributed, then
12 the tenant, or in case of his death his personal representa-
13 tive, shall be entitled to share in the net proceeds received
14 from the property as delayed income to the extent herein-
15 after stated.

16 (2) Such income shall be the difference between the
17 net proceeds received from the property and the amount
18 which, had it been placed at simple interest at the rate
19 of five per centum per annum for the period during which
20 the change was delayed, would have produced the net
21 proceeds at the time of change. The net proceeds shall
22 consist of the gross proceeds received from the property
23 less any expenses incurred in disposing of it and less all
24 carrying charges which have been paid out of principal
25 during the period while it has been unproductive.

26 (3) The change shall be taken to have been delayed
27 from the time when the duty to make it first arose, which
28 shall be presumed, in the absence of evidence to the con-
29 trary, to be one year after the trustee first received the
30 property if then unproductive, otherwise one year after
31 it became unproductive.

32 (4) If the tenant has received any income from the
33 property or has had any beneficial use thereof during the
34 period while the change has been delayed, his share of the
35 delayed income shall be reduced by the amount of such
36 income received or the value of the use had.

37 (5) In the case of successive tenants the delayed in-
38 come shall be divided among them or their representatives

39 according to the length of the period for which each was
40 entitled to income.

Sec. 12. *Expenses: Trust Estates.*—(1) All ordinary
2 expenses incurred in connection with the trust estate or
3 with its administration and management, including regu-
4 larly recurring taxes assessed against any portion of the
5 principal, water rates, premiums on insurance taken upon
6 the estates of both tenant and remainderman, interest on
7 mortgages on the principal, ordinary repairs, trustees'
8 compensation except commissions computed on principal,
9 compensation of assistants, and court costs and attorneys'
10 and other fees on regular accountings, shall be paid out
11 of income. But such expenses where incurred in disposing
12 of, or as carrying charges on, unproductive estate as de-
13 fined in section eleven, shall be paid out of principal, sub-
14 ject to the provisions of subsection two of section eleven.

15 (2) All other expenses, including trustee's commissions
16 computed upon principal, cost of investing or reinvesting
17 principal, attorneys' fees and other costs incurred in main-
18 taining or defending any action to protect the trust or
19 the property or assure the title thereof, unless due to the
20 fault or cause of the tenant, and costs of, or assessments
21 for, improvements to property forming part of the prin-
22 cipal, shall be paid out of principal. Any tax levied by
23 any authority, federal, state or foreign, upon profit or
24 gain defined as principal under the terms of subsection
25 two of section three shall be paid out of principal, not-
26 withstanding said tax may be denominated a tax upon
27 income by the taxing authority.

28 (3) Expenses paid out of income according to subsec-
29 tion one which represents regularly recurring charges
30 shall be considered to have accrued from day to day, and
31 shall be apportioned on that basis whenever the right of
32 the tenant begins or ends at some date other than the
33 payment date of the expenses. Where the expenses to
34 be paid out of income are of unusual amount, the trustee
35 may distribute them throughout an entire year or part
36 thereof, or throughout a series of years. After such dis-
37 tribution, where the right of the tenant ends during the
38 period, the expenses shall be apportioned between tenant
39 and remainderman on the basis of such distribution.

40 (4) Where the costs of, or special taxes or assessments
41 for, an improvement representing an addition of value
42 to property held by the trustee as part of principal are
43 paid out of principal, as provided in subsection two, the
44 trustee shall reserve out of income and add to the prin-
45 cipal each year a sum equal to the cost of the improvement
46 divided by the number of years of the reasonably expected
47 duration of the improvement.

Sec 13. *Expenses: Non-Trust Estates.*—(1) The pro-
2 visions of section twelve, so far as applicable and except-
3 ing those dealing with costs of, or special taxes or assess-
4 ments for, improvements to property, shall govern the
5 apportionment of expenses between tenants and remain-
6 dermen where no trust has been created, subject, however,
7 to any legal agreement of the parties or any specific direc-
8 tion of the taxing or other statutes; but where either ten-
9 ant or remainderman has incurred an expense for the
10 benefit of his own estate and without the consent or agree-
11 ment of the other, he shall pay such expense in full.

12 (2) Subject to the exceptions stated in subsection one
13 the cost of, or special taxes or assessments for, an im-
14 provement representing an addition of value to property
15 forming part of the principal shall be paid by the tenant,
16 where such improvement cannot reasonably be expected
17 to outlast the estate of the tenant. In all other cases a
18 portion thereof only shall be paid by the tenant, while the
19 remainder shall be paid by the remainderman. Such por-
20 tion shall be ascertained by taking that percentage of the
21 total which is found by dividing the present value of the
22 tenant's estate by the present value of an estate of the
23 same form as that of the tenant except that it is limited
24 for a period corresponding to the reasonably expected
25 duration of the improvement. The computation of present
26 values of the estates shall be made on the expectancy basis
27 set forth in article two of chapter forty-three of the code
28 of West Virginia, one thousand nine hundred thirty-one,
29 and no other evidence of duration or expectance shall be
30 considered.

Sec. 14. *Uniformity of Interpretation.*—This article shall
2 be so interpreted and construed as to effectuate its general

3 purpose to make uniform the law of those states which
4 enact it.

Sec. 15. *Short Title.*—This article may be cited as the
2 “Uniform Principal and Income Act.”

Sec. 16. *Repeal.*—All acts or parts of acts which are
2 inconsistent with the provisions of this article are hereby
3 repealed.

Sec. 17. *Time of Taking Effect.*—This article shall apply
2 to all estates of tenants or remaindermen which become
3 legally effective after June thirty, one thousand nine hun-
4 dred fifty-three.

CHAPTER 96

(House Bill No. 364—By Mr. Schupbach)

AN ACT to amend and reenact section seven-a, article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to destruction of paid and cancelled bonds and coupons issued by the state of West Virginia.

[Passed March 14, 1953; in effect from passage. Approved by the Governor.]

Article 1. Legislative Acts and Resolutions; Public Records.

Section

7-a. Photographing, microphotographing or reproducing on film, records, papers or documents; destruction of paid and cancelled bonds, coupons and interim certificates.

Be it enacted by the Legislature of West Virginia:

That section seven-a, article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 7-a. *Photographing, Microphotographing or Reproducing on Film, Records, Papers or Documents; Destruction of Paid and Cancelled Bonds, Coupons and Interim Certificates.*—Any public officer of the state may with
2
3
4
5 the approval of the board of public works, cause any or all

6 records, papers or documents kept by him to be photo-
7 graphed, microphotographed or reproduced on film. Such
8 photographic film shall be of durable material and the
9 device used to reproduce such records on such film shall
10 be one which accurately reproduces the original thereof in
11 all details.

12 Such photographs, microphotographs or photographic
13 film shall be deemed to be an original record for all pur-
14 poses, including introduction in evidence in all courts or
15 administrative agencies. A transcript, exemplification or
16 certified copy thereof shall, for all purposes recited herein,
17 be deemed to be a transcript, exemplification, or certified
18 copy of the original. Whenever photographs, microphoto-
19 graphs or reproductions on film have been made and put
20 in conveniently accessible files, and provision has been
21 made for preserving, examining and using the same, the
22 respective heads of the departments, divisions, institutions
23 and agencies of the state may, with the approval of the
24 board of public works, cause the records and papers so
25 photographed, microphotographed or reproduced on film,
26 or any part thereof, to be destroyed; but before any such
27 records, papers or documents are authorized to be des-
28 troyed, the board of public works shall obtain the advice
29 and counsel of the state historian and archivist, or his
30 designated representative, as to the desirability of placing
31 the said records, papers and documents in the archives
32 of that department, whereupon the board of public works
33 may cause such records, papers and documents to be so
34 transferred: *Provided however*, That with respect to paid
35 and cancelled bonds, coupons and interim certificates in
36 the custody of the treasurer of the state of West Virginia
37 of any and all West Virginia bond issues, the chief in-
38 spector of public offices shall once each year, or more
39 often if requested by the treasurer, examine said can-
40 celled bonds, coupons and interim certificates and if he
41 determines that the said bonds, coupons and interim cer-
42 tificates have been paid, then the said chief inspector of
43 public offices shall list such paid and cancelled bonds,
44 coupons, and interim certificates by numbers and he shall
45 then, in writing authorize the treasurer to destroy said
46 listed bonds, coupons and interim certificates.

CHAPTER 97

(House Bill No. 130—By Mr. Lile and Mr. Ballard)

AN ACT to amend and reenact section thirteen, article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to proof of public records not pertaining to a court; proof of schedules, classifications and tariffs, and supplements thereto, filed with the interstate commerce commission; authentication and credit to be given such records.

[Passed March 4, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Legislative Acts and Resolutions; Public Records.

Section

13. Public records not pertaining to a court; how authenticated; full faith and credit.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 13. *Public Records Not Pertaining to a Court; How Authenticated; Full Faith and Credit.*—All records and exemplifications of books, which may be kept in any public office of the United States, or of any state, or territory, or of any country subject to the jurisdiction of the United States, not appertaining to a court, shall be proved or admitted in any court or office in this state by the attestation of the keeper of the said records or books, and the seal of his office annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county, parish or district in which such office may be kept, or of the governor, or secretary of state, the chancellor or keeper of the great seal, of the state or territory or country, that the said attestation is in due form, and by the proper officer. If the said certificate is given by

16 the presiding justice of a court, it shall be further authen-
17 ticated by the clerk or prothonotary of the said court,
18 who shall certify, under his hand and the seal of his
19 office, that the said presiding justice is duly commissioned
20 and qualified; or, if given by such governor, secretary,
21 chancellor, or keeper of the great seal, it shall be under
22 the great seal of the state, territory, or country, aforesaid,
23 in which it is made: *Provided, however,* That printed
24 copies of schedules and classifications and tariffs of rates,
25 fares and charges, and supplements thereto, filed with the
26 interstate commerce commission, which show respectively
27 an interstate commerce commission number, which may
28 be stated in abbreviated form, as I.C.C. No....., and an
29 effective date, may be received in evidence without cer-
30 tification, and shall be presumed to be correct copies of
31 the original schedules, classifications, tariffs and supple-
32 ments on file with the interstate commerce commission.
33 And the said records and exemplifications, so authenti-
34 cated, shall have such faith and credit given to them in
35 every court and office within this state as they have by
36 law or usage in the courts or offices of the state, territory,
37 or country, as aforesaid, from which they are taken.

CHAPTER 98

(Senate Bill No. 14—By Mr. Love)

AN ACT to amend and reenact section twenty, article four, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to notices and sales upon distrains and levies.

[Passed February 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Executions.

Section

20. Distrains and levies; notices and sales thereon.

Be it enacted by the Legislature of West Virginia:

That section twenty, article four, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 20. *Distrainments and Levies; Notices and Sales Thereon.*—In any case where an officer shall distrain or levy upon personal property, otherwise than under an execution or order issued by a justice, or under an attachment, and in any case in which he may be directed to sell personal property by an order of a court or judge, unless such order prescribes a different course, he shall fix upon a time and place for the sale thereof, and publish notice of such sale at least ten days by posting the same at the door of the courthouse of his county and some other conspicuous place near the residence of the owner, if he resides in the county: *Provided*, That any sheriff or other officer proceeding to sell under a writ of fieri facias or venditioni exponas, if the property be of the value of five hundred dollars or more, shall advertise the sale for one publication each week for two weeks in a newspaper in his county, if one be published therein, the cost of which advertisement shall not exceed the price prescribed in section thirty-four, article one, chapter fifty-nine of this code. If the property be perishable or expensive to keep, it may be sold by order of the court, or the judge thereof in vacation, upon such notice as the court or judge may direct.

At the time and place so appointed the officer shall sell to the highest bidder for cash, except as hereinafter provided in section twenty-three of this article, such personal property, or so much thereof as may be necessary.

CHAPTER 99

(Senate Bill No. 67—By Mr. Nuckols)

AN ACT to amend and reenact section ten, article one, chapter fifty-nine of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, relating to fees to be charged by clerk of county court.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 1. Fees and Allowances.

Section

10. Fees to be charged by clerk of county court.

Be it enacted by the Legislature of West Virginia:

That section ten, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 10. *Fees to Be Charged by Clerk of County Court.*—For the purpose of this section, the word “page” is defined as being a paper writing of not more than legal size, 8½” x 13”.

The clerk of the county court shall charge and collect the following fees:

When a writing is admitted to record, for receiving proof of acknowledgment thereof, entering an order in connection therewith, endorsing clerk’s certificate of recordation thereon and indexing in a proper index, where the writing is a deed of conveyance, trust deed, lease, or power of attorney concerning real estate _____ \$1.25

If such writing contains more than two pages, for each additional page, in counties where recording is done by photograph, fifty cents; and in counties where recording is done by typewriter, and such writing contains more than one thousand words, three cents for each additional twenty words.

For recording a plat accompanying a deed or other writing _____ 1.00

If such plat contains more than one hundred twenty square inches, for each additional square inch _____ .007

26	For recording and indexing a map to be placed in	
27	map book	2.00
28	If such map contains more than one hundred	
29	twenty square inches, for each additional square	
30	inch007
31	For recording and indexing assignment.....	1.25
32	If such assignment contains more than one refer-	
33	ence to the record of property assigned, for each	
34	reference50
35	If such assignment does not give the reference to	
36	the record of property assigned, for search of	
37	record to determine such book and page.....	.25
38	If such assignment contains more than two pages,	
39	for each additional page.....	.50
40	For recording and indexing and noting release of	
41	lien50
42	If such release contains more than one reference	
43	to lien released, for each lien released thereby—	.50
44	If book and page reference to lien released is	
45	omitted, for search of record to determine such	
46	book and page.....	.25
47	For filing or refiling and entering conditional sales	
48	contract75
49	For recording and indexing a satisfaction of a con-	
50	ditional sales contract50
51	For recording and indexing a certificate of incor-	
52	poration	1.25
53	If such certificate contains more than two pages,	
54	for each additional page.....	.50
55	For filing and indexing a certificate showing the	
56	name or names of a person or persons conduct-	
57	ing business under an assumed name.....	1.00
58	For certifying to the assessor a transfer of real	
59	estate under section four, article four, chapter	
60	eleven of this code.....	.50
61	For swearing the witnesses and entering in the	
62	order or minute book all orders in relation to the	
63	proof of a will which is admitted to record with-	

64	out contest, and copying such order on the will	
65	or on a paper annexed thereto, when fully proved	
66	and but one order.....	2.00
67	If the will be but partially proved on one day, for	
68	the order and entering the same on the will or	
69	paper annexed thereto.....	.50
70	For each subsequent order and entering the same	
71	on the will or paper annexed thereto.....	.50
72	For the same services where there is a contest.....	5.00
73	For preparing notices in connection with contest, or	
74	any hearing, each notice.....	.50
75	For recording a will and the matter recorded there-	
76	with in the will book.....	1.00
77	If will and matter recorded therewith contains	
78	more than two pages, for each additional page.....	.50
79	For entering orders and transmitting papers in	
80	case of appeal.....	2.50
81	If such order and transmittal contains more than	
82	five pages, for each additional page.....	.50
83	If any personal representative or guardian qualify	
84	for administering necessary oaths, notating the	
85	bond, entering and copying on the will, order	
86	granting probate or administration, making out	
87	copy of such order for personal representative or	
88	guardian, entering and copying orders of ap-	
89	praisement	1.50
90	For each additional copy of qualification order.....	.50
91	If several personal representatives qualify on the	
92	same estate at the same time or term the same	
93	fee shall be charged as if one had qualified, to-wit	1.50
94	For entering and copying an order granting a li-	
95	cense under provisions of article twelve, chapter	
96	eleven of this code.....	.50
97	For certificate for a license or endorsing assignment	
98	thereof50
99	For issuance of marriage license, for preparing the	
100	application and administering the oath, for regis-	
101	tering and recording the license, for mailing	

102	acknowledgment of minister's return to one of	
103	licensees, for notifying one of licensees after sixty	
104	days of the non-receipt of the minister's return—	2.00
105	One-half of the latter fee shall be paid by the	
106	county clerk into the state treasury as a state	
107	registration fee, in the same manner that license	
108	taxes are paid into the treasury under article	
109	twelve, chapter eleven of this code.	
110	For search of anything in his office of over a year's	
111	standing, unless otherwise required by statute—	.25
112	For recording certificate and posting a copy thereof	
113	under the provisions of section two, article one,	
114	chapter thirty-four of this code—	1.25
115	For docketing or redocketing under article three,	
116	chapter thirty-eight of this code, a judgment,	
117	decree, bond or recognizance—	.50
118	If such writing contains more than one page, for	
119	each additional page —	.50
120	For recording and indexing an execution and	
121	noting the date of issuance and the date of filing	
122	of same upon the judgment record—	1.00
123	For making out a transcript of the record and pro-	
124	ceedings in any case in due form so that the same	
125	may be used in appellate court such fee shall be	
126	the same as specified herein for recording.	
127	For making out, in any other manner than copying,	
128	any paper to go out of the office which is not	
129	otherwise provided for—	1.00
130	If such paper contains more than two pages, for	
131	each additional page—	.50
132	For any copy, if it be not otherwise provided for—	1.00
133	If such copy contains more than two pages, for each	
134	additional page —	.50
135	For annexing the seal of the court to any paper,	
136	writing certificates of clerk accompanying it—	.50
137	For writing a certificate of the president of the	
138	court or judge, when the clerk be required to do	
139	so —	.50
140	For recording and indexing an inventory or sale	
141	bill —	1.00

142	If such writing contains more than two pages, for	
143	each additional page _____	.50
144	For entering an order confirming the report of a	
145	fiduciary _____	.50
146	For recording and indexing such report and matter	
147	recorded therewith _____	2.00
148	If such report contains more than four pages, for	
149	each additional page _____	.50
150	For recording and indexing any bond required by	
151	law to be recorded, including the certificate or	
152	other evidence of its execution _____	1.00
153	If such bond and certificate contains more than two	
154	pages, for each additional page _____	.50
155	For recording and indexing a notice of mechanic's	
156	lien _____	1.00
157	If such notice contains more than two pages, for	
158	each additional page _____	.50
159	For recording contract limiting liability of owner	
160	and bond of contractor to be filed therewith, as	
161	prescribed in article two, chapter thirty-eight of	
162	this code _____	1.25
163	If such contract and bond contains more than two	
164	pages, for each additional page _____	.50
165	For recording and indexing a notice of lis pendens	1.25
166	If such notice contains more than two pages, for	
167	each additional page _____	.50
168	For recording a certificate of real estate claimed as	
169	a homestead _____	.50
170	For administering an oath not herein provided for,	
171	and writing a certificate thereof where the case	
172	requires one _____	.50
173	For recording a writing containing pages in excess	
174	of legal size, 8½" x 13", additional fee for each	
175	page, where recording is by photograph _____	.25
176	For recording and indexing instruments not specifi-	
177	cally provided for herein _____	1.25
178	If such instrument contains more than two pages,	
179	for each additional page _____	.50
180	For recording anew any will, deed or other paper,	

181 the same fees herein provided for the original
182 recording.
183 For any service other than recording and indexing
184 not specifically provided for, the same fee as a
185 clerk of the circuit court for similar services.
186 All acts or parts of acts in conflict herewith are
187 hereby repealed.

CHAPTER 100

(House Bill No. 153—By Mr. Snyder)

AN ACT to amend article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-six, relating to fees and allowances when person pecuniarily unable to pay them.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Fees and Allowances.

Section

36. Fees and allowances for poor persons.

Be it enacted by the Legislature of West Virginia:

That article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-six, to read as follows:

Section 36. *Fees and Allowances for Poor Persons.*—

2 If a person shall present to the proper collecting officer
3 such person's written statement, certified by the chief
4 executive officer of a duly chartered legal aid society,
5 that he is pecuniarily unable to pay any of the fees and
6 allowances mentioned in this article, he shall be forgiven
7 and not required to pay such costs.

CHAPTER 101

(House Bill No. 373—By Mr. Schupbach and Mr. Yoak)

AN ACT to amend and reenact section twenty-eight, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definition of "fireworks".

[Passed March 4, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 3. State Fire Marshal; Protection Against Fire.

Section

28. "Fireworks" defined.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 28. "*Fireworks*" Defined.—The term "fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonations, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs, sparklers or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance: *Provided, however,* That the term "fireworks", as herein used, shall not be held to mean and include fixed ammunition for firearms, and the primers therefor: *And provided further,* That the term "fireworks" as herein used, shall not include toy pistols, toy canes, toy guns or other devices in which paper caps manufactured in accordance with the United States interstate commerce commission regulations for packing and shipping of toy paper

- 22 caps are used and toy pistol paper caps manufactured as
23 provided therein, the sale and use of which shall be per-
24 mitted at all times.
-

CHAPTER 102

(Senate Bill No. 275—By Mr. Bowling)

AN ACT to amend and reenact section seven-f, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sealing beaver pelts or skins.

[Passed March 9, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 3. General Provisions Respecting Game, Birds, Fish and Frogs.

Section

7-f. Sealing beaver pelts or skins.

Be it enacted by the Legislature of West Virginia:

That section seven-f, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 7-f. *Sealing Beaver Pelts or Skins.*—Each licensee holding a resident state-wide beaver trapping license shall present for sealing, within thirty days after the close of a legal open season, all beaver pelts or skins taken under said license to a designated representative of the conservation commission. The resident state-wide beaver trapping license, countersigned by the owner, lessee or other person entitled to the possession of such lands, on which beaver were trapped, shall accompany all such pelts or skins. A seal provided by the conservation commission shall be affixed to each beaver pelt or skin, and shall remain attached to the skin until such pelt or skin has been tanned and processed into commercial fur. The sealing fee shall be one dollar per pelt.

CHAPTER 103

(Com. Sub. for Senate Bill No. 231—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section ten-a, relating to the licensed sale and consumption of commercially raised and imported game birds.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 3. General Provisions Respecting Game, Birds, Fish and Frogs.

Section

10-a. Sale of commercially raised and imported game birds; license, markings and other requirements.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section ten-a, to read as follows:

Section 10-a. *Sale of Commercially Raised and Imported Game Birds; License, Markings and Other Requirements.*—Game birds, as defined in article five of this chapter, raised commercially in this or any other state, and any birds imported from outside continental United States, may be sold to consumers through retail stores of this state pursuant to provisions of this section. Such birds may be sold alive or may be killed, dressed, and otherwise processed and preserved to meet marketing demands and requirements.

No person, firm or corporation shall sell any such birds unless and until a license for such sale is issued by the director of conservation to such person, firm or corporation. All such licenses shall expire on the last day of the calendar year for which same are issued. The annual license fee shall be ten dollars. A separate license shall

17 be required for each store or outlet selling such birds
18 at retail to consumers. Licenses shall be issued only
19 upon written applications, prepared and signed by the
20 applicant, supplying the information required on forms
21 prescribed by the director of conservation. For good
22 cause, the director of conservation may revoke any li-
23 cense issued pursuant to this section.

24 Any and all license fees shall accrue to the conservation
25 commission and be applied to the propagation of game
26 and fish.

27 Each licensee hereunder shall, during the month of
28 January, of each year, make an annual written report to
29 the director of conservation, reporting the number and
30 species of game birds and the number of cans, cartons,
31 or other containers of processed game birds or bird meats.
32 bought by said licensee during the preceding calendar
33 year and the name and address of each vendor from
34 whom purchased. The director may provide report forms
35 for purposes of standardizing and facilitating the making
36 and handling of such reports.

37 No game birds may be sold by any such licensed re-
38 tailer unless and until each such bird, excepting any
39 that may be processed or canned or otherwise packed
40 and lawfully marked or labeled, is marked by a tag or
41 other label marking supplied to such licensed retailer
42 by the director of conservation at cost of five cents for
43 each such tag or label.

44 Enforcement officers of the conservation commission
45 shall have the right to inspect any and all shipments of
46 wild game birds shipped into and received in this state.

47 Nothing in this section shall be construed to apply to
48 domestic fowls and migratory game birds.

49 Notwithstanding provisions of section eleven of this
50 article and any other provisions of this chapter, any such
51 birds or bird meats sold by licensed retailers pursuant
52 to this section may be served at any hotel, restaurant or
53 other licensed eating place in this state.

54 The director of conservation may make and promulgate
55 such rules and regulations as he may find necessary and
56 proper for the sale of game birds pursuant to the pro-
57 visions of this section.

CHAPTER 104

(House Bill No. 418—By Mr. Booth)

AN ACT to amend and reenact section three, article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the protection and hunting of deer and penalties for unlawful acts with respect thereto.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Game and Fur-Bearing Animals.

Section

3. Hunting deer; report to director; tagging; penalties.

Be it enacted by the Legislature of West Virginia:

That section three, article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 3. *Hunting Deer; Report to Director; Tagging;*

- 2 *Penalties.*—No person shall hunt, capture or kill any deer
3 in this state, except in open season, or as provided under
4 section three-b of this article. A licensed person may
5 hunt or kill deer of any type, antlerless or otherwise,
6 during the open season fixed by the conservation commis-
7 sion of West Virginia for the counties or parts thereof.
8 Antlerless deer seasons may be established by the con-
9 servation commission when deemed advisable due to
10 over-population of deer, extreme crop damage, unbal-
11 anced sex ratios, or other unusual conditions in various
12 counties or parts thereof. The provisions of this section
13 shall not apply to a licensed owner of deer which are kept
14 in a park or field sufficiently enclosed to prevent escape
15 therefrom, as provided by article three, section twelve-a
16 of this chapter. No person shall:
17 (1) Kill more than one deer in any one calendar year;
18 (2) Have in his possession the fresh skin or any other
19 part of an illegally killed doe, fawn or buck deer;
20 (3) Chase or hunt deer with dogs, or kill or attempt

21 to kill a deer that is being chased by, or is fleeing from
22 dogs;

23 (4) Attempt to catch or kill, or catch or kill any deer
24 by means of poison baits, salt lick, (natural or artificial)
25 trap or snare, or devices of any kind;

26 (5) Hunt, pursue, catch or kill a deer between sunset
27 on one day and sunrise of the next day;

28 (6) Kill, attempt to kill or wound a deer while the
29 deer is in a stream, lake or pond;

30 (7) Participate further in the hunt after having killed
31 the legal limit of deer if he or she has firearms of any
32 description in his or her possession;

33 (8) Hunt deer with a shot gun, using ammunition
34 loaded with more than one-solid ball, or a rifle using rim
35 fire ammunition of less than twenty-five calibre.

36 A person who kills or wounds a deer by accident, such
37 as striking it with an automobile, or has knowledge that
38 a deer is in distress for any reason whatever, shall
39 promptly notify a conservation officer or other proper
40 officer of the fact.

41 Any person who kills a legal deer during the open
42 season shall deliver same for inspection and tagging to
43 a conservation officer or an official checking station set
44 up for that purpose by the commission during the open
45 deer season. The deer shall not be dressed (other than
46 hog-dressed) before it is presented to a conservation
47 officer or official checking station for inspection; nor shall
48 such deer be tagged unless the head is attached in a
49 natural way to the carcass of said deer, except as is other-
50 wise provided in this section. The checking station at-
51 tendant or conservation officer upon inspecting the deer
52 shall supply the hunter with an official tag which shall
53 be securely attached to the head of the deer before the
54 deer is removed from said station. The official tag shall
55 bear the name and address of the hunter and such other
56 information as the director may designate and shall be
57 countersigned by the checking station attendant or other
58 duly authorized agent of the director. The official tag
59 shall remain attached to the head of the deer until the
60 animal is dressed, and thereafter with the head or skin
61 until the close of the deer hunting season.

62 An exception to the above outlined tagging procedure
63 is made in that one deer per hunting camp may be com-
64 pletely dressed at camp for camp use, provided a deer
65 camp use permit is affixed to the head as outlined above
66 in this section before starting to skin the deer. The skin
67 and head to which the deer camp use permit is attached
68 shall be presented to either a conservation officer or to an
69 official checking station to be tagged and inspected before
70 the close of the open deer season in which the kill was
71 made.

72 The deer camp use permit shall bear the name and
73 address of the hunter who killed the deer and such other
74 information as the director may designate. Such permits
75 may be obtained on application to the director or his
76 authorized agent. The application for such permits shall
77 give a roster showing the names and addresses of all
78 licensed hunters who are to occupy the camp, the name
79 and specific location of the camp, and the name of the
80 county in which the camp is to be located.

81 Any person who violates any of the provisions of this
82 section shall be guilty of a misdemeanor, and, upon con-
83 viction, shall be fined not less than one hundred nor
84 more than three hundred dollars, and may be confined in
85 the county jail not less than thirty days: *Provided, how-*
86 *ever,* That any person who kills a deer illegally during the
87 open season thereafter, and voluntarily reports same to a
88 conservation officer or other officer, shall be fined not less
89 than fifty dollars nor more than one hundred dollars.

CHAPTER 105

(Senate Bill No. 277—By Mr. Bowling)

AN ACT to amend and reenact section one-a, article seven,
chapter twenty of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to hunting
and fishing licenses for members of the armed forces.

Article 7. Hunting and Fishing Licenses.**Section.**

- 1-a. Hunting and fishing licenses not required of members of armed forces who are residents of this state.

Be it enacted by the Legislature of West Virginia:

That section one-a, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 1-a. *Hunting and Fishing Licenses Not Required of Members of Armed Forces Who Are Residents of This State.*—All residents of West Virginia on active duty in the armed forces of the United States of America, while on leave or furlough, shall have the right and privilege to hunt and fish in season in West Virginia. Leave or furlough papers shall serve in lieu of hunting and fishing licenses and shall be carried on the person at all times while hunting or fishing.

CHAPTER 106

(Senate Bill No. 290—By Mr. Bowling)

AN ACT to amend and reenact section two-e, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to nonresident hunting and fishing licenses.

[Passed March 12, 1953; in effect from passage. Approved by the Governor.]

Article 7. Hunting and Fishing Licenses.**Section**

- 2-e. Class E; nonresident state-wide hunting license.

Be it enacted by the Legislature of West Virginia:

That section two-e, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2-e. *Class E; Nonresident State-wide Hunting*

- 2 *License.*—A class E license shall be a nonresident hunt-
3 ing license and shall entitle the licensee to hunt in all
4 counties of the state. It shall be issued only to citizens
5 of the United States who are not residents of this state.
6 The fee therefor shall be twenty dollars.

C

CHAPTER 107

(Senate Bill No. 306—By Mr. Bowling)

AN ACT to amend and reenact section two-j, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said article by adding thereto a new section to be designated two-l, relating to nonresident bow and arrow hunting license.

[Passed March 11, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7. Hunting and Fishing Licenses.

Section

- 2-j. Class I; national forest hunting and trapping license.
2-l. Class L; nonresident state-wide bow and arrow hunting license.

Be it enacted by the Legislature of West Virginia:

That section two-j, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article be amended by adding thereto a new section to be designated two-l, all to read as follows:

- Section 2-j. *Class I; National Forest Hunting and*
2 *Trapping License.*—A class I license shall be a national
3 forest hunting and trapping license, and shall entitle the
4 licensee to hunt all game animals and game birds and
5 trap all fur-bearing animals in season, excepting beaver,
6 on all national forest land in West Virginia. It shall be
7 issued only to a nonresident holding a class E or class L
8 license or to a resident holding a class A or AB license.

9 The fee therefor shall be one dollar. The revenue de-
10 rived from the sale of this license shall be used for man-
11 agement and propagation of game and fish on national
12 forest land and for no other purpose. The conservation
13 commission of West Virginia shall enter into a coopera-
14 tive agreement with the United States forest service,
15 such agreement to define the means and methods to be
16 taken to improve the wildlife and fish resources and to
17 program the expenditure of all funds derived from this
18 license.

Sec. 2-1. *Class L; Nonresident State-wide Bow and*
2 *Arrow Hunting License.*—A class L license shall be a
3 nonresident bow and arrow hunting license and shall en-
4 title the licensee to employ a long bow and arrow in
5 taking game, fish, and frogs in all counties of the state.
6 It shall be issued only to citizens of the United States
7 who are not residents of this state. The fee therefor
8 shall be five dollars.

CHAPTER 108

(Senate Bill No. 274—By Mr. Bowling)

AN ACT to amend and reenact sections three, three-c and four,
article seven, chapter twenty of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
and to amend said article by adding thereto a new section,
to be designated section two-m, relating to the issuance of
hunting and fishing licenses.

[Passed March 9, 1953; in effect January 1, 1954. Approved by the Governor.]

Article 7. Hunting and Fishing Licenses.

Section

- 2-m. Authority of director to designate agents to issue licenses;
bond.
3. Where license applications made; compensation of persons
issuing licenses; alien permits.
- 3-c. Issuance of license by county clerks or other designated agents.
4. Supplies furnished by director.

Be it enacted by the Legislature of West Virginia:

That sections three, three-c and four, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article be amended by adding thereto a new section, to be designated section two-m, all to read as follows:

Section 2-m. *Authority of Director to Designate Agents to Issue Licenses; Bond.*—The director shall have authority to appoint within any county as many persons, firms or corporations, as his agents, with authority to issue licenses under the provisions of this article, as may in his opinion be necessary, in addition to the county clerk, to serve the convenience of the public in procuring such licenses. Each person, firm or corporation so appointed shall, before issuing any license, file with the director a bond payable to the state of West Virginia, in an amount to be fixed by the director at not less than five hundred dollars nor more than one thousand dollars, conditioned upon the faithful performance of their obligation to issue licenses only in conformity with the provisions of this article and to account for all license fees received by them. The form of such bond shall be prescribed by the attorney general. Whenever the word “person” is used in this article with respect to persons or agents authorized to issue licenses, it shall be construed to include firms or corporations.

Sec. 3. *Where License Applications Made; Compensation of Persons Issuing Licenses; Alien Permits.*—Persons eligible for any class license shall make application therefor, either in person or by agent, in writing or orally, as follows:

(1) For Class A, B, E, F, H, I, J and K license, to any county clerk or to any other person authorized by the director to issue licenses.

(2) For Class D license, to the county clerk of any county bordering the Ohio River, or to any other person in such a county authorized by the director to issue licenses.

(3) For Class C license, to the commission; and for

14 Class G and Class L licenses, to the commission, or its
15 administrative employees at state parks or state forests.

16 Every person making application for any license shall
17 pay, in addition to the license fees prescribed therefor
18 in the preceding sections of this article, an additional fee
19 of fifteen cents as compensation for the person issuing
20 the license. All such additional fees received by any
21 county clerk shall be paid by him into the general county
22 fund.

23 Aliens desiring to procure licenses shall first apply to
24 the director for a permit to secure such license. If the
25 director satisfies himself that the applicant is legally
26 entitled to such license, and will observe the laws of this
27 state, and particularly the provisions of this chapter, he
28 may issue the permit. Permits, once issued, shall remain
29 in force until revoked. No issuing officer shall be re-
30 quired to issue or deliver any license unless the applicant
31 informs him that the licensee is duly qualified and eli-
32 gible to receive the class of license applied for, and pay-
33 ment of the required fee is made to such officer.

Sec. 3-c. *Issuance of License by County Clerks or Other*
2 *Designated Agents.*—The clerk of any county court or
3 any other person authorized to issue licenses to whom
4 an application for license is made shall issue it, if, to
5 the best of his knowledge and information, the applicant
6 has given him the information required by section
7 three-a of this article and, in his opinion, is legally en-
8 titled to obtain the class of license applied for, and pays
9 the proper fee.

10 Each license shall bear a serial number and shall be
11 signed by the clerk of the county court, or his deputy,
12 or by any other person authorized to issue it. The per-
13 son issuing the license shall deliver to the purchaser any
14 tag, badge, or other license container which may be fur-
15 nished by the director and required to be worn by the
16 licensee. The person issuing the license shall keep an
17 accurate record, in form prescribed by the director, of
18 all licenses issued and of all moneys collected as license
19 fees.

Sec. 4. *Supplies Furnished by Director.*—Licenses, tags

- 2 to be worn by licensees and badges or containers for li-
3 censes, if any are required, shall be furnished by the
4 director to every person authorized to issue licenses.

CHAPTER 109

(House Bill No. 421—By Mr. Booth)

AN ACT to amend and reenact section one, article eight, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the authority of the director of conservation to acquire lands for conservation purposes and to maintain and develop lands so acquired to further these purposes.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8. State Forests, Game and Fish Refuges and Public Shooting Grounds.

Section

1. Acquisition of suitable lands by director; maintenance thereof as state forests or game and fish refuges.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted as follows:

- Section 1. *Acquisition of Suitable Lands by Director; Maintenance Thereof as State Forests or Game and Fish Refuges.*—The director may with the consent of the governor purchase, in the name of the state, out of funds set aside for the purpose, or out of any unused funds in his hands, lands suitable for forest culture; state forests; fish refuges; game refuges or public shooting grounds: *Provided*, That such funds may also be used for the construction of dams for fish refuges on lands so acquired. Purchase may be made on terms requiring not less than one-third of the purchase price to be paid at the time of the

12 conveyance with the residue to be paid in not less than
13 one or two years after date. Without the consent of the
14 governor not more than five dollars per acre shall be paid
15 for lands to be used as game refuges and public shooting
16 grounds. The director may also receive the gift of such
17 lands by deed or bequest. In all cases of transfers to the
18 state, the fee simple title shall pass to the state, except
19 minerals and mining rights to remove such minerals may
20 be excepted or reserved.

21 The director shall protect, preserve and maintain lands
22 so acquired as state forests, game or fish refuges or public
23 shooting grounds, for the propagation and distribution of
24 forest trees and for the protection, propagation and distri-
25 bution of the fish, wild animals, and birds thereon. He
26 may prescribe and enforce rules and regulations consistent
27 with the laws of the state, to carry out that objective. The
28 director may prescribe and enforce rules prohibiting all
29 fishing and hunting, pursuing, catching, trapping, captur-
30 ing and killing of fish, wild animals and birds upon such
31 state forests, and game and fish refuges, for such length
32 of time as he may deem proper.

33 The director may provide special regulations and open
34 seasons for the taking of any wild birds, wild animals or
35 fish on such lands in the manner provided by article three,
36 section eight of this chapter.

CHAPTER 110

(House Bill No. 387—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article eight-b, relating to the issuance and payment of revenue bonds to finance the construction of self-liquidating recreational facilities in state parks and forests.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8-b. Revenue Bonds for Park Development.**Section**

1. Definitions.
2. Authority of director to issue park development revenue bonds; grants and gifts.
3. Trustee for holders of bonds.
4. Proceeds of bonds, grants and gifts.
5. Authority of director to pledge revenue as security.
6. Management and control of project.
7. Article not authority to create state debt.
8. Compliance with this article and state constitution only restrictions on construction and management of project.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article eight-b, to read as follows:

- Section 1. *Definitions.*—"Director" shall mean the director of conservation or any board or officer succeeding to the powers now conferred by law upon the director of conservation.
- "Recreational facilities" shall mean and embrace cabins, lodges, swimming pools, golf courses, restaurants, commissaries and other revenue producing facilities in any state park or forest.
- "Bonds" shall mean bonds issued by the director pursuant to this article.
- "Project" shall be deemed to mean collectively the acquisition of land, the construction of any buildings or other works, together with incidental approaches, structures and facilities, reasonably necessary and useful in order to provide new or improved recreational facilities.
- "Cost of project" shall embrace the cost of construction, the cost of all land, property, material and labor which are deemed essential thereto, cost of improvements, financing charges, interest during construction, and all other expenses, including legal fees, trustees', engineers' and architects' fees which are necessarily or properly incidental to the project.
- "Rent or rental" shall include all moneys received for the use of any recreational facility.

Sec. 2. Authority of Director to Issue Park Development

2 *Revenue Bonds; Grants and Gifts.*—The director, with the
3 approval of the governor, is hereby empowered to raise
4 the cost of any project, as defined hereinabove, by the
5 issuance of park development revenue bonds of the state,
6 the principal of and interest on which bonds shall be
7 payable solely from the special fund herein provided for
8 such payment. Such bonds shall be authorized by order
9 of the director, approved by the governor, which shall
10 recite an estimate by the director of the cost of the project,
11 and shall provide for the issuance of bonds in an amount
12 sufficient, when sold as hereinafter provided, to produce
13 such cost, less the amount of any grant or grants, gift or
14 gifts received, or in the opinion of the director expected
15 to be received from the United States of America or from
16 any other source. The acceptance by the director of any
17 and all such grants and gifts, whether in money or in
18 land, labor or materials, is hereby expressly authorized.
19 All such bonds shall have and are hereby declared to have
20 all the qualities of negotiable instruments under the law
21 merchant. Such bonds shall bear interest at not more
22 than four per cent per annum, payable semi-annually, and
23 shall mature in not more than twenty-five years from
24 their date or dates, and may be made redeemable at the
25 option of the state, to be exercised by the director at such
26 price and under such terms and conditions as the director
27 may fix prior to the issuance of such bonds. The director
28 shall determine the form of such bonds, including coupons
29 to be attached thereto to evidence the right of interest
30 payments, which bonds shall be signed by the director,
31 under the great seal of the state, attested by the secretary
32 of state, and the coupons attached thereto shall bear the
33 facsimile signature of the director. In case any of the
34 officers whose signatures appear on the bonds or coupons
35 shall cease to be such officers before the delivery of such
36 bonds, such signatures shall nevertheless be valid and
37 sufficient for all purposes the same as if they had remained
38 in office until such delivery. The director shall fix the
39 denominations of the bonds, the principal and interest of
40 which shall be payable at the office of the treasurer of the
41 state of West Virginia, at the capitol of the state, or, at
42 the option of the holder, at some bank or trust company in

43 the city of New York to be named in the bonds in such
44 medium as may be determined by the director. Such bonds
45 shall be exempt from taxation by the state of West Vir-
46 ginia, or any county or municipality therein. The director
47 may provide for the registration of such bonds in the
48 name of the owner as to principal alone, and as to both
49 principal and interest under such terms and conditions
50 as the director may determine, and shall sell such bonds
51 in such manner as he may determine to be for the best
52 interest of the state, taking into consideration the financial
53 responsibility of the purchaser, and the terms and condi-
54 tions of the purchase, and especially the availability of
55 the proceeds of the bonds when required for payment of
56 the cost of the project, such sale to be made at a price
57 not lower than a price which, computed upon standard
58 tables of bond values, will show a net return of five per
59 cent per annum to the purchaser upon the amount paid
60 therefor. The proceeds of such bonds shall be used solely
61 for the payment of the cost of the project, and shall be
62 deposited and checked out as provided by section four
63 of this article, and under such further restrictions, if any,
64 as the director may provide. If the proceeds of such bonds,
65 by error in calculation or otherwise, shall be less than the
66 cost of the project, additional bonds may in like manner
67 be issued to provide the amount of the deficiency, and
68 unless otherwise provided for in the trust agreement here-
69 inafter mentioned, shall be deemed to be of the same issue,
70 and shall be entitled to payment from the same fund,
71 without preference or priority as the bonds before issued.
72 If the proceeds of bonds issued for the project shall ex-
73 ceed the cost thereof, the surplus shall be paid into a
74 special fund to be established for payment of the principal
75 and interest of such bonds as specified in the trust agree-
76 ment provided for in the following section. Such fund
77 may be used for the purchase of any of the outstanding
78 bonds payable from such fund at the market price, but
79 at not exceeding the price, if any, at which such bonds
80 shall in the same year be redeemable, and all bonds re-
81 deemed or purchased shall forthwith be cancelled, and
82 shall not again be issued. Prior to the preparation of de-
83 finitive bonds, the director may, under like restrictions,

84 issue temporary bonds with or without coupons, exchange-
85 able for definitive bonds upon the issuance of the latter.
86 Such revenue bonds may be issued without any other
87 proceedings or the happening of any other conditions or
88 things than those proceedings, conditions and things which
89 are specified and required by this article, or by the con-
90 stitution of the state. Revenue bonds issued under the
91 authority herein granted shall be eligible as investments
92 for the workmen's compensation fund and as security for
93 the deposit of all public funds.

Sec. 3. *Trustee for Holders of Bonds.*—The director may
2 enter into an agreement or agreements with any trust
3 company, or with any bank having the powers of a trust
4 company, either within or outside the state, as trustee for
5 the holders of bonds issued hereunder, setting forth there-
6 in such duties of the state and of the director in respect
7 to the acquisition, construction, improvement, mainten-
8 ance, operation, repair and insurance of the project, the
9 conservation and application of all moneys, the insurance
10 of moneys on hand or on deposit, and the rights and rem-
11 edies of the trustee and the holders of the bonds, as may
12 be agreed upon with the original purchasers of such bonds,
13 and including therein provisions restricting the individual
14 right of action of bondholders as is customary in trust
15 agreements respecting bonds and debentures of corpora-
16 tions, protecting and enforcing the rights and remedies
17 of the trustee and the bondholders, and providing for
18 approval by the original purchasers of the bonds of the
19 appointment of consulting architects, and of the security
20 given by those who contract to construct the project, and
21 by any bank or trust company in which the proceeds of
22 bonds or rentals shall be deposited, and for approval by
23 the consulting architects of all contracts for construction.
24 All expenses incurred in carrying out such agreement
25 may be treated as a part of the cost of maintenance, oper-
26 ation and repair of the project.

Sec. 4. *Proceeds of Bonds, Grants and Gifts.*—The pro-
2 ceeds of all bonds sold as provided in this article for any
3 park development project and the proceeds of any grant
4 or gift received by the director for such project shall be

5 paid to the treasurer of the state of West Virginia, who
6 shall not commingle such funds with any other moneys,
7 but shall deposit them in a separate bank account or
8 accounts. The moneys in such accounts shall be paid out
9 on check of the treasurer on requisition of the director,
10 or of such other person as the director may authorize to
11 make such requisition. All deposits of such moneys shall,
12 if required by the treasurer or the director, be secured by
13 obligations of the United States, of the state of West Vir-
14 ginia, or of the director, of a market value equal at all
15 times to the amount of the deposit, and all banking insti-
16 tutions are authorized to give such security for such
17 deposits.

Sec. 5. *Authority of Director to Pledge Revenue as*
2 *Security.*—The director shall have authority to pledge all
3 revenue derived from any project as security for any
4 bonds issued under this article to defray the cost of such
5 project. In any case in which the director may deem it
6 advisable, he shall also have the authority to pledge the
7 revenue derived from any existing recreational facilities
8 in any state park or forest as additional security for the
9 payment of any bonds issued under the provisions of this
10 article to pay the cost of any park development project
11 at such park or forest.

Sec. 6. *Management and Control of Project.*—The com-
2 mission shall properly maintain, repair, operate, manage
3 and control the project, fix the rates of rental, and estab-
4 lish by-laws and rules and regulations for the use and
5 operation of the project, and may make and enter into
6 all contracts or agreements necessary and incidental to
7 the performance of its duties and the execution of its
8 powers under this article.

Sec. 7. *Article Not Authority to Create State Debt.*—
2 Nothing in this article contained shall be so construed or
3 interpreted as to authorize or permit the incurring of
4 state debt of any kind or nature as contemplated by the
5 provisions of the constitution of the state of West Virginia
6 in relation to state debt.

Sec. 8. *Compliance with This Article and State Consti-*

2 *tution Only Restrictions on Construction and Manage-*
3 *ment of Project.*—It shall not be necessary to secure from
4 any officer or board not named in this article any approval
5 or consent, or any certificate or finding, or to hold an
6 election, or to take any proceedings whatever, either for
7 the construction of any project, or the improvement,
8 maintenance, operation or repair thereof, or for the issu-
9 ance of bonds hereunder, except such as are prescribed
10 by this article or are required by the constitution of the
11 state.

CHAPTER 111

(Senate Bill No. 289—By Mr. Bowling)

AN ACT to amend and reenact section four-a, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the control and prevention of fires in the forests of the state and the powers of the director of conservation with respect thereto.

[Passed March 14, 1953; in effect from passage. Approved by the Governor.]

Article 9. Forests.

Section

4-a. Fire seasons; permits; closure of forest land.

Be it enacted by the Legislature of West Virginia:

That section four-a, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 4-a. *Fire Seasons; Permits; Closure of Forest Land.*—The period of each year between March first and May thirty-first inclusive and October first and December thirty-first inclusive, are hereby designated as forest fire seasons. No person shall, during the fire season, except between the hours of five o'clock p. m. to five o'clock a. m., set on fire or cause to be set on fire any forest land, grass, stubble, brush, slash, debris, or any other inflam-

9 mable substance, on either his own or the property of
10 another. If any such burning results in the escape of
11 fire and injury to the property of another, such escape
12 shall be prima facie evidence that the burning was not
13 safe and was in violation of this section. Industrial and
14 special permits may be issued by the director or his au-
15 thorized representatives.

16 The director may refuse, revoke, postpone or suspend
17 all burning when necessary to prevent danger to life or
18 property. A permit obtained through wilful misrepresen-
19 tation shall be invalid. If the director finds that condi-
20 tions in any locality of the state so require, he may sus-
21 pend any or all permits issued under this section and pro-
22 hibit absolutely the use of all fires.

23 In case of danger from fire to life or property, the di-
24 rector may close any forest land or any part thereof to
25 all entry, until the period of danger is past.

26 Industrial and other bona fide users may continue oper-
27 ations by taking all necessary and adequate precautions
28 to prevent, control and suppress any fire in the area of
29 operation. Failure to take such action will result in sus-
30 pension of such operations during the period of such for-
31 est fire danger, and such failure will be prima facie
32 evidence of a violation of this section.

33 The presence of any person or persons entering or being
34 upon any forest land so closed, and not a bona fide user
35 of the forests, will also be prima facie evidence of a viola-
36 tion of this section.

CHAPTER 112

(Senate Bill No. 127—By Mr. Amos)

AN ACT to amend chapter nineteen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article, to be designated article
twenty-four, relating to construction of race tracks for
horse racing and local option elections and procedures
incident thereto.

[Passed March 7, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 24. Race Tracks.

Section

1. Race track construction applications and permits; action by racing commission; review.
2. Local option election; form of petition therefor.
3. Local option election procedure.
4. Form of ballot.
5. Further elections restricted.
6. Race tracks already established; applicability.
7. Definition of terms; inconsistent laws repealed.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article twenty-four, to read as follows:

Section 1. *Race Track Construction Applications and Permits; Action by Racing Commission; Review.*—No person, after the date on which this article becomes effective, shall construct a race track where horse race meetings are to be held and the pari-mutuel system of wagering conducted, as provided in article twenty-three of this chapter, unless and until such person shall first have applied for and obtained from the West Virginia racing commission a construction permit which may be issued by said commission in strict accordance with the provisions of this article, and not otherwise. Any person desiring to obtain such construction permit shall prepare and file with the West Virginia racing commission an application therefor in such form and to such effect as said commission may require or approve. Among other things, said application shall specify:

(1) The names and addresses of all persons who are financially interested in the proposed race track, including the names of all partners, if the applicant be a partnership, and of all stockholders, if the applicant be a corporation, and the names of any persons who have agreed to lend the applicant money for use in connection with such race track;

24 (2) The county where the race track is to be estab-
25 lished; and

26 (3) Plans showing, in such detail as the commission
27 may require, the proposed race track and all buildings
28 and improvements to be used in connection therewith.
29 The commission shall prescribe blank forms for use in
30 making such application.

31 When such application shall have been prepared and
32 filed in accordance with the foregoing requirements, the
33 commission shall consider the same, and if the commis-
34 sion be of opinion that the applicant intends to proceed
35 in good faith to establish a race track complying in all
36 particulars with the laws of this state, that the plans
37 therefor are adequate and have been prepared with due
38 regard to the safety of all persons who will use such race
39 track, and that the applicant is financially able to com-
40 plete such race track in accordance with the plans shown
41 on such application, the commission shall enter an order
42 giving its tentative approval to such application, or, if
43 the commission be not satisfied in the particulars above
44 set forth, it shall refuse such application.

45 If such application be refused, the commission shall
46 enter an order on its records specifying the reasons for
47 its refusal thereof and such order shall be attached to
48 said application and both the application and such order
49 shall be open to inspection, upon application to the com-
50 mission, of anyone desiring to inspect the same. The
51 action of the commission in refusing any application shall
52 be subject to review by mandamus in any court of this
53 state having jurisdiction, with the right of appeal to the
54 supreme court of appeals in the manner prescribed by
55 law.

56 If the commission shall give tentative approval to such
57 application, it shall prepare and publish, once a week for
58 four successive weeks in some newspaper published or
59 of general circulation in the county in which such race
60 track is to be established, a notice to the public that the
61 commission has given tentative approval to the applica-
62 tion and that the commission will confirm such tentative
63 approval and issue a construction permit to the applicant

64 at the expiration of sixty days from the date of the first
65 publication of such notice (which date shall be specified
66 in said notice), unless within said time an application for
67 a local option election shall have been filed with the coun-
68 ty court of the county in which said race track is proposed
69 to be established in accordance with the further pro-
70 visions of this article.

Sec. 2. *Local Option Election; Form of Petition There-*
2 *for.*—The county court of the county in which a proposed
3 race track is to be established is hereby authorized to call
4 a local option election for the purpose of determining the
5 will of the voters within said county as to the establish-
6 ment of such race track, as hereinafter provided.

7 A petition for such local option election shall be in the
8 form hereinafter specified and shall be signed by quali-
9 fied voters residing within said county equal at least to
10 fifteen per cent of the persons qualified to vote within said
11 county at the last general election. Said petition may be
12 in any number of counterparts and shall be filed with said
13 county court prior to the expiration of the sixty-day
14 period specified in the notice published by the West Vir-
15 ginia racing commission in accordance with the provi-
16 sions of the next preceding section of this article. Said
17 petition shall be sufficient if substantially in the follow-
18 ing form:

19 PETITION FOR LOCAL OPTION ELECTION
20 RESPECTING THE ESTABLISHMENT OF A
21 RACE TRACK IN COUNTY,
22 WEST VIRGINIA

23 Each of the undersigned certifies that he or she is a
24 person residing in County, West Virginia,
25 and is duly qualified to vote in said county under the laws
26 of said state, and that his or her name, address and the
27 date of signing this petition are correctly set forth below.

28 The undersigned petition said county court to call and
29 hold a local option election as required by chapter 19,
30 article 24 of the code of West Virginia, as amended by the
31 Legislature of said State at its 1953 Session, upon the fol-
32 lowing question: Shall the West Virginia Racing Com-
33 mission issue a construction permit authorizing the

34 establishment of a race track where horse race meetings
 35 may be held and the pari-mutuel system of wagering
 36 conducted in _____ County, West Virginia?

37	Name	Address	Date
38	_____	_____	_____
39	_____	_____	_____
40	_____	_____	_____

41 (Each person signing must specify either his post office
 42 address or his street number.)

Sec. 3. *Local Option Election Procedure.*—Upon the
 2 filing of a petition for a local option election in accord-
 3 ance with the provisions of the next preceding section,
 4 the county court shall enter an order calling a local op-
 5 tion election and providing that the same shall be held
 6 at the same time and as a part of the next primary or
 7 general election to be held in said county. A copy of the
 8 order so entered by the county court shall be served upon
 9 the West Virginia racing commission and that commis-
 10 sion shall take no further action in connection with the
 11 issuance of such construction permit until said local op-
 12 tion election shall be held. Said county court shall give
 13 notice of such local option election by publication in two
 14 newspapers of opposite politics and of general circulation
 15 within said county. Said notice shall be given at least
 16 once each week for two successive weeks prior to the
 17 date of said election. If there is only one newspaper
 18 published in said county, publication of said notice there-
 19 in shall be sufficient.

20 Each person qualified to vote in said county at said
 21 primary or general election shall likewise be qualified to
 22 vote at the local option election. The election officers
 23 appointed and qualified to serve as such at said primary
 24 or general election shall conduct said local option election
 25 in connection with and as a part of said primary or gen-
 26 eral election. The ballots in said local option election
 27 shall be counted and returns made by the election officers
 28 and the results certified by the commissioners of election
 29 to said county court which shall canvass the ballots, all
 30 in accordance with the laws of the state of West Virginia
 31 relating to primary and general elections insofar as the

32 same are applicable. The county court shall, without
33 delay, canvass the ballots cast at said local option election
34 and certify the results thereof to the West Virginia racing
35 commission and thereupon said commission shall issue
36 or refuse to issue the construction permit in accordance
37 with the results of such local option election.

Sec. 4. *Form of Ballot.*—The ballot to be used in said
2 local option election shall have printed thereon substan-
3 tially the following:

4 Shall the West Virginia Racing Commission issue a
5 construction permit authorizing the construction in
6 _____ County, West Virginia, of a race track where
7 horse race meetings may be held and the pari-mutuel
8 system of wagering conducted?

9 ☐ Yes

☐ No

10 (Place a cross mark in the square opposite your choice)

Sec. 5. *Further Elections Restricted.*—When a local
2 option election in accordance with this article shall have
3 been held in a county, another such election shall not be
4 held in said county for a period of five years, and within
5 that time the West Virginia racing commission shall not
6 receive or act upon any application for any other con-
7 struction permit within said county. In the event a race
8 track shall be constructed in a county pursuant to a con-
9 struction permit issued by the West Virginia racing com-
10 mission in accordance with the provisions of this article,
11 no local option election shall thereafter be held as to any
12 race track constructed pursuant to such construction
13 permit.

Sec. 6. *Race Tracks Already Established; Applicability.*
2 —Nothing herein contained shall apply to any race track
3 heretofore established in the state of West Virginia and
4 at which races have been conducted by the owners or
5 operators thereof under and in pursuance of licenses
6 issued by the West Virginia racing commission in accord-
7 ance with the provisions of article twenty-three of this
8 chapter. The establishment of any new or additional race
9 track within a county in West Virginia in which a race
10 track has heretofore been established and operated under

11 licenses issued by the West Virginia racing commission,
12 whether by the persons owning and operating such exist-
13 ing race track or others, shall be subject to the provisions
14 of this article.

15 This article is supplementary and in addition to article
16 twenty-three of this chapter and nothing herein con-
17 tained shall relieve the person desiring to conduct a horse
18 race meeting, where the pari-mutuel system of wagering
19 is followed, at either an existing race track or one which
20 shall be hereafter established, of the necessity of securing
21 the license therefor and otherwise complying with all of
22 the terms, provisions and conditions of article twenty-
23 three of this chapter.

Sec. 7. *Definition of Terms; Inconsistent Laws Re-*
2 *pealed.*—When used in this article, the following terms
3 shall have the following meanings:

4 “West Virginia racing commission” or “the commis-
5 sion” refer to the corporation by that name created by
6 article twenty-three of this chapter.

7 “Pari-mutuel” is a French word meaning “a mutual or
8 collective pool that can be divided among those who have
9 contributed their wagers to one central agency, the odds
10 to be reckoned in accordance to the collective amounts
11 wagered upon each contestant running in a race upon
12 which the pool is made, but the total to be divided among
13 the first three contestants on the basis of the number of
14 wagers on these.”

15 All other laws, whether general or local, public or
16 private, or previous grants or franchises, inconsistent
17 with the provisions of this article are hereby repealed.



CHAPTER 113

(House Bill No. 462—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section two, article nine, chapter
twenty-nine of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the em-
ployment and compensation of the executive director of
the West Virginia industrial and publicity commission.

[Passed March 13, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 9. Industrial and Publicity Commission.

Section

2. Executive director.

Be it enacted by the Legislature of West Virginia:

That section two, article nine, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Executive Director.*—The commission shall
2 employ an executive director, and fix his salary at an
3 amount not to exceed seven thousand dollars per annum.
4 The executive director shall be the chief administrative
5 officer of the commission and, subject to its control, shall
6 direct all the activities of the commission.
7 The director shall have authority to employ and fix the
8 compensation of such technical and clerical assistants as
9 may be necessary to carry out the purposes of this article.
10 The salary and expenses of the director and of the tech-
11 nical and clerical assistants shall be met out of any funds
12 available for the purpose, and shall be paid upon certifi-
13 cation of the director, in such manner as the expenses of
14 other state employees are paid.

CHAPTER 114

(Senate Bill No. 311—By Mr. Amos)

AN ACT to amend and reenact sections one and five, article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to farmers' mutual fire insurance companies, damages insured against by them, policy forms and limitation of liability.

[Passed March 11, 1953; in effect from passage. Approved by the Governor.]

Article 5. Farmers' Mutual Fire Insurance Companies.**Section**

1. Incorporation without capital stock.
5. Damages insured against; policy forms to be approved; limitation of liability.

Be it enacted by the Legislature of West Virginia:

That sections one and five, article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Incorporation Without Capital Stock.*—A
2 farmers' mutual fire insurance company may be organ-
3 ized and incorporated without capital stock under the
4 laws of this state as set forth under chapter thirty-one
5 of this code for the purpose of insuring property against
6 loss or damage as hereinafter authorized.

Sec. 5. *Damages Insured Against; Policy Forms to Be*
2 *Approved; Limitation of Liability.*—Every such company
3 may issue policies of insurance, signed by its president
4 and secretary, providing insurance against:

5 (a) Loss or damage to dwelling houses, stores and all
6 kinds of buildings and household furniture, goods, mer-
7 chandise and chattels of every description, and all other
8 property by fire, lightning, aircraft, windstorm, tornado,
9 cyclone, hail, frost or snow, smoke, weather or climatic
10 conditions, including excess or deficiency of moisture,
11 flood, rain or drought, business interruptions, riot attend-
12 ing a strike or civil commotion, riot, aircraft and by ex-
13 plosion whether fire ensues or not;

14 (b) Loss or damage by insects or disease to farm crops
15 or products and loss of rental value of land used in pro-
16 ducing such crops or products;

17 (c) Loss or damage by water or other fluid to any
18 goods or premises arising from the breakage or leakage of
19 sprinklers, pumps or other apparatus erected for ex-
20 tinguishing fires, or of other conduits or containers, or
21 by water entering through leaks or openings in buildings
22 and of water pipes, and against accidental injury to such
23 sprinklers, pumps, apparatus, conduits, containers or
24 water pipes.

25 The form of all such policies shall be subject to regu-
26 lation and approval of the insurance commissioner, who
27 may, if he deems fit, after conferring with representatives
28 of companies affected, prescribe a general form or forms
29 for such policies, or specific provisions which shall be
30 inserted in such policies, and all such policies thereafter
31 issued shall conform to all such regulations prescribed
32 by the insurance commissioner. All policies issued shall
33 have all of their terms and provisions printed thereon or
34 attached thereto in full. Companies may limit their
35 liability in the policy to a definite per cent of the value
36 of the property.

37 The subject of the insurance and the risks, hazard or
38 peril insured against shall be expressly set forth in the
39 policy of insurance. The insurance commissioner may,
40 for good cause shown or on application of the company,
41 limit the license of a company to make insurance to any
42 one or more of the perils or coverages authorized herein.

CHAPTER 115

(House Bill No. 399—By Mr. Barron)

AN ACT to amend and reenact section one, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to insurance agents and brokers.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7. Agents, Solicitors and Brokers.

Section

1. Licenses of agents, solicitors and brokers; compliance with laws.

Be it enacted by the Legislature of West Virginia:

That section one, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Licenses of Agents, Solicitors and Brokers;*

2 *Compliance With Laws.*—No person shall act in the solici-
3 tation or procurement of applications for, or policies of,
4 insurance for any company referred to in this chapter,
5 without first procuring a license, or a certificate of au-
6 thority, as agent, solicitor or broker, from the insurance
7 commissioner, all of which licenses, or certificates, here-
8 after issued shall be renewable on the first day of April
9 in each year. The insurance commissioner, except where
10 it is otherwise specially provided, shall not issue such
11 license, or certificate of authority, to any person who is
12 not a resident of this state, or whom he finds not trust-
13 worthy and competent to transact the business of insur-
14 ance. Nor shall any person act as agent, solicitor or broker
15 of any insurance company until he shall in all respects
16 have complied with all the general provisions of this chap-
17 ter regulating his duties and obligations: *Provided, how-*
18 *ever,* That as to the business of life insurance, such resi-
19 dence shall not be required when a nonresident applicant
20 for a license promises and agrees, as a condition of being
21 licensed, that all life insurance policies issued as a result
22 of solicitation on his part or in his behalf in this state shall
23 be reported, placed and consummated through a duly
24 licensed resident agent of the insurer or insurers taking
25 such risks, and such licensed nonresident agents may re-
26 ceive commissions on such insurance.

27 If an individual agent has his residence in an urban
28 community composed of two immediately contiguous mu-
29 nicipal corporations, of which one is located in this state
30 and one is located in another state, such agent shall be
31 considered as meeting the requirements of this section as
32 to residence for the transaction of insurance in this state
33 if (a) his residence is in any part of such urban com-
34 munity; and (b) the state wherein the other municipal
35 corporation is located has established by law or regula-
36 tion like requirements as to residence of its own agents
37 in such urban community.

38 On conviction of any person acting as such agent, so-
39 licitor or broker of the violation of any provision of this
40 chapter, the insurance commissioner shall forthwith re-
41 voke the certificate of authority issued to him, and no

- 42 certificate shall thereafter be issued to such convicted per-
43 son, until one year from the date of conviction.
44 The term immediately contiguous shall not mean mu-
45 nicipal corporations separated by a river or other stream.

CHAPTER 116

(House Bill No. 309—By Mr. Barron)

AN ACT to amend and reenact section eight, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payment of commissions to resident insurance agents and nonresident insurance brokers and providing penalties for violations.

[Passed March 13, 1953; in effect from passage. Approved by the Governor.]

Article 7. Agents, Solicitors and Brokers.

Section

8. Payment of commissions to resident insurance agents and non-resident insurance brokers; penalties.

Be it enacted by the Legislature of West Virginia:

That section eight, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 8. *Payment of Commissions to Resident Insurance Agents and Nonresident Insurance Brokers; Penalties.*—The entire commission payable by any insurance company licensed to transact the business of insurance in this state on any policy or contract of insurance or indemnity except a policy or contract of life insurance shall be paid directly to the licensed resident agent who countersigns the policy or contract of insurance or indemnity as required by law or otherwise. The countersigning agent may pay any part of such commission to any licensed agent or nonresident broker: *Provided*, That the portion of such commission paid to any licensed nonresident

13 broker or brokers shall not exceed ten per cent of the
14 gross policy premium or fifty per cent of the commission
15 payable by the insurance company as provided herein,
16 whichever is the lesser amount. The term "commission"
17 as used herein shall include engineering fees, service fees
18 or any other compensation incident to the issuance of a
19 policy or contract of insurance or indemnity payable by
20 or to any insurance company, licensed agent or nonresi-
21 dent broker or brokers.

22 It shall be unlawful for any insurance company or agent
23 to pay any commission except as provided in this section.
24 Any insurance company or agent violating any of the pro-
25 visions of this section shall be deemed guilty of a misde-
26 meanor, and, upon conviction thereof, shall be fined not
27 less than five hundred dollars nor more than two thousand
28 dollars, and, in addition thereto, the insurance commis-
29 sioner shall revoke its or his license to do business in this
30 state.

—C

CHAPTER 117

(House Bill No. 286—By Mr. Barron)

AN ACT to amend and reenact section one, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to group accident and health insurance, prescribing the minimum number of individuals to be insured on a group basis.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 13. Group Accident and Health Insurance.

Section

1. Companies which may write group accident and health insurance; policy classifications; definitions.

Be it enacted by the Legislature of West Virginia:

That section one, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Companies Which May Write Group Accident and Health Insurance; Policy Classifications; Definitions.*—Any insurer authorized to do the business of accident and health insurance in this state may issue group policies insuring against bodily injury or death caused by accident or accidental means, or against sickness, or both, coming within any of the following classifications:

(a) A policy issued to an employer, who shall be deemed the policyholder, insuring at least ten employees of such employer, for the benefit of persons other than the employer, and conforming to the following requirements:

(i) If the premium is paid by the employer the group shall comprise all employees or all of any class or classes thereof determined by conditions pertaining to the employment, or

(ii) If the premium is paid by the employer and employees jointly, or by the employees, the group shall comprise not less than seventy-five per cent of all employees of the employer or not less than seventy-five per cent of all employees of any class or classes thereof determined by conditions pertaining to the employment;

(b) A policy issued to an association which has a constitution and by-laws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least ten members of the association for the benefit of persons other than the association or its officers or trustees, as such;

(c) A policy issued to a college, school or other institution of learning or to the head or principal thereof, insuring students, or students and employees, of such institution;

(d) A policy issued to or in the name of any volunteer fire department, insuring all of the members of such department or all of any class or classes thereof against any one or more of the hazards to which they are exposed by reason of such membership.

The term "employees" as used herein shall be deemed to include the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the

42 individual proprietors, partners and employees of individu-
43 als and firms, the business of which is controlled by the
44 insured employer through stock ownership, contract or
45 otherwise. The term "employer" as used herein may be
46 deemed to include any municipal or governmental cor-
47 poration, unit, agency or department thereof and the
48 proper officers, as such, of any unincorporated municipal-
49 ity or department thereof, as well as private individuals,
50 partnerships and corporations.

CHAPTER 118

(House Bill No. 96—By Mr. Bowles)

AN ACT to amend and reenact section one, article eighteen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the criminal jurisdiction and procedure of justices of the peace.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 18. Criminal Jurisdiction and Procedure; Appeals.

Section

1. Limits of, and cases in which justice may exercise criminal jurisdiction; penalties.

Be it enacted by the Legislature of West Virginia:

That section one, article eighteen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 1. *Limits of, and Cases in Which Justice May Exercise Criminal Jurisdiction; Penalties.*—A justice shall have jurisdiction of the following offenses committed in his county, or on any river or creek adjoining thereto:
- (a) In cases of assault and battery, unless the offense was committed on a sheriff or other officer or justice, or riotously, or with intent to commit a felony; and no compromise with the party injured shall affect or pre-

9 vent the trial of such offense by the justice; and if a
10 defendant be convicted of such offense he shall be fined
11 not less than five nor more than fifty dollars;

12 (b) In cases of trespass to personal property; and, if
13 a defendant be convicted of such offense, he shall be
14 fined not less than five nor more than fifty dollars;

15 (c) In cases for the violation of section fourteen, arti-
16 cle six, chapter sixty-one of this code; and, upon the con-
17 viction of a defendant for a violation of any of the pro-
18 visions of said section, he shall be punished as therein
19 provided;

20 (d) In cases of adultery and fornication; and, if a de-
21 fendant be convicted of such offense, he shall be fined
22 twenty dollars;

23 (e) In cases of petit larceny; and, if a defendant be
24 convicted of such offense, he shall be fined not less than
25 ten nor more than thirty dollars, and may, at the discre-
26 tion of the justice or jury trying the case, be imprisoned
27 in the county jail not exceeding thirty days;

28 (f) In cases for the violation of article seven, chapter
29 sixty-one of this code; and, upon the conviction of a de-
30 fendant for a violation of any of the provisions of
31 said article, he shall be punished as therein pro-
32 vided;

33 (g) In any case where the punishment is limited to
34 a fine not exceeding ten dollars, or to imprisonment for
35 not more than ten days.

36 (h) In all misdemeanor cases for the violation of the
37 provisions of chapter sixty of said code as amended.

38 (i) In cases for the violation of section thirteen, article
39 six, chapter sixty-one of this code; and, upon the convic-
40 tion of a defendant for a violation of any of the provis-
41 ions of said section, he shall be punished as therein
42 provided.

43 (j) In all misdemeanor cases for the violation of the
44 provisions of chapter nineteen of this code. Upon convic-
45 tion of a defendant for a violation of any of the provis-
46 ions of chapter nineteen of this code, the defendant shall
47 be punished as therein provided.

48 *Provided, however,* That whenever a person has been
49 convicted in the municipal or police court of any incor-

50 porated town or city, such conviction shall be a bar to
51 any criminal proceedings before a justice for the same
52 offense.

CHAPTER 119

(Senate Bill No. 218—Originating in the Senate Committee on Finance)

AN ACT to amend chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article two, relating to the creation of the position of legislative auditor, describing his powers, functions, duties and compensation.

[Passed March 2, 1953; in effect March 15, 1953. Approved by the Governor.]

Article 2. Legislative Auditor; Powers; Functions; Duties; Compensation.

Section

1. Purpose of article.
2. Definitions.
3. Legislative auditor; appointment.
4. Duties.
5. Powers.
6. Reports.
7. Compensation.
8. Assistants and employees.
9. Offices.
10. Expenses.
11. Severability.

Be it enacted by the Legislature of West Virginia:

That chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article two, to read as follows:

Section 1. *Purpose of Article.*—The purpose of this
2 article is to provide for the more expeditious and efficient
3 study and management of the financial problems which
4 at each session confront the Legislature, and to provide
5 a tighter and more economical control by the Legislature
6 over the revenues and expenditures of the state.

Sec. 2. *Definitions.*—For the purposes of this article:

- 2 "Committee" means the Joint Committee on Govern-
3 ment and Finance of the Senate and House of Delegates.
4 "Spending Unit" means any department, agency, board,
5 commission, officer, authority, subdivision or institution
6 of the state government for or to which an appropriation
7 has been made, or is to be made by the Legislature.

Sec. 3. *Legislative Auditor; Appointment.*—There is
2 hereby created the position of legislative auditor who
3 shall be appointed by the committee to serve at its will
4 and pleasure. He shall be solely responsible to the Legis-
5 lature.

Sec. 4. *Duties.*—It shall be the duty of the legislative
2 auditor to compile fiscal information for the Senate and
3 the House of Delegates, to make a continuous audit/and
4 analysis of the state budget, revenues and expenditures,
5 during and between sessions of the Legislature, to report
6 any misapplication of state funds or erroneous, extrava-
7 gant or unlawful expenditures by any spending unit, to
8 ascertain facts and to make recommendations to the
9 Legislature concerning post audit findings, the revenues
10 and expenditures of the state and of the organization and
11 functions of the state and its spending units.

Sec. 5. *Powers.*—The legislative auditor shall have the
2 power and authority to examine the revenues and ex-
3 penditures of every spending unit of the state govern-
4 ment and for these purposes shall have the authority, by
5 such means as are necessary, to require any person hold-
6 ing office in the state government or employed by the
7 state, to allow him to inspect the properties, equipment,
8 facilities and records of the various agencies, depart-
9 ments, subdivisions or institutions of the state govern-
10 ment for which appropriations are to be made or have
11 been made, either before or after estimates therefor are
12 submitted, and before, during and after the sessions of
13 the Legislature. Refusal of any person to allow such in-
14 spection shall be reported by the legislative auditor to the
15 committee.

Sec. 6. *Reports.*—The legislative auditor shall prepare

2 an appropriate budget for each spending unit, for each
3 biennium for which appropriations are sought, in such
4 form and with such itemization and other information
5 as the committee shall prescribe, at least thirty days
6 prior to any legislative session, and submit the same to
7 the committee with the appropriate recommendations,
8 together with such other findings and reports deemed
9 necessary or required by the committee. He shall also
10 report to the committee any misapplication of state funds
11 and any erroneous, extravagant or unlawful expendi-
12 tures by any spending unit, together with such other
13 findings and reports as the committee shall require.

Sec. 7. *Compensation.*—As compensation for his serv-
2 ices, the legislative auditor shall receive a sum to be
3 fixed by the committee. He shall receive, in addition,
4 the necessary traveling expenses incident to the per-
5 formance of his duties.

Sec. 8. *Assistants and Employees.*—The legislative aud-
2 itor may appoint or employ such assistants or employees
3 as may be necessary for the efficient discharge of his
4 duties. Appointees and employees shall serve during
5 his will and pleasure. The number and compensation
6 of such assistants or employees shall be fixed by the
7 committee.

Sec. 9. *Offices.*—The office of the legislative auditor
2 shall be located at the state capitol and shall be open at
3 all reasonable times for the transaction of business.

Sec. 10. *Expenses.*—All compensation and expenses of
2 the legislative auditor and his assistants and employees
3 shall be paid out of the funds of the committee.

Sec. 11. *Severability.*—If any provision hereof or the
2 application thereof to any person, department or circum-
3 stance is held invalid, such invalidation shall not affect
4 other provisions or applications of this article which can
5 be given effect without the invalid provision or applica-
6 tion, and to this end the provisions of this article are
7 declared to be severable.

CHAPTER 120

(House Bill No. 204—By Mr. Bowles)

AN ACT to amend and reenact section five, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the commitment and admission of a criminal mentally diseased person.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Patients in Hospitals; Restoration to Sanity and Discharge.

Section

5. Commitment and admission of criminal mentally diseased person.

Be it enacted by the Legislature of West Virginia:

That section five, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Commitment and Admission of Criminal Mentally Diseased Person.*—If any person charged with or convicted of a crime be found, in the court before which he or she is so charged or was convicted, to be mentally diseased, and if such court shall order him or her to be confined, such convict, if a white male, shall be sent to the criminal mentally ill building at the Weston state hospital, or, if a white female, to the Weston state hospital, and, if colored, either male or female, to the Lakin state hospital at Lakin, and such person shall be received and confined at either hospital if there be room therein for him or her. The sheriff or other officer of the court by which the order is made shall immediately proceed in the manner directed by section one, article four of this chapter, to ascertain whether such vacancy exists in either of these hospitals; and until it is ascertained that there is a vacancy, such person shall be kept in the jail of the county of such court.

CHAPTER 121

(House Bill No. 388—By Mr. Moreland)

AN ACT to amend and reenact section ten, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the arrest, detention and further hospitalization of mentally ill or mentally defective persons who have escaped, eloped, been paroled or been placed on trial visit from any hospital or other institution to which such persons have been committed.

[Passed March 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Patients in Hospitals; Restoration to Sanity and Discharge.

Section

10. Return of escapees or parolees to hospital or institution.

Be it enacted by the Legislature of West Virginia:

That section ten, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 10. *Return of Escapees or Parolees to Hospital or Institution.*—If any person confined in a state hospital escape therefrom, the superintendent thereof shall issue a notice, giving the name and description of the person escaping, and requesting his apprehension and return to the hospital, and may offer such reward for the return of such person as the board of control may authorize. The superintendent may issue a warrant directed to the sheriff of the county, commanding him to arrest and carry such escaped person back to the hospital, which warrant the sheriff may execute in any part of the state. If such person flee to another state, the superintendent shall notify the board of control, and the board shall take such action as it may deem proper in the premises for the return of such person to the hospital.

17 If any veteran duly committed to a veteran's hospital
18 or other veteran's institution, either within or without the
19 state, escape or elope therefrom and any person make
20 complaint, under oath, to the clerk of the county court
21 of the county from which such veteran was so committed,
22 giving such information and stating such facts therein as
23 may be required, or if any veteran duly committed to a
24 veteran's hospital or other veteran's institution, either
25 within or without the state, escape or elope therefrom and
26 the superintendent or chief officer of such hospital or in-
27 stitution issue notice to the clerk of the county court of
28 the county from which such veteran was so committed,
29 giving the name and description of such veteran and re-
30 questing his apprehension and return to such hospital or
31 institution, the clerk, upon receipt of such complaint or
32 of such notice, may issue a warrant directed to the sheriff
33 of the county commanding him to arrest and carry such
34 veteran back to such hospital or institution, which war-
35 rant the sheriff may execute in any part of the state.

36 The sheriff or other person making any arrest under this
37 section shall be paid such compensation as is provided
38 for like services in other cases, and such additional com-
39 pensation in any case as the board of control may think
40 reasonable and just.

41 The foregoing provisions shall likewise apply to any
42 person released from a state hospital, or to any veteran
43 released from a veteran's hospital or other veteran's insti-
44 tution, either within or without the state, on trial visit
45 or on parole whose conduct becomes such as to warrant
46 his return to such hospital or institution.

CHAPTER 122

(Senate Bill No. 11—By Mr. Love)

AN ACT to amend and reenact section two, article nine, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment and qualification of committee for mentally diseased person.

[Passed February 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 9. Committees; Disposition of Property.

Section

2. Committee for mentally diseased persons; requirement of bond; qualification.

Be it enacted by the Legislature of West Virginia:

That section two, article nine, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Committee for Mentally Diseased Persons; Requirement of Bond; Qualification.*—The county court, when making the appointment of such committee, shall take from him a bond in such penalty and with such surety as it shall deem sufficient, with condition that the person so appointed will well and truly account for and pay over to the person entitled thereto all property and moneys which may come into his hands by virtue of such appointment, and with such other conditions as the court may require. If any person so appointed as committee refuse the trust or shall fail for ten days succeeding his appointment to give bond as aforesaid, the court, on the motion of any party interested, or at its own instance, may appoint some other person as committee, taking from him bond as above provided, or may commit the estate of such mentally diseased person to the sheriff of the county, who shall act as such committee without giving any bond as such, and he and the sureties on his official bond shall be liable for the faithful performance of the trust.

CHAPTER 123

(House Bill No. 152—By Mr. Scanes)

AN ACT to amend article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be desig-

nated section ten-a, relating to the introduction of water or other liquid pressure into producing strata for the purpose of recovering the oil contained therein.

[Passed February 16, 1953; in effect from passage. Approved by the Governor.]

Article 4. Oil and Gas Wells.

Section

10-a. Introducing pressure into producing strata to recover oil contained therein.

Be it enacted by the Legislature of West Virginia:

That article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section ten-a to read as follows:

Section 10-a. *Introducing Pressure into Producing Strata to Recover Oil Contained Therein.*—The owner or operator of any well or wells which produce oil or gas may allow such well or wells to remain open for the purpose of introducing water or other liquid pressure into and upon the producing strata for the purpose of recovering the oil contained therein, and may drill additional wells for like purposes, provided that the introduction of such water or other liquid pressure shall be controlled as to volume and pressure and shall be through casing or tubing which shall be so anchored and packed that no other oil, or gas-bearing sand or producing stratum, above or below the producing strata into and upon which such pressure is introduced, shall be affected thereby.

CHAPTER 124

(Senate Bill No. 247—By Mr. Swiger and Mr. Reed, of Preston)

AN ACT to amend and reenact section eleven, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating

to the registration of motor vehicles according to permissible gross weight.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section

11. Registration of vehicles according to permissible gross weight.

Be it enacted by the Legislature of West Virginia:

That section eleven, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 11. *Registration of Vehicles According to Permissible Gross Weight.*—The commissioner, upon registering any truck, truck tractor, or road tractor, under the laws of this state, may require such information and may make such investigation or test as necessary to enable him to determine whether such motor vehicle may safely be operated upon the highways in compliance with all the provisions of law relating to such vehicles. He shall register every such vehicle for a permissible gross weight under which the vehicle can, in his opinion, safely be operated upon the highways, and, in any event, not exceeding the limitations set forth in chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

The commissioner shall insert in the registration card issued for every such motor vehicle the gross weight for which it is registered, and if it is a motor vehicle to be used for propelling other vehicles he shall separately insert the total permissible gross weight of such motor vehicle and other vehicles to be propelled by it. The owner of each such vehicle shall stencil or paint the gross weight appearing on the registration card on the right side of such vehicle, using letters and numerals at least two inches in height. The commissioner shall

25 also cause to be printed or stamped upon the registra-
26 tion card a statement that the vehicle, although regis-
27 tered for the gross weight appearing on the registration
28 card, is subject to the axle load limit set forth in chapter
29 seventeen-c of the code.

CHAPTER 125

(Com. Sub. for House Bill No. 35—Originating in the House Committee on Roads)

AN ACT to amend article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-three, relating to state owned vehicles.

[Passed March 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section

23. State owned vehicles.

Be it enacted by the Legislature of West Virginia:

That article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-three, to read as follows:

Section 23. *State Owned Vehicles.*—Any motor vehicle
2 designed to carry passengers, owned or leased by the state
3 of West Virginia, or any of its departments, bureaus, com-
4 missions or institutions, except vehicles used by the gov-
5 ernor, vehicles operated by the department of public
6 safety and not to exceed four vehicles operated by the
7 arson investigators of the office of state fire marshal, shall
8 not be operated or driven by any person unless it shall
9 have displayed and attached to the front thereof, in the
10 same manner as regular motor vehicle registration plates
11 are attached, a plate of the same size as the regular regis-

12 tration plate, with black lettering on a white background
13 bearing the words "West Virginia" in one line and the
14 words "State Car" in another line, and the lettering for
15 the words "State Car" shall be of sufficient size to be
16 plainly readable from a distance of one hundred feet dur-
17 ing daylight.

18 Such vehicle shall also have attached to the rear a plate
19 bearing a number and such other words and figures as
20 the commissioner of motor vehicles shall prescribe. The
21 rear plate shall also be white with the number in black.

22 No other registration plate shall be issued for, or at-
23 tached to, any such state owned vehicle.

24 The commissioner of motor vehicles shall have a suffi-
25 cient number of both front and rear plates produced to
26 attach to all state owned cars. The numbered registration
27 plates for such vehicles shall start with the number "five
28 hundred" and the commissioner shall issue consecutive
29 numbers for all state owned cars.

30 It shall be the duty of each office, department, bureau,
31 commission or institution furnished any such vehicle to
32 have such plates affixed thereto prior to the operation of
33 such vehicle by any official or employee.

34 Any person violating the provisions of this section shall
35 be guilty of a misdemeanor, and, upon conviction thereof,
36 shall be fined not less than fifty dollars or more than one
37 hundred dollars.

38 Justices of the peace shall have concurrent jurisdiction
39 with circuit and criminal courts for the enforcement of
40 this section.

CHAPTER 126

(Senate Bill No. 248—By Mr. Swiger and Mr. Reed, of Preston)

AN ACT to amend and reenact section one, article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the classification of motor vehicles for purposes of registration.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 10. Registration, License and Other Fees.**Section****1. Classification of vehicles for purpose of registration.**

Be it enacted by the Legislature of West Virginia:

That section one, article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 1. *Classification of Vehicles for Purpose of*
2 *Registration.*—Vehicles subject to registration under the
3 provisions of this chapter shall be placed in the following
4 classes for the purpose of registration:
5 Class A. Motor vehicles of passenger type, other than
6 those leased or operated for compensation;
7 Class B. Motor vehicles designated as trucks, truck
8 tractors, or road tractors other than those leased or oper-
9 ated for compensation;
10 Class C. All trailers and semitrailers except those
11 leased or operated for compensation other than over reg-
12 ular route or between fixed termini by common carriers,
13 and except house trailers and trailers or semitrailers de-
14 signed to be drawn by Class A motor vehicles and having
15 a gross weight of less than two thousand pounds;
16 Class G. Motorcycles;
17 Class H. Motor vehicles operated regularly under a
18 certificate of public convenience and necessity or a con-
19 tract carrier permit for transportation of persons;
20 Class I. Motor vehicles designated as trucks, truck
21 tractors, or road tractors operated over a regular route or
22 between fixed termini under a certificate of convenience
23 and necessity for transportation of property;
24 Class J. Motor vehicles operated for transportation of
25 persons for compensation by common carriers, not run-
26 ning over a regular route or between fixed termini, except
27 passenger motor vehicles rented without a driver;
28 Class K. Motor vehicles designated as trucks, truck
29 tractors, or road tractors leased or operated for transpor-
30 tation of property for compensation, not over a regular
31 route or between fixed termini, including such motor
32 vehicles rented without drivers;

- 33 Class L. All trailers and semitrailers used for trans-
34 portation of property for compensation;
35 Class R. House trailers;
36 Class S. Special mobile equipment as defined in sec-
37 tion nineteen, article one of this chapter;
38 Class T. Trailers or semitrailers of a type designed to
39 be drawn by Class A vehicles and having a gross weight
40 of less than two thousand pounds;
41 Class U. Passenger motor vehicles rented for compen-
42 sation without a driver.

C

CHAPTER 127

(Senate Bill No. 254—By Mr. Holden, by request)

AN ACT to amend article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section three-a, relating to the registration of antique motor vehicles.

[Passed March 6, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 10. Registration, License and Other Fees.

Section

3-a. Special registration of antique motor vehicles.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section three-a, to read as follows:

- Section 3-a. *Special Registration of Antique Motor Vehicles.*—The annual registration fee for any antique motor vehicle as defined in this section shall be two dollars.
“Antique motor vehicle” shall mean any motor vehicle which is over twenty-five years old, and is owned solely as a collector’s item and for participation in club activities, exhibitions, tours, parades and similar uses, but in no event to be used for general transportation.

CHAPTER. 128

(House Bill No. 441—By Mr. Richardson)

AN ACT to amend article nineteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten, relating to right of surety company to become surety with respect to guaranteed arrest bond certificates, and guaranteed arrest bond certificates as cash bail.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 19. Parties, Procedure upon Arrest, and Reports in Criminal Cases.

Section

10. Guaranteed arrest bond certificates as cash bail.

Be it enacted by the Legislature of West Virginia:

That article nineteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section ten, to read as follows:

Section 10. *Guaranteed Arrest Bond Certificates as Cash Bail.*—Any guaranteed arrest bond certificate of any surety company licensed to do business by the insurance commissioner, shall, when presented by the person whose signature appears thereon, be accepted in lieu of cash bail in an amount not to exceed five hundred dollars, as a bail bond, to guarantee the appearance of such person in any court, or before any justice, mayor, or municipal judge in this state, at such time as may be required by the court, justice, mayor or municipal judge, when such person is arrested for violation of any motor vehicle law of this state or traffic ordinance of any municipality in this state (except for the offenses of reckless driving, driving while intoxicated or for any felony) committed prior to the date of expiration shown on such guaranteed arrest bond certificate: *Provided, That any such guaran-*

17 teed arrest bond certificate so presented as a bail bond
18 in any court in this state shall be subject to the same
19 forfeiture and enforcement provisions as any other bail
20 bond.

21 The term "guaranteed arrest bond certificate", as used
22 herein, means any printed card or other certificate issued
23 by an automobile club or association to any of its members,
24 which said card or certificate is signed by such member
25 and contains a printed statement that such automobile
26 club or association and a surety company guarantee the
27 appearance of the person whose signature appears on the
28 card or certificate and that they will in the event of failure
29 of said person to appear in court at the time of trial, pay
30 any fine or forfeiture imposed on such person in an amount
31 not to exceed five hundred dollars.

—C—

CHAPTER 129

(Senate Bill No. 315—By Mr. Traubert)

AN ACT to amend and reenact section one, article four, chapter seventeen-d of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the proof of financial responsibility required upon convictions for the violation of certain motor vehicle laws.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Proof of Financial Responsibility for the Future.

Section

1. Proof required upon certain convictions.

Be it enacted by the Legislature of West Virginia:

That section one, article four, chapter seventeen-d of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. Proof Required Upon Certain Convictions.—

- 2 (a) Whenever the commissioner, under any law of this

3 state, suspends or revokes the license of any person upon
4 receiving record of a conviction of or forfeiture of bail
5 by such person, the commissioner shall also suspend the
6 registration of all vehicles registered in the name of such
7 person as the owner except that the commissioner shall
8 not suspend such registration unless otherwise required
9 by law in the event such owner has previously given or
10 shall immediately give and thereafter maintain proof of
11 financial responsibility with respect to all such vehicles
12 registered by such person as the owner.

13 (b) The suspension or revocation hereinbefore re-
14 quired shall remain in effect and the commissioner shall
15 not issue to such person any new or renewal of license
16 or register or reregister in the name of such person as
17 owner any such vehicle until permitted under the motor
18 vehicle laws of this state, and not then unless and until
19 such person shall give and thereafter maintain proof of
20 financial responsibility.

21 (c) If a person has no license, but by final order or
22 judgment is convicted of or forfeits any bail or collateral
23 deposited to secure an appearance for trial for any offense
24 requiring the suspension or revocation of license, no
25 license shall be thereafter issued to such person and no
26 vehicle shall thereafter be registered in the name of such
27 person as owner unless he shall give and thereafter main-
28 tain proof of financial responsibility.

29 (d) Whenever the commissioner suspends or revokes
30 a nonresident's operating privilege by reason of a con-
31 viction or forfeiture of bail, such privilege shall remain
32 so suspended or revoked unless such person shall have
33 previously given or shall immediately give and there-
34 after maintain proof of financial responsibility.

35 (e) If by final order or judgment a person is convicted
36 of or forfeits any bail or collateral deposited to secure an
37 appearance for trial for driving a motor vehicle upon the
38 highways without being licensed to do so, and it appears
39 from the records of the department that such conviction
40 or forfeiture is the second conviction or forfeiture for
41 this charge, no license shall be thereafter issued to such
42 person unless he shall give and thereafter maintain for
43 one year proof of financial responsibility.

CHAPTER 130

(Com. Sub. for House Bill No. 223—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to amend and reenact section eleven, article two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to voluntary discontinuance of municipal charters.

[Passed March 3, 1953: in effect ninety days from passage. Approved by the Governor.]

Article 2. Creation, Alteration and Dissolution of Municipal Corporations.

Section

11. Voluntary discontinuance of charters.

Be it enacted by the Legislature of West Virginia:

That section eleven, article two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 11. *Voluntary Discontinuance of Charters.*—

2 Upon the petition of twenty-five per cent of the voters
3 of any incorporated Class IV town or village, or of any
4 Class III city having a population of not more than four
5 thousand, the council thereof shall submit to the voters
6 of such municipal corporation at the next municipal
7 election, or at a special election called for that purpose,
8 the question of continuing or discontinuing the charter
9 rights of such town. The ballots used in voting shall have
10 written or printed on them the words:

11 ☐ For continuance of charter

12 ☐ For discontinuance of charter

13 If a majority of votes cast be "for discontinuance of
14 charter," then the charter rights and privileges of such
15 municipal corporation shall cease with the term of office
16 of the council then in existence: *Provided*, That all debts
17 or other obligations outstanding against such corporation
18 shall be settled in full.

CHAPTER 131

(House Bill No. 78—By Mr. Hubbard)

AN ACT to amend and reenact sections three and five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the mayor and the powers and duties of the sergeant and policemen of a municipality.

[Passed March 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

3. Powers and duties of mayor.
5. Powers and duties of sergeant and policemen; bond of sergeant.

Be it enacted by the Legislature of West Virginia:

That sections three and five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Powers and Duties of Mayor.*—The mayor
2 shall be the chief executive officer of the town, when
3 not otherwise provided by law, and shall take care that
4 the orders, by-laws, ordinances, acts and resolutions of
5 the council thereof are faithfully executed. He shall be
6 ex officio a justice and conservator of the peace within
7 the town, and shall, within the same, have and exercise
8 all of the powers, both civil and criminal, and per-
9 form all duties vested by law in a justice of the
10 peace, except that he shall have no jurisdiction in civil
11 cases or causes of action arising out of the corporate
12 limits of the town. He shall have the same power to issue
13 attachments in civil suits as a justice of his county has,
14 though the cause of action arose out of his town. But
15 in such case he shall have no power to try the same
16 but such attachments shall be returnable and be heard
17 before some justice of his county. Upon complaint he
18 shall have authority to issue a search warrant in con-

19 nection with the violation of a municipal ordinance.
20 Any search warrant, warrant of arrest or other process
21 issued by him may be directed to the chief of
22 police or any member of the police department
23 of the town, and the same may be executed at any
24 place within the county or counties in which the town
25 is situated. He shall have control of the police of the
26 town and may appoint special police officers whenever
27 he deems it necessary, except when otherwise provided
28 by law; and it shall be his duty especially to see that
29 the peace and good order of the town are preserved,
30 and that persons and property therein are protected;
31 and to this end he may cause the arrest and detention
32 of all riotous and disorderly persons in the town before
33 issuing his warrant therefor. He shall have power to
34 issue executions for all fines, penalties and costs imposed
35 by him, or he may require the immediate payment
36 thereof, and, in default of such payment, he may commit
37 the party in default to the jail of the county or counties
38 in which such town is situated, or other place of imprisonment
39 in such corporation, if there be one, until the
40 fine or penalty and costs shall be paid; but the term
41 of imprisonment in such case shall not exceed thirty
42 days. He shall, from time to time, recommend to the
43 council such measures as he may deem needful for the
44 welfare of the town. The expense of maintaining any
45 person committed to the jail of the county by him,
46 except it be to answer an indictment, or be under the
47 provisions of sections eight and nine, article eighteen,
48 chapter fifty of this code, shall be paid by the town
49 and taxed as part of the costs of the proceeding. But
50 such mayor shall not receive any money belonging to
51 the state or to individuals, unless he shall give bond and
52 security required of a justice of the peace by article one,
53 chapter fifty of this code; and all the provisions of said
54 article one relating to moneys received by justices shall
55 apply to like moneys received by such mayor.

Sec. 5. *Powers and Duties of Sergeant and Policemen;*

2 *Bond of Sergeant.*—In addition to the powers and duties
3 prescribed in section two, article seven of this chapter,

4 the sergeant, chief of police and any member of the
5 police department of the town shall have all the powers,
6 rights and privileges within the corporate limits of the
7 town in regard to the arrest of persons, the collection
8 of claims, and the execution and return of any search
9 warrant, warrant of arrest or other process that can
10 legally be exercised by a constable of a district within
11 the same. In order to arrest for violation of municipal
12 ordinances and as to all matters arising within the
13 corporate limits and coming within the scope of his
14 official duties, the powers of the sergeant or of any
15 policeman shall extend anywhere within the county or
16 counties in which the municipality is situated. For an
17 offense committed in his presence, such officer may
18 arrest the offender without a warrant and take him
19 before the mayor or other police court to be dealt with
20 according to law. He and his sureties shall be liable to
21 all the fines, penalties and forfeitures that a constable
22 of a district is liable to, for any failure or dereliction in
23 such office, to be recovered in the same manner and
24 in the same courts in which such fines, penalties and
25 forfeitures are now recovered against such constable.
26 The sergeant shall, before entering upon the duties
27 of his office, execute a bond, conditioned according to
28 law, with surety satisfactory to the council, payable
29 to the town, in such penalty not less than one thousand
30 dollars, as the council may prescribe.

CHAPTER 132

(Senate Bill No. 63—By Mr. Swearingen and Mr. Moats)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section ten-h, relating to the authority of the governing boards of class II cities to fix the salaries of certain municipal officers.

[Passed February 17, 1953; in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

10-h. Salaries of officers of Class II cities.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section to be designated section ten-h, to read as follows:

Section 10-h. Salaries of Officers of Class II Cities.—

2 Notwithstanding any provision of its existing charter to
3 the contrary, the governing board of any class II city, as
4 defined in section four, article one, chapter eight-a of this
5 code, shall have the authority to fix the salary of certain
6 of its officers within the following limitations:

7 (1) The salary of the mayor shall not exceed seven
8 thousand five hundred dollars.

9 (2) The salaries of the city manager, and the members
10 of the council or governing body whose duties as pre-
11 scribed by such existing charter include the supervision
12 and administration of one or more departments of such
13 class II city, shall not exceed seven thousand dollars.

14 The authority granted by this section shall in no case
15 be construed to deprive any class II city of any authority
16 under its existing charter to fix the salary of the officers
17 named above at a salary in excess of the limits imposed
18 by this section.

—C—

CHAPTER 133

(House Bill No. 256—By Mr. Speaker, Mr. Flannery)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen-c, relating to the authority of a municipal corporation to impose a license tax for the privilege of operating a horse race track within the corporate limits of the municipality.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

13-c. License tax on horse racing.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section thirteen-c, to read as follows:

Section 13-c. *License Tax on Horse Racing.*—The governing authority of any municipal corporation within which a horse race track is situated may by ordinance impose upon the operator of the track a license tax for the privilege of conducting horse racing within the corporate limits of the municipality. Such license tax shall not exceed five hundred dollars per day for the operation of a race track one mile or more in length, and shall not exceed two hundred fifty dollars per day for the operation of a race track less than one mile in length. The license tax hereby authorized shall not be applicable to horse shows or county fairs at which racing is conducted for not more than five days.

CHAPTER 134

(Senate Bill No. 182—By Mr. Ballard)

AN ACT to amend and reenact section one-a, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by making all the provisions thereof relate to municipalities of all classes.

[Passed February 25, 1953; in effect from passage. Approved by the Governor.]

Article 4-a. Municipal Public Works; Bonds.

Section

1-a. Municipal parking facilities.

Be it enacted by the Legislature of West Virginia:

That section one-a, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1-a. *Municipal Parking Facilities.*—Every municipality shall have the authority to establish, operate and finance automobile parking facilities, including buildings, lots and other facilities appropriate for that purpose, and such facilities shall be public works within the meaning of this article.

Whenever any municipality shall establish any such parking facility and shall create a board or commission as provided in section three of this article which shall have supervision and control thereof, then in order to help finance the same, such municipality shall have the authority to pay over to such board or commission any revenue derived from parking meters or other parking facilities, unless such revenue is otherwise pledged to pay for such meters or parking facilities.

—C—

CHAPTER 135

(House Bill No. 367—By Mr. Loop and Mr. Christian)

AN ACT to amend and reenact sections fourteen, twenty and twenty-one, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to firemen's and policemen's pension or relief funds and extending payments provided therein to persons already receiving payments at the effective date of this act, and authorizing an increase in the levy to provide therefor.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.

Section

14. Levy to maintain fund; gifts, etc.; assessments on members of departments; return of assessments.

20. Payments upon retirement without disability; payments for retirement at sixty-five; payments for permanent disability; credit for military service.
21. Payments in case of death.

Be it enacted by the Legislature of West Virginia:

That sections fourteen, twenty and twenty-one, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 14. *Levy to Maintain Fund; Gifts, etc.; Assessments on Members of Departments; Return of Assessments.*—In every municipality there shall be a firemen's pension or relief fund and a policemen's pension or relief fund, which shall be maintained as follows: The council or other governing body of each municipality shall levy annually and in the manner provided by law for other municipal levies, and include within the maximum levy or levies permitted by law, and if necessary in excess of any charter provisions, a tax of not less than one cent on each one hundred dollars of all real and personal property as listed for taxation in such municipality, and, if necessary, in excess of one cent, but not in excess of three and one-half cents so as to meet the estimated expenditures of the boards of trustees of the respective funds, for the firemen's pension or relief fund and a like levy on all real and personal property as listed for taxation in such municipality, for a policemen's pension fund: *Provided*, That in any city or municipality of eight thousand three hundred population or less the laying of the levies herein provided for shall be within the discretion of the common council or other body of like power and duties in such city or municipality.

The levies authorized under this section, or any part of them, may by the council or other governing body be laid in addition to all other municipal levies, and to that extent beyond the limit of levy imposed by the charter of such municipality; and such levies shall supersede and if necessary exclude levies for other purposes if such

30 priority or exclusion is necessary under limitation upon
31 taxes or tax levies imposed by law.

32 Such corporations are authorized to take by gift, grant,
33 devise or bequest, any money or real or personal property,
34 upon such terms as to the investment and expenditure
35 thereof as may be fixed by the grantor or determined by
36 said trustees.

37 In addition to all other sums provided for pensions in
38 this section, it shall be the duty of every municipal cor-
39 poration to assess and collect from each member of such
40 fire department and police department each month, the
41 sum of three per cent of the monthly basic pay of such
42 fire or police department, that is, the monthly basic pay
43 for all equally and regardless of rank or position of the
44 member of such department and so that the amount of
45 such deduction shall be the same for all members of such
46 fire department and the same for all members of such po-
47 lice department, which amount so to be deducted shall be
48 deducted from the monthly pay of such person; and the
49 amount so collected shall become a regular part of the fire-
50 men's pension fund, if collected from a fireman, and of the
51 policemen's pension fund, if collected from a policeman.

52 Any member of a municipal fire or police department
53 who is released or who before retirement on any pension
54 severs his connection with said department, provided he
55 has served two full years or more, shall, upon request,
56 be refunded all deductions made from his salary, but
57 without interest. In event such refund is made and such
58 member subsequently reenters the department no credit
59 shall be allowed him for any former service.

Sec. 20. *Payments upon Retirement Without Disability;*
2 *Payments for Retirement at Sixty-Five; Payments for*
3 *Permanent Disability; Credit for Military Service.*—Any
4 member of a municipal fire department or police depart-
5 ment who is entitled to benefits of said fund, and who
6 has been in the service of such department for twenty
7 years, and upon reaching the age of fifty years, may,
8 upon written application to the board of trustees, be re-
9 tired from all service from such department without

10 medical examination or disability; and on such retirement
11 the board of trustees shall authorize the payment of one
12 hundred and ten dollars per month to such retired mem-
13 ber during the remainder of his life; and any member of
14 such department who is entitled to the benefits of said
15 fund and who has been in the service of such department
16 for more than twenty years at the time of his retirement
17 as herein provided, shall, in addition to the one hundred
18 ten dollars per month authorized to be paid upon retire-
19 ment after twenty years service and the reaching of the
20 age of fifty years, receive five dollars per month during
21 the remainder of his life for each year of the first three
22 additional years served with such department in excess
23 of said twenty years; but in no event shall he receive
24 additional retirement pay for more than three such addi-
25 tional years: *Provided*, That any member of such
26 department who has served in the armed services as
27 defined hereinafter, shall be eligible to retirement prior
28 to reaching the age of fifty years if he is otherwise eligible
29 hereunder.

30 Any member of a municipal fire or police department,
31 upon reaching the age of sixty-five years shall be retired
32 in the manner herein provided. Each member of the
33 fire and police department shall, at the request of the
34 board of trustees, furnish said board of trustees with a
35 birth certificate or other satisfactory proof of his date of
36 birth, at the time of his appointment to the fire or police
37 department. When a member of the fire or police depart-
38 ment shall have reached the age of sixty-five years, the
39 said board of trustees shall notify the mayor or other chief
40 executive officer of the municipal corporation, within
41 thirty days of such member's sixty-fifth birthday; and
42 the mayor or other chief executive officer shall cause such
43 sixty-five year old member of the fire or police depart-
44 ment to be retired within a period of not more than thirty
45 additional days. It shall be the duty of each member of
46 the fire or police department who are members at the
47 time this article becomes effective to furnish the said
48 necessary proof of his date of birth to the said board of
49 trustees within a reasonable length of time, said length
50 of time to be determined by the said board of trustees;

51 and then the board of trustees and the mayor or other
52 chief executive officer of the municipal corporation shall
53 proceed to act in the manner herein provided, and shall
54 cause all members of the fire or police department who
55 are over the age of sixty-five years to be retired in not
56 less than sixty days from the date this article becomes
57 effective. The amount of pension such members shall
58 receive shall depend upon their length of service as herein
59 provided. Such member need not have served twenty
60 years to receive the minimum amount of pension of one
61 hundred ten dollars per month for the remainder of his
62 life.

63 The sum to be paid to permanently disabled members
64 shall be at the rate of one hundred twenty-five dollars
65 per month, which shall be paid regardless of the position
66 in the department of such disabled member.

67 Absence from the service because of sickness or injury
68 shall not be construed as time out of service.

69 Any member of such department who has served in
70 the armed services of the United States between Septem-
71 ber fifteen, one thousand nine hundred forty, the date
72 of the selective service act, and September second, one
73 thousand nine hundred forty-five, the date of the official
74 termination of hostilities with Japan, and who has not
75 been dishonorably discharged from said service, shall be
76 given credit for continuous service in said fire or police
77 department if he was already a member of such depart-
78 ment at the time of his entrance into such armed service,
79 and that such member did not reenlist in such armed
80 services after such official termination of hostilities and
81 did present himself to the mayor or other officer, board
82 or person having the power of original appointment to
83 such fire or police department within six months after
84 his honorable discharge from such armed service, and
85 offer to resume service as an active member of such fire
86 or police department, and was declared mentally and
87 physically capable of performing his entire duties as a
88 member of the department by the pension board doctors.

89 Any member of any fire or police department covered
90 by this article who has been required to or shall at any
91 future time be required to enter the armed forces of the

92 United States by a conscription, by reason of being a
93 member of some reserve unit of the armed forces, or a
94 member of the West Virginia national guard, or who
95 enlists in one of the armed services of the United States
96 during actual hostilities, and upon his receipt of an honor-
97 able discharge from such armed forces presents himself
98 for resumption of duty to his appointing municipal official
99 within six months from date of discharge, and is accepted
100 by the pension board doctors as being mentally and
101 physically capable of performing his required duties as
102 a member of such fire or police department, shall be
103 given credit for continuous service in said fire or police
104 department, and his pension rights shall be governed as
105 herein provided.

106 No member of the fire or police department shall be
107 required to pay the monthly assessment as now required
108 by law, during his period of service in the armed forces
109 of the United States.

110 The provisions of this section shall apply to all persons
111 who at the effective date thereof are receiving any pen-
112 sion, payment or benefit from the firemen's or policemen's
113 pension or relief funds as well as to all persons who have
114 on such effective date or shall thereafter become eligible
115 for any such pension, payment or benefit from such funds.

Sec. 21 *Payments in Case of Death.*—In case any such
2 municipal employee who has been in continuous serv-
3 ice for over five years shall be killed or die, then, and
4 in that case, the board of trustees of said pension fund
5 shall pay to the dependent wife or dependent minor
6 children or dependent mother or father, or brothers and
7 sisters, if there be any such one or ones, the following
8 pensions, viz: To the widow, the sum of fifty dollars per
9 month, until her death or remarriage; for the support and
10 maintenance of any dependent children, the sum of fifteen
11 dollars per month for each living child until such child
12 shall have attained the age of eighteen years: *Provided,*
13 *however,* That each surviving orphaned child shall re-
14 ceive twenty dollars per month until such child shall
15 have attained the age of eighteen years; to a dependent
16 mother and father the sum of fifteen dollars per month

17 to each, and, if one be dead, the sum of twenty dollars
18 per month to the survivor; to dependent brothers and
19 sisters, until they shall have attained the age of sixteen
20 years, the sum of five dollars per month for each, but in
21 no case shall the total amount paid to brothers and sisters
22 exceed thirty dollars per month. But if at any time, be-
23 cause of the number of dependents, all such dependents
24 cannot be paid in full as herein provided, then each de-
25 pendent shall receive his pro rata share of such pay-
26 ments: *Provided, however,* That in no case shall the
27 payments to the widow and children be cut below sixty
28 per cent.

29 The dependent wife, child or children, or dependent
30 father or mother, brothers or sisters of any such municipal
31 employee who shall be killed in the performance of his
32 duties shall, regardless of the length of his service, re-
33 ceive a pension as provided for in that portion of this
34 section fixing the amount to be paid to the dependents.

35 Absence from service because of sickness or injury
36 shall not be construed as time out of service.

37 The dependent wife, child or children, or dependent
38 father or mother, brothers or sisters of any such municipal
39 employee, who at the time this section takes effect is re-
40 ceiving any pension, payment or benefit from the fire-
41 men's or policemen's pension or relief funds, shall receive
42 a pension as provided in the portion of this section fixing
43 the amount to be paid to such dependents.

CHAPTER 136

(House Bill No. 368—By Mr. Tucker)

AN ACT to amend and reenact section sixteen, article six, chap-
ter eight of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, authorizing investments
by boards of trustees of the firemen's or policemen's pen-
sion or relief funds, and providing for annual fund reports.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the
Governor.]

**Article 6. Fire Department, Fire Companies, and Firemen's
and Policemen's Pensions or Relief Funds.**

Section

16. How trustees of funds to invest money received.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 16. *How Trustees of Funds to Invest Money Received.*—The said board of trustees shall invest any moneys received by them either in interest bearing bonds of the United States, or of the state of West Virginia, or of the county, school district or municipal corporation in which such municipality may be situated, or upon improved real estate first lien security worth at least twice the amount loaned thereon, based on sound appraisal by a competent appraiser and duly certified by him. Said board of trustees shall make a report to the council of the municipality on the condition of such fund on the thirty-first day of December of each year.

CHAPTER 137

(House Bill No. 5—By Mr. Sammons and Mr. Snyder)

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article seven-a, relating to low cost municipal improvements.

[Passed February 28, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7-a. Low Cost Improvements.

Section

1. Purpose of article; liberal construction; method cumulative.
2. Definitions.
3. Powers of municipal corporations relating to street, sidewalk and sewer improvements.

4. Petition of abutters; petitioner's bond; action of council; memorandum of engineer.
5. Appeal on engineer's memorandum; charges upon failure of petition.
6. When petition deemed granted.
7. Procedure when petitioner to pay all of total cost; council order when petition granted.
8. Procedure when total cost to be apportioned among all abutters; notice to abutting owners before authorizing improvements; form of notice; protest meeting; certificate of publication; notice to railroad or foreign corporation; automatic revocation of grant of petition; charges upon automatic revocation.
9. Accomplishment of the improvement; municipal facilities used where practicable.
10. Apportionment among petitioners only; limit on total cost chargeable to petitioner; notice.
11. Apportionment among all abutters; limit on total cost chargeable to abutters; engineer's report; notice; hearings; correcting and laying assessments.
12. Due dates of assessments; statements of default to petitioner.
13. Due dates of charges against petitioner; municipality's collection on bond; petitioner's right of action.
14. Assessments where property owned or controlled by public, charitable, eleemosynary, educational or religious institutions; duty of those in charge to cause assessments to be paid.
15. Separability.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article seven-a, to read as follows:

Section 1. Purpose of Article; Liberal Construction;

- 2 *Method Cumulative.*—It is hereby declared to be the
3 purpose and policy of the Legislature in enacting this law
4 to provide for a simplified method of low cost municipal
5 improvements which are impracticable to be accom-
6 plished by normal budgets or by the procedures under
7 articles eight and nine of this chapter. To this end, this
8 article shall be liberally construed by council or court to
9 accomplish its purpose; and the adoption of this method
10 of municipal improvements shall not be deemed and con-
11 strued to be the adoption of an exclusive method, but
12 shall be deemed and construed to be the adoption of an
13 available method additional to any others which may
14 have theretofore been available by charter or general
15 law or which may hereafter become available.

Sec. 2. Definitions.—For the purpose of this article, ..

- 2 (a) "Municipality" shall include any incorporated city,

3 town or village, whether existing and operating under
4 a special charter, home rule charter or general law;

5 (b) "Council" shall include any governing body or
6 bodies exercising the powers commonly exercised by the
7 council of a municipality;

8 (c) "Abutter" shall include the owner or owners, as
9 of the date of the first publication of the notice described
10 in section eight of this article, of the property abutting
11 on both sides of any street, alley, public way or easement
12 upon or in which an improvement shall be made or pro-
13 posed to be made under this article;

14 (d) "Engineer" shall mean the city engineer or, if the
15 municipality has no regularly employed city engineer, any
16 registered professional engineer, if there be any practicing
17 in the county or the municipality, or if no such engineer be
18 practicing in the county, any competent civil engineer.

19 (e) "Petitioner" shall, unless the context clearly indi-
20 cates otherwise, include those abutters, whether one or
21 more than one, who file the petition and bond described
22 in section four of this article;

23 (f) "Improvement" shall include the grading, regrad-
24 ing, paving, repaving, surfacing, resurfacing, curbing, re-
25 curbing and repairing of streets and alleys, and the build-
26 ing, renewing and repairing of sidewalks, and the build-
27 ing, renewing and repairing of storm sewers, sanitary
28 sewers and sewer systems or parts thereof in any streets,
29 easements, public ways or alleys, or portions thereof, in-
30 dependently or in conjunction with other of such im-
31 provements, within the municipality; and

32 (g) "Total cost" shall include, to the extent that they
33 were furnished, but excepting salaries and wages paid
34 to municipal employees that would have been paid re-
35 gardless of the work on the proposed improvement, the
36 cost and expense of surveys, engineering and attorney
37 fees, the printing and publishing in relation thereto, and
38 the cost and expense of all labor, work, supervision, in-
39 spection, equipment leased and materials furnished and
40 used in completing said improvements.

Sec. 3. *Powers of Municipal Corporations Relating to*
2 *Street, Sidewalk and Sewer Improvements.*—Every mu-
3 nicipality in this state is hereby authorized, in addition

4 to any other rights or powers conferred upon it, to make
5 improvements upon the terms and conditions and in the
6 manner hereinafter set forth.

Sec. 4. *Petition of Abutters; Petitioner's Bond; Action
2 of Council; Memorandum of Engineer.*—Upon the filing of
3 written petition and bond hereinafter described by the
4 persons owning the greater amount of frontage of property
5 abutting upon both sides of any portion of a street, public
6 way, alley or easement, or, where the petition states the
7 willingness of the petitioner to pay all of the total cost,
8 upon the filing of the petition and bond hereinafter de-
9 scribed by any one or more of the abutters on any street,
10 public way, alley or easement, the council shall, by
11 ordinance or resolution, order the engineer to investi-
12 gate and to prepare a memorandum describing the por-
13 tions of the streets, alleys, public ways or easements
14 proposed to be improved, and certifying the reasonable
15 necessity of the improvement, the plans and specifica-
16 tions for the improvement, and a list of all items com-
17 prising the total cost of the improvement as specified in
18 section two-g of this article, with an estimate of the cost
19 of each item.

20 The petition shall list the name and actual mailing
21 address of the petitioner; it shall specify the part or parts
22 of the therein named streets, alleys, public ways or ease-
23 ments that petitioner desires improved; it shall specifi-
24 cally describe the proposed improvement desired; it shall
25 state whether the petitioner will pay all of the total cost,
26 or whether he desires the total cost to be apportioned
27 among all of the abutters; in any case where two or more
28 petitioners file the petition, if the petition indicates their
29 intent to pay all of the total cost, it shall state either that
30 they desire to have such total cost apportioned among
31 them on a pro rata basis of their abutting footages ac-
32 cording to a list of such footages compiled by them and
33 inserted in the petition, or whether they desire to pay
34 such total cost according to a list of percentage shares
35 formulated by them and inserted in the petition; and it
36 shall be signed by the petitioner. The bond shall be given
37 by the petitioner, with good security, to be approved by
38 the council; it shall be in the amount of one thousand

39 dollars; and it shall bind the petitioner (jointly and
40 severally in the case of more than a single petitioner)
41 to pay all charges and assessments made on him under
42 this article.

Sec. 5. *Appeal on Engineer's Memorandum; Charges upon Failure of Petition.*—If the memorandum of the engineer certifies that the proposed improvement is not reasonably necessary, and/or that the estimated total cost is more than one thousand dollars, the council shall notify the petitioner of the adverse report in the engineer's memorandum, and of a time (at least ten days from the date of the mailing of the notice as provided below) and place of a council meeting, at which the engineer shall be present, at which the petitioner may object to or be heard on any part of the engineer's memorandum concerned with the said adverse report; and this notice shall be given by mailing a copy thereof to the petitioner at the address listed in the petition unless the petitioner shall have notified the council in writing of a change in his actual mailing address, in which case the notice shall be mailed according to such change. The council may modify the memorandum in accordance with the evidence introduced at said meeting; but if no evidence is introduced, the engineer's memorandum shall be accepted. In any case, where the petition fails because of no reasonable necessity and/or because of an estimated total cost of more than one thousand dollars, the petitioner shall be charged with all municipal expenses in connection therewith except salaries and wages of regular municipal officials and employees, which charge shall be made by ordinance or resolution of the council; and a statement of such charge shall be mailed to the petitioner at the address listed in the petition unless the petitioner shall have notified the council in writing of a change in his actual mailing address, in which case the statement shall be mailed according to such change.

Sec. 6. *When Petition Deemed Granted.*—A petition for improvement shall be deemed granted when it and the accompanying bond have been found to be regular, and when the engineer's memorandum, as modified on

5 petitioner's appeal in the event that it was appealed and
6 modified, indicates that the proposed improvement is
7 reasonably necessary and that the total cost will not
8 exceed one thousand dollars.

Sec. 7. *Procedure When Petitioner to Pay All of Total
2 Cost; Council Order When Petition Granted.*—If the pe-
3 titioner has stated in the petition that he will pay all of
4 the total cost, the council shall, as soon as the petition is
5 granted as provided in section six of this article, order
6 by ordinance or resolution the proper municipal authori-
7 ties to proceed with the accomplishment of the improve-
8 ment according to the plans and specifications in the
9 engineer's memorandum, as modified on petitioner's ap-
10 peal in the event that they were appealed and modified.

Sec. 8. *Procedure When Total Cost to Be Apportioned
2 Among All Abutters; Notice to Abutting Owners before
3 Authorizing Improvements; Form of Notice; Protest
4 Meeting; Certificate of Publication; Notice to Railroad
5 or Foreign Corporation; Automatic Revocation of Grant
6 of Petition; Charges upon Automatic Revocation.*—If
7 the petitioner has stated in the petition that he de-
8 sires the total cost to be apportioned among all of
9 the abutters, the council shall, as soon as the petition
10 is granted, cause notice to be given to all abutters that
11 the petition has been granted, that the engineer's
12 memorandum, certifying reasonable necessity, plans and
13 specifications, and cost estimates, will be reconsidered,
14 before work is started, at a public meeting of the coun-
15 cil at a time and place named in the notice, and that all
16 abutters will be given an opportunity to protest or be
17 heard concerning any or all particulars of the engineer's
18 memorandum at that meeting or an adjournment thereof.

19 The above mentioned notice to the abutters may be by
20 personal service on abutters at least ten days before
21 the protest meeting. In lieu of personal service of such
22 notice, the following described notice, or one in substan-
23 tially the same form, may be given, and shall be deemed
24 to have been served on all such abutters, by publication
25 once a week for three successive weeks before said meet-

26 ing in some newspaper of general circulation in said
27 municipality, as follows:

28 "NOTICE TO ALL PERSONS OWNING PROPERTY
29 ABUTTING ON _____ (here describe the
30 portions of the streets, alleys, public ways or easements
31 to be improved) IN THE MUNICIPALITY OF _____
32 _____ (name of municipality);

33 A petition has been conditionally granted by the____
34 _____ (common council, board of directors, commission-
35 ers or other governing body) of the municipality of
36 _____ (name of municipality) to improve the
37 _____ (street, alley, public way or easement)
38 above described in _____ (name of munic-
39 ipality) by _____ (grading, regrading, con-
40 structing storm sewers or other general description of
41 the proposed improvement), as specifically described in
42 the engineer's memorandum certifying the reasonable
43 necessity of the proposed improvement, the plans and
44 specifications thereof, and the estimate of the items of
45 cost thereof, and to apportion the cost of such improve-
46 ment among the owners, as of _____ (the
47 date of the first publication of this notice), of the abutting
48 property.

49 The engineer's memorandum above described will be
50 reconsidered by the _____ (governing body) at
51 a public meeting to be held on _____ (date) at _____
52 (time) at _____ (place). Any abutting owner or in-
53 terested party will be given an opportunity to protest
54 or be heard at said meeting or an adjournment there-
55 of.

56 _____ (name of the clerk or recorder),
57 _____ (official position)."

58 A certificate of publication of the notice, made by the
59 newspaper publisher, and a copy of the notice shall be
60 made a part of the minutes of the governing body and
61 spread on its records of the meeting described in the
62 notice. The service of said notice upon all persons, firms
63 or corporations owning any interest in any property
64 abutting upon any portion of said street, alley, public
65 way or easement to be improved shall conclusively be
66 deemed to have been given when such newspaper pub-

67 lication shall have been completed: *Provided*, That where
68 any foreign railroad or other foreign corporation is the
69 owner of property abutting upon any street, alley, public
70 way or easement sought to be improved under the pro-
71 visions hereof, notice shall be given to such railroad or
72 other foreign corporation as prescribed by section one,
73 article ten, chapter eight of the code of West Virginia,
74 one thousand nine hundred thirty-one, before the adop-
75 tion of any ordinance or resolution relating to, and pro-
76 viding for, such improvements.

77 Any part or parts of the engineer's memorandum may
78 be modified or remodified at the protest meeting in ac-
79 cordance with the evidence introduced at such meeting,
80 including the extent of the portions of the streets, alleys,
81 public ways or easements proposed to be improved as
82 designated in the engineer's memorandum. If, after
83 modification at such protest meeting, the memorandum
84 indicates that the proposed improvement is not reason-
85 ably necessary, and/or that its estimated total cost is more
86 than one thousand dollars, then the petition shall be
87 automatically revoked; and the petitioner shall be
88 charged with all municipal expense in connection there-
89 with except salaries and wages of regular municipi-
90 pal employees, which charge shall be made by ordi-
91 nance or resolution of the council; and a state-
92 ment of said charge shall be mailed to the petitioner
93 at the address listed in the petition unless the petitioner
94 shall have notified the council in writing of a change in
95 his actual mailing address, in which case the statement
96 shall be mailed according to such change.

97 If the engineer's memorandum has not been so modi-
98 fied at the protest meeting as to render the petition auto-
99 matically revoked as provided above, the council shall
100 order by ordinance or resolution the proper municipal
101 authorities to proceed with the accomplishment of the
102 improvement according to the plans and specifications
103 in the engineer's memorandum, as modified at the protest
104 meeting in the event that they were modified.

Sec. 9. *Accomplishment of the Improvement; Municipal Facilities Used Where Practicable.*—When the proper

3 municipal authorities shall have been ordered by the
4 council to proceed under either section seven or section
5 eight of this article, they shall do so without delay. The
6 improvement shall be accomplished, as far as possible
7 without interfering with normal municipal services, with
8 the regular municipal employees and equipment; but
9 contracts may be made with reputable firms for the im-
10 provement. Said authorities shall keep an account of all
11 items of cost connected therewith that affect the total
12 cost of the improvement. Upon completion of the im-
13 provement, said proper municipal authorities shall de-
14 liver the account of costs to the engineer.

Sec. 10. *Apportionment Among Petitioners Only; Limit*
2 *on Total Cost Chargeable to Petitioner; Notice.*—Where
3 the petitioner has indicated in the petition his willingness
4 to pay all of the total cost, the engineer shall compute the
5 actual total cost as soon as the improvement is com-
6 pleted and the account mentioned in section nine of this
7 article is given to him; and, where more than a single
8 petitioner filed the petition, the engineer shall assess the
9 amount owed by each petitioner according to the method
10 indicated in the petition as prescribed by section four of
11 this article: *Provided*, That if the actual total cost exceeds
12 one thousand dollars, the municipality shall be respon-
13 sible for such excess over one thousand dollars; and that,
14 notwithstanding that the actual total cost is less than one
15 thousand dollars, if the actual total cost exceeds the esti-
16 mated total cost by more than ten per cent of the latter,
17 the municipality shall be responsible for such excess over
18 one hundred ten per cent of the estimated total cost.

19 The engineer shall certify his determination of charges
20 to the council; and, after adopting the same by ordinance
21 or resolution, the council shall notify the petitioner of
22 the assessment list by mailing a written copy thereof to
23 the petitioner at the address listed in the petition unless
24 the petitioner shall have notified the council in writing
25 of a change in his actual mailing address, in which case
26 the statement shall be mailed according to such change.

Sec. 11. *Apportionment Among All Abutters; Limit on*
2 *Total Cost Chargeable to Abutters; Engineer's Report;*

3 *Notice; Hearings; Correcting and Laying Assessments.—*

4 Where the petitioner has indicated in the petition his
5 desire to have the total cost apportioned among all of
6 the abutters, the engineer shall, as soon as the council
7 has ordered the proper municipal authorities to proceed
8 under section eight of this article, determine or cause to
9 be determined the several frontages abutting on the im-
10 provement, a brief description thereof, and the owners of
11 such frontages as of the date of the first publication of the
12 notice described in section eight of this article; and he
13 shall keep an account of all items of cost connected there-
14 with that affect the total cost. As soon as the improvement
15 is completed and the account mentioned in section nine
16 of this article is given to him, the engineer shall compute
17 the actual total cost of the improvement.

18 The total cost shall be personally borne by such abut-
19 ters, including the petitioner, as of the date of the first
20 publication of the notice described in section eight of this
21 article; and the amount of the assessment against each
22 shall be apportioned by the engineer on the basis of the
23 following formula. Each lot or parcel of land so abutting
24 shall be assessed with that portion of the total cost of
25 the entire project which is represented by the proportion
26 which the abutting frontage in feet of such lot or parcel
27 bears to the total abutting frontage in feet of all the lots
28 or parcels of land abutting on the streets, public ways,
29 alleys or easements so improved: *Provided, however,*
30 *That if the character of the improvements shall be sub-*
31 *stantially different upon different streets, public ways,*
32 *easements or alleys, or portions thereof, the cost may be*
33 *equitably apportioned to the respective streets, public*
34 *ways, alleys, easements, or portions thereof, in proportion*
35 *to the character and cost of the improvements respec-*
36 *tively thereon; and as a part of the cost so apportioned*
37 *to each respective street, public way, easement, or alley,*
38 *or portion thereof, shall be apportioned to and assessed*
39 *against the respective lots or parcels of land abutting*
40 *thereupon in the proportion as hereinabove provided:*
41 *Provided further, That if any part of the street, alley,*
42 *easement or public way improved is used by a railway*
43 *then the cost of the portion of the improvements between*

44 the rails and for two feet outside said rails shall be as-
45 sessed against and wholly borne by the owner of the
46 railway: *Provided further*, That if there be any land or
47 other property abutting on the portion of the street or
48 alley so improved which it has been determined by the
49 governing body of the municipality, and, shown in the
50 ordinance or resolution authorizing the improvement,
51 not to be specially benefited by the improvement, or for
52 other reasons would not be liable to assessment for any
53 of the cost of improvement, then the cost of the improve-
54 ments abutting such part of said street or alley, as is
55 so determined to be nonassessable shall be apportioned
56 among, assessed and borne by the remaining property
57 abutting upon the portion of the street, alley, public way
58 or easement improved in proportion to the frontage of
59 such remaining abutting property as hereinabove pro-
60 vided: *Provided further*, That if such improvement in-
61 clude the construction or reconstruction of sidewalks on
62 only one side of a street, alley, public way or easement,
63 then the cost of such sidewalk shall be assessed only on
64 the property abutting on that side where the sidewalks
65 are so constructed: *Provided further*, That if there be
66 land or other property abutting the street, alley, ease-
67 ment or public way so improved which is owned by the
68 United States of America, and for that reason not legally
69 subject to assessment, then the municipality shall pay the
70 proportionate part of the cost of the improvement which
71 otherwise would be assessable against such federally
72 owned land or property: *Provided further*, That if the
73 actual total cost exceeds one thousand dollars, the munici-
74 pality shall be responsible for such excess over one thou-
75 sand dollars; and that, notwithstanding that the actual
76 total cost is less than one thousand dollars, if the actual
77 total cost exceeds the estimated total cost by more than
78 ten per cent of the latter, the municipality shall be respon-
79 sible for such excess over one hundred ten per cent of the
80 estimated total cost.

81 The engineer shall formulate a report showing the
82 chargeable total cost to be borne by the abutters, the
83 names of the abutters (including the petitioner), the sev-
84 eral frontages owned by said abutters and a brief descrip-

85 tion thereof, and the proper amount of the chargeable to-
86 tal cost to be assessed personally against each abutter, and
87 shall deliver such report to the council. The council shall
88 thereupon give notice to the abutters to be assessed that,
89 on or after a date named in said notice, an assessment may
90 be laid personally against the abutters as embodied in said
91 report. Said notice shall state that the abutters so named,
92 or other interested party, may on said date appear before
93 the council to move the correction or revision of such pro-
94 posed assessment. Said notice, which shall be by publica-
95 tion once a week for two successive weeks in some news-
96 paper of general circulation in the county in which said
97 municipality is located, shall show the same facts em-
98 bodied in the engineer's report hereinabove described. On
99 or after the date so advertised, the council may revise,
100 amend, correct and verify the report according to the evi-
101 dence introduced by appealing abutters or by the engin-
102 eer, and shall thereafter proceed by ordinance or reso-
103 lution to lay the assessments, as corrected and verified,
104 against the abutters personally.

Sec. 12. *Due Dates of Assessments; Statements of De-*
2 *fault to Petitioner.*—Assessments made under section
3 eleven of this article shall be due the municipality within
4 sixty days after the passage by the council of the ordi-
5 nance or resolution laying the assessment; and upon pay-
6 ment of an assessment by an abutter, he shall be given a
7 receipt therefor, a copy of which shall be retained by the
8 municipality; and, upon payment in due course of all of
9 such assessments upon an improvement, the petitioner
10 shall be automatically discharged on his bond. If any
11 such assessment, in whole or in part, be not paid within
12 said sixty days, the council shall determine the total
13 amount in default and shall charge said amount to the
14 petitioner by ordinance or resolution; and a statement
15 of the charge shall be mailed to the petitioner at the
16 address listed in the petition unless the petitioner shall
17 have notified the council in writing of a change in his
18 actual mailing address, in which case the statement shall
19 be mailed according to such change.

Sec. 13. *Due Dates of Charges Against Petitioner;*

2 *Municipality's Collection on Bond; Petitioner's Right*
3 *of Action.*—Charges made on any petitioner under sec-
4 tions five, eight, ten and twelve of this article shall be
5 due the municipality within thirty days from the date
6 that a statement was mailed to him as provided in said
7 last mentioned sections. If any such charges on any
8 petitioner be not paid within such thirty days, the council
9 shall by ordinance or resolution authorize the proper
10 municipal authorities to proceed to collect on the peti-
11 tioner's bond.

12 Any petitioner who is forced to pay, either by collection
13 on the bond or by voluntary payment to avoid collection
14 on the bond, any sum which should have been paid by
15 another petitioner or any other abutter, shall have a
16 right of action against any such defaulter for the amount
17 that the defaulter should have paid, with interest at six
18 per cent from the date that the defaulter was in default;
19 and, where a petitioner makes a voluntary payment for
20 any such defaulter to avoid collection on the bond, a
21 receipt shall be given him, and a copy retained by the
22 city, showing the petitioner who made such payment,
23 the defaulter for whom the payment was made, and the
24 charge or assessment for which the defaulter was in de-
25 fault, which receipt shall be prima facie evidence of the
26 petitioner's right to collect from the defaulter named in
27 said receipt for the amount specified therein, with interest
28 as above stated.

Sec. 14. *Assessments Where Property Owned or Con-*
2 *trolled by Public, Charitable, Eleemosynary, Educational*
3 *or Religious Institutions; Duty of Those in Charge to Cause*
4 *Assessments to Be Paid.*—When any of the lots abutting
5 the portion of the street, alley, easement or public way
6 improved consist of property owned or controlled by the
7 state, county, municipality, board of education or other
8 public body, or consist of property owned or used for a
9 church or a religious, charitable, educational or eleemo-
10 synary institution for purposes not subject to taxation,
11 the owners of such property as of the date of the first
12 publication of the notice described in section eight of this
13 article shall nevertheless be assessed with their proper
14 proportion of the total cost; and it shall be the duty of

15 the owner and/or those persons having charge of the
16 fiscal affairs of such owner or the management of any
17 such property or institution to make proper arrangements
18 for the payment of such assessments and to cause the
19 same to be paid.

Sec. 15. *Separability*.—If any provision or part of this
2 article is declared unconstitutional or invalid, such dec-
3 laration shall in no way affect any other part thereof.

CHAPTER 138

(House Bill No. 509—By Mr. Miller)

AN ACT to amend article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a, relating to cities authorized to enter contracts for issuance of waterworks and sewerage bonds.

[Passed March 14, 1953; in effect from passage. Approved by the Governor.]

Article 13. Combined Waterworks and Sewerage Systems.

Section

3-a. Cities authorized to enter into contracts for issuance of waterworks and sewerage bonds.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-a, to read as follows:

Section 3-a. *Cities Authorized to Enter Into Contracts for Issuance of Waterworks and Sewerage Bonds*.—Any
2 city or town, including any city organized and operating
3 under a legislative or home rule charter, may pursuant to
4 an undertaking expressed in the ordinance or resolution
5 authorizing the issuance of its bonds which by their terms
6 are payable solely from the income or revenues of its mu-
7 nicipal waterworks or its combined waterworks and sew-
8

9 erage system enter into a contract or contracts for the col-
10 lection and disbursement of such income or revenues and
11 for the operation, maintenance, servicing and extension
12 of the properties which are to produce such income or
13 revenues: *Provided*, That no such contract or contracts
14 shall control the power and duty of the governing body
15 of such city or town to establish, fix and revise rates and
16 charges for the service and facilities afforded by such
17 properties sufficient to pay the interest on such revenue
18 bonds and accomplish the retirement thereof at or before
19 maturity, the expenses of operation, maintenance and
20 repair of such properties and to create and maintain an
21 adequate depreciation fund therefor.

CHAPTER 139

(House Bill No. 170—By Mr. Ballard and Mr. Richardson)

AN ACT to amend chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article eight-a, relating to partnerships.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8-a. Uniform Partnership Act.

Section

1. Name of act.
2. Definition of terms.
3. Interpretation of knowledge and notice.
4. Rules of construction.
5. Rules for cases not provided for in this article.
6. Partnership defined.
7. Rules for determining the existence of a partnership.
8. Partnership property.
9. Partner agent of partnership as to partnership business.
10. Conveyance of real property of the partnership.
11. Partnership bound by admission of partner.
12. Partnership charged with knowledge of or notice to partner.
13. Partnership bound by partner's wrongful act.
14. Partnership bound by partner's breach of trust.
15. Nature of partner's liability.
16. Partner by estoppel.
17. Liability of incoming partner.
18. Rules determining rights and duties of partners.

19. Partnership books.
20. Duty of partners to render information.
21. Partner accountable as a fiduciary.
22. Right to an account.
23. Continuation of partnership beyond fixed term.
24. Extent of property rights of a partner.
25. Nature of a partner's right in specific partnership property.
26. Nature of partner's interest in the partnership.
27. Assignment of partner's interest.
28. Partner's interest subject to charging order.
29. Dissolution defined.
30. Partnership not terminated by dissolution.
31. Causes of dissolution.
32. Dissolution by decree of court.
33. General effect of dissolution on authority of partner.
34. Right of partner to contribution from co-partners after dissolution.
35. Power of partner to bind partnership to third persons after dissolution.
36. Effect of dissolution on partner's existing liability.
37. Right to wind up.
38. Rights of partners to application of partnership property.
39. Rights where partnership is dissolved for fraud or misrepresentation.
40. Rules for distribution.
41. Liability of persons continuing the business in certain cases.
42. Rights of retiring or estate of deceased partner when the business is continued.
43. Accrual of actions.
44. Suit for accounting not to work dissolution of mining partnership; sale of interest.
45. Legislation repealed.

Be it enacted by the Legislature of West Virginia:

That chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article eight-a, to read as follows:

Section 1. *Name of Act.*—This article may be cited
2 as the Uniform Partnership Act.

Sec. 2. *Definition of Terms.*—In this article, “court”
2 includes every court and judge having jurisdiction in
3 the case.
4 “Business” includes every trade, occupation, or pro-
5 fession.
6 “Person” includes individuals, partnerships, corpora-
7 tions, and other associations.
8 “Bankrupt” includes bankrupt under the Federal Bank-
9 ruptcy Act or insolvent under any state insolvent act.
10 “Conveyance” includes every assignment, lease, mort-
11 gage, or encumbrance.

12 "Real property" includes land and any interest or estate
13 in land.

Sec. 3. *Interpretation of Knowledge and Notice.*—(1)

2 A person has "knowledge" of a fact within the meaning
3 of this article not only when he has actual knowledge
4 thereof, but also when he has knowledge of such other
5 facts as in the circumstances shows bad faith.

6 (2) A person has "notice" of a fact within the meaning
7 of this article when the person who claims the benefit
8 of the notice:

- 9 (a) States the fact to such person, or
10 (b) Delivers through the mail, or by other means of
11 communication, a written statement of the fact to such
12 person or to a proper person at his place of business
13 or residence.

Sec. 4. *Rules of Construction.*—(1) The rule that
2 statutes in derogation of the common law are to be
3 strictly construed shall have no application to this article.

4 (2) The law of estoppel shall apply under this article.

5 (3) The law of agency shall apply under this article.

6 (4) This article shall be so interpreted and construed
7 as to effect its general purpose to make uniform the
8 law of those states which enact it.

9 (5) This article shall not be construed so as to impair
10 the obligations of any contract existing when the article
11 goes into effect, nor to affect any action or proceedings
12 begun or right accrued before this article takes effect.

Sec. 5. *Rules for Cases Not Provided for in This Article.*

2 —In any case not provided for in this article the rules of
3 law and equity, including the law merchant, shall govern.

Sec. 6. *Partnership Defined.*—(1) A partnership is
2 an association of two or more persons to carry on as
3 coowners a business for profit.

4 (2) But any association formed under any other statute
5 of this state, or any statute adopted by authority, other
6 than the authority of this state, is not a partnership under
7 this article, unless such association would have been a
8 partnership in this state prior to the adoption of this arti-

9 cle; but this article shall apply to limited partnerships
10 except insofar as the statutes relating to such partnerships
11 are inconsistent herewith.

Sec. 7. *Rules for Determining the Existence of a Part-*
2 *nership.*—In determining whether a partnership exists,
3 these rules shall apply:

4 (1) Except as provided by section sixteen, persons who
5 are not partners as to each other are not partners as to
6 third persons.

7 (2) Joint tenancy, tenancy in common, tenancy by
8 the entireties, joint property, common property, or part
9 ownership does not of itself establish a partnership,
10 whether such coowners do or do not share any profits
11 made by the use of the property.

12 (3) The sharing of gross returns does not of itself
13 establish a partnership, whether or not the persons shar-
14 ing them have a joint or common right or interest in any
15 property from which the returns are derived.

16 (4) The receipt by a person of a share of the profits
17 of a business is prima facie evidence that he is a partner
18 in the business, but no such inference shall be drawn if
19 such profits were received in payment:

20 (a) As a debt by installments or otherwise,

21 (b) As wages of an employee or rent to a landlord,

22 (c) As an annuity to a widow or representative of a
23 deceased partner,

24 (d) As interest on a loan, though the amount of pay-
25 ment vary with the profits of the business,

26 (e) As the consideration for the sale of a good will of
27 a business or other property by installments or otherwise.

Sec. 8. *Partnership Property.*—(1) All property origi-
2 nally brought into the partnership stock or subsequently
3 acquired by purchase or otherwise, on account of the
4 partnership, is partnership property.

5 (2) Unless the contrary intention appears, property
6 acquired with partnership funds is partnership property.

7 (3) Any estate in real property may be acquired in
8 the partnership name. Title so acquired can be conveyed
9 only in the partnership name.

10 (4) A conveyance to a partnership in the partnership
11 name, though without words of inheritance, passes the
12 entire estate of the grantor unless a contrary intent
13 appears.

Sec. 9. *Partner Agent of Partnership as to Partnership*
2 *Business.*—(1) Every partner is an agent of the partner-
3 ship for the purpose of its business, and the act of every
4 partner, including the execution in the partnership name
5 of any instrument, for apparently carrying on in the
6 usual way the business of the partnership of which he
7 is a member binds the partnership, unless the partner
8 so acting has in fact no authority to act for the partnership
9 in the particular matter, and the person with whom he
10 is dealing has knowledge of the fact that he has no such
11 authority.

12 (2) An act of a partner which is not apparently for
13 the carrying on of the business of the partnership in the
14 usual way does not bind the partnership unless authorized
15 by the other partners.

16 (3) Unless authorized by the other partners or unless
17 they have abandoned the business, one or more but less
18 than all the partners have no authority to:

19 (a) Assign the partnership property in trust for
20 creditors or on the assignee's promise to pay the debts of
21 the partnership,

22 (b) Dispose of the good will of the business,

23 (c) Do any other act which would make it impossible
24 to carry on the ordinary business of a partnership,

25 (d) Confess a judgment,

26 (e) Submit a partnership claim or liability to arbitra-
27 tion or reference.

28 (4) No act of a partner in contravention of a restric-
29 tion on authority shall bind the partnership to persons
30 having knowledge of the restriction.

Sec. 10. *Conveyance of Real Property of the Partner-*
2 *ship.*—(1) Where title to real property is in the partner-
3 ship name, any partner may convey title to such property
4 by a conveyance executed in the partnership name; but
5 the partnership may recover such property unless the
6 partner's act binds the partnership under the provisions

7 of paragraph one of section nine, or unless such property
8 has been conveyed by the grantee or a person claiming
9 through such grantee to a holder for value without know-
10 ledge that the partner, in making the conveyance, has
11 exceeded his authority.

12 (2) Where title to real property is in the name of the
13 partnership, a conveyance executed by a partner, in his
14 own name, passes the equitable interest of the partnership,
15 provided the act is one within the authority of the part-
16 ner under the provisions of paragraph one of section nine.

17 (3) Where title to real property is in the name of one
18 or more but not all the partners, and the record does not
19 disclose the right of the partnership, the partners in whose
20 name the title stands may convey title to such property,
21 but the partnership may recover such property if the part-
22 ners' act does not bind the partnership under the provisions
23 of paragraph one of section nine, unless the purchaser or
24 his assignee, is a holder for value, without knowledge.

25 (4) Where the title to real property is in the name of
26 one or more or all the partners, or in a third person in trust
27 for the partnership, a conveyance executed by a partner
28 in the partnership name, or in his own name, passes the
29 equitable interest of the partnership, provided the act is
30 one within the authority of the partner under the pro-
31 visions of paragraph one of section nine.

32 (5) Where the title to real property is in the names
33 of all the partners a conveyance executed by all the part-
34 ners passes all their rights in such property.

Sec. 11. Partnership Bound by Admission of Partner.—

2 An admission or representation made by any partner con-
3 cerning partnership affairs within the scope of his author-
4 ity as conferred by this article is evidence against the part-
5 nership.

Sec. 12. Partnership Charged with Knowledge of or

2 *Notice to Partner.*—Notice to any partner of any matter
3 relating to partnership affairs, and the knowledge of the
4 partner acting in the particular matter, acquired while
5 a partner or then present to his mind, and the knowledge
6 of any other partner who reasonably could and should
7 have communicated it to the acting partner, operate as

8 notice to or knowledge of the partnership, except in the
9 case of a fraud on the partnership committed by or with
10 the consent of that partner.

Sec. 13. *Partnership Bound by Partner's Wrongful Act.*

2 —Where, by any wrongful act or omissions of any partner
3 acting in the ordinary course of the business of the part-
4 nership or with the authority of its copartners, loss or
5 injury is caused to any person, not being a partner in
6 the partnership, or any penalty is incurred, the partner-
7 ship is liable therefor to the same extent as the partner
8 so acting or omitting to act.

Sec. 14. *Partnership Bound by Partner's Breach of Trust.*—The partnership is bound to make good the loss:

3 (a) Where one partner acting within the scope of his
4 apparent authority receives money or property of a third
5 person and misapplies it; and

6 (b) Where the partnership in the course of its business
7 receives money or property of a third person and the
8 money or property so received is misapplied by any part-
9 ner while it is in the custody of the partnership.

Sec. 15. *Nature of Partner's Liability.*—All partners
2 are liable:

3 (a) Jointly and severally for everything chargeable
4 to the partnership under sections thirteen and fourteen.

5 (b) Jointly for all other debts and obligations of the
6 partnership; but any partner may enter into a separate
7 obligation to perform a partnership contract.

Sec. 16. *Partner by Estoppel.*—(1) When a person, by
2 words spoken or written or by conduct, represents him-
3 self, or consents to another representing him to any one,
4 as a partner in an existing partnership or with one or
5 more persons not actual partners, he is liable to any such
6 person to whom such representation has been made, who
7 has, on the faith of such representation, given credit to
8 the actual or apparent partnership, and if he has made
9 such representation or consented to its being made in a
10 public manner he is liable to such person, whether the
11 representation has or has not been made or communicated
12 to such person so giving credit by or with the knowledge

13 of the apparent partner making the representation or con-
14 senting to its being made:

15 (a) When a partnership liability results, he is liable
16 as though he were an actual member of the partnership.

17 (b) When no partnership liability results, he is liable
18 jointly with the other persons, if any, so consenting to
19 the contract or representation as to incur liability, other-
20 wise separately.

21 (2) When a person has been thus represented to be a
22 partner in an existing partnership, or with one or more
23 persons not actual partners, he is an agent of the persons
24 consenting to such representation to bind them to the
25 same extent and in the same manner as though he were
26 a partner in fact, with respect to persons who rely upon
27 the representation. Where all the members of the existing
28 partnership consent to the representation, a partnership
29 act or obligation results; but in all other cases it is the
30 joint act or obligation of the person acting and the per-
31 sons consenting to the representation.

Sec. 17. *Liability of Incoming Partner.*—A person ad-
2 mitted as a partner into an existing partnership is liable
3 for all the obligations of the partnership arising before
4 his admission as though he had been a partner when such
5 obligations were incurred, except that this liability shall
6 be satisfied only out of partnership property.

Sec. 18. *Rules Determining Rights and Duties of Part-*
2 *ners.*—The rights and duties of the partners in relation to
3 the partnership shall be determined, subject to any agree-
4 ment between them, by the following rules:

5 (a) Each partner shall be repaid his contributions,
6 whether by way of capital or advances to the partnership
7 property and share equally in the profits and surplus
8 remaining after all liabilities, including those to partners,
9 are satisfied; and must contribute towards the losses,
10 whether of capital or otherwise, sustained by the partner-
11 ship according to his share in the profits.

12 (b) The partnership must indemnify every partner
13 in respect of payments made and personal liabilities rea-
14 sonably incurred by him in the ordinary and proper con-

15 duct of its business, or for the preservation of its business
16 or property.

17 (c) A partner, who in aid of the partnership makes
18 any payment or advance beyond the amount of capital
19 which he agreed to contribute, shall be paid interest from
20 the date of the payment or advance.

21 (d) A partner shall receive interest on the capital
22 contribution by him only from the date when repayment
23 should be made.

24 (e) All partners have equal rights in the management
25 and conduct of the partnership business.

26 (f) No partner is entitled to remuneration for acting
27 in the partnership business, except that a surviving part-
28 ner is entitled to reasonable compensation for his services
29 in winding up the partnership affairs.

30 (g) No person can become a member of a partnership
31 without the consent of all the partners.

32 (h) Any difference arising as to ordinary matters con-
33 nected with the partnership business may be decided by
34 a majority of the partners; but no act in contravention
35 of any agreement between the partners may be done
36 rightfully without the consent of all the partners.

Sec. 19. *Partnership Books.*—The partnership books
2 shall be kept, subject to any agreement between the
3 partners, at the principal place of business of the partner-
4 ship, and every partner shall at all times have access to
5 and may inspect and copy any of them.

Sec. 20. *Duty of Partners to Render Information.*—
2 Partners shall render on demand true and full informa-
3 tion of all things affecting the partnership to any partner
4 or the legal representative of any deceased partner or
5 partner under legal disability.

Sec. 21. *Partner Accountable as a Fiduciary.*—(1)
2 Every partner must account to the partnership for any
3 benefit, and hold as trustee for it any profits derived
4 by him without the consent of the other partners from
5 any transaction connected with the formation, conduct,
6 or liquidation of the partnership or from any use by him
7 of its property.

8 (2) This section applies also to the representatives of
9 a deceased partner engaged in the liquidation of the
10 affairs of the partnership as the personal representatives
11 of the last surviving partner.

Sec. 22. *Right to an Account.*—Any partner shall have
2 the right to a formal account as to partnership affairs:

3 (a) If he is wrongfully excluded from the partnership
4 business or possession of its property by his copartners,

5 (b) If the right exists under the terms of any agree-
6 ment,

7 (c) As provided by section twenty-one,

8 (d) Whenever other circumstances render it just and
9 reasonable.

Sec. 23. *Continuation of Partnership Beyond Fixed*
2 *Term.*—(1) When a partnership for a fixed term or
3 particular undertaking is continued after the termination
4 of such term or particular undertaking without any ex-
5 press agreement, the rights and duties of the partners re-
6 main the same as they were at such termination, so far as is
7 consistent with a partnership at will.

8 (2) A continuation of the business by the partners or
9 such of them as habitually acted therein during the term,
10 without any settlement or liquidation of the partnership
11 affairs, is prima facie evidence of a continuation of the
12 partnership.

Sec. 24. *Extent of Property Rights of a Partner.*—The
2 property rights of a partner are (1) his rights in specific
3 partnership property, (2) his interest in the partnership,
4 and (3) his right to participate in the management.

Sec. 25. *Nature of a Partner's Right in Specific Partner-*
2 *ship Property.*—(1) A partner is coowner with his part-
3 ners of specific partnership property holding as a tenant
4 in partnership.

5 (2) The incidents of this tenancy are such that:

6 (a) A partner, subject to the provisions of this article
7 and to any agreement between the partners, has an equal
8 right with his partners to possess specific partnership
9 property for partnership purposes; but he has no right

10 to possess such property for any other purpose without
11 the consent of his partners.

12 (b) A partner's right in specific partnership property
13 is not assignable except in connection with the assign-
14 ment of rights of all the partners in the same property.

15 (c) A partner's right in specific partnership property
16 is not subject to attachment or execution, except on a
17 claim against the partnership. When partnership property
18 is attached for a partnership debt the partners, or any of
19 them, or the representatives of a deceased partner, cannot
20 claim any right under the homestead or exemption laws.

21 (d) On the death of a partner his right in specific
22 partnership property vests in the surviving partner or
23 partners, except where the deceased was the last surviving
24 partner, when his right in such property vests in his
25 legal representative. Such surviving partner or partners,
26 or the legal representative of the last surviving partner,
27 has no right to possess the partnership property for any
28 but a partnership purpose.

29 (e) A partner's right in specific partnership property
30 is not subject to dower, curtesy, or allowances to widows,
31 heirs, or next of kin.

Sec. 26. *Nature of Partner's Interest in the Partner-
2 ship.*—A partner's interest in the partnership is his share
3 of the profits and surplus, and the same is personal
4 property.

Sec. 27. *Assignment of Partner's Interest.*—(1) A con-
2 veyance by a partner of his interest in the partnership
3 does not of itself dissolve the partnership, nor, as against
4 the other partners in the absence of agreement, entitle
5 the assignee, during the continuance of the partnership,
6 to interfere in the management or administration of the
7 partnership business or affairs, or to require any informa-
8 tion or account of partnership transactions, or to inspect
9 the partnership books; but it merely entitles the assignee
10 to receive in accordance with his contract the profits to
11 which the assigning partner would otherwise be entitled.

12 (2) In case of a dissolution of the partnership, the
13 assignee is entitled to receive his assignor's interest and

14 may require an account from the date only of the last
15 account agreed to by all the partners.

Sec. 28. *Partner's Interest Subject to Charging Order.*—

2 (1) On due application to a competent court by any
3 judgment creditor of a partner, the court which entered
4 the judgment, order, or decree, or any other court, may
5 charge the interest of the debtor partner with payment
6 of the unsatisfied amount of such judgment debt with
7 interest thereon; and may then or later appoint a receiver
8 of his share of the profits, and of any other money due
9 or to fall due to him in respect of the partnership, and
10 make all other orders, directions, accounts and inquiries
11 which the debtor partner might have made, or which the
12 circumstances of the case may require.

13 (2) The interest charged may be redeemed at any
14 time before foreclosure, or in case of a sale being directed
15 by the court may be purchased without thereby causing
16 a dissolution:

17 (a) With separate property, by any one or more of
18 the partners, or

19 (b) With partnership property, by any one or more of
20 the partners with the consent of all the partners whose
21 interests are not so charged or sold.

22 (3) Nothing in this article shall be held to deprive a
23 partner of his right, if any, under the exemption laws,
24 as regards his interest in the partnership.

Sec. 29. *Dissolution Defined.*—The dissolution of a part-
2 nership is the change in the relation of the partners caused
3 by any partner ceasing to be associated in the carrying
4 on as distinguished from the winding up of the business.

Sec. 30. *Partnership Not Terminated by Dissolution.*—
2 On dissolution the partnership is not terminated, but
3 continues until the winding up of partnership affairs is
4 completed.

Sec. 31. *Causes of Dissolution.*—Dissolution is caused:

2 (1) Without violation of the agreement between the
3 partners:

4 (a) By the termination of the definite term or par-
5 ticular undertaking specified in the agreement.

6 (b) By the express will of any partner when no definite
7 term or particular undertaking is specified,

8 (c) By the express will of all the partners who have
9 not assigned their interests or suffered them to be charged
10 for their separate debts, either before or after the termi-
11 nation of any specified term or particular undertaking,

12 (d) By the expulsion of any partner from the business
13 bona fide in accordance with such a power conferred by
14 the agreement between the partners;

15 (2) In contravention of the agreement between the
16 partners, where the circumstances do not permit a disso-
17 lution under any other provisions of this section, by the
18 express will of any partner at any time;

19 (3) By any event which makes it unlawful for the
20 business of the partnership to be carried on or for the
21 members to carry it on in partnership;

22 (4) By the death of any partner;

23 (5) By the bankruptcy of any partner or the partner-
24 ship;

25 (6) By decree of court under section thirty-two.

Sec. 32. *Dissolution by Decree of Court.*—(1) On appli-
2 cation by or for a partner the court shall decree a dissolu-
3 tion whenever:

4 (a) A partner has been declared a lunatic in any ju-
5 dicial proceeding or is shown to be of unsound mind,

6 (b) A partner becomes in any other way incapable of
7 performing his part of the partnership contract,

8 (c) A partner has been guilty of such conduct as tends
9 to affect prejudicially the carrying on of the business,

10 (d) A partner wilfully or persistently commits a breach
11 of the partnership agreement, or otherwise so conducts
12 himself in matters relating to the partnership business
13 that it is not reasonably practicable to carry on the busi-
14 ness in partnership with him,

15 (e) The business of the partnership can only be carried
16 on at a loss,

17 (f) Other circumstances render a dissolution equitable.

18 (2) On the application of the purchaser of a partner's
19 interest under sections twenty-seven or twenty-eight:

20 (a) After the termination of the specified term or par-
21 ticular undertaking,

22 (b) At any time if the partnership was a partnership
23 at will when the interest was assigned or when the charg-
24 ing order was issued.

Sec. 33. *General Effect of Dissolution on Authority of*
2 *Partner.*—Except so far as may be necessary to wind up
3 partnership affairs or to complete transactions begun but
4 not then finished, dissolution terminates all authority of
5 any partner to act for the partnership,

6 (1) With respect to the partners,

7 (a) When the dissolution is not by the act, bankruptcy
8 or death of a partner; or

9 (b) When the dissolution is by such act, bankruptcy or
10 death of a partner, in cases where section thirty-four so
11 requires.

12 (2) With respect to persons not partners, as declared
13 in section thirty-five.

Sec. 34. *Right of Partner to Contribution From Co-*
2 *partners After Dissolution.*—Where the dissolution is
3 caused by the act, death or bankruptcy of a partner, each
4 partner is liable to his copartners for his share of any
5 liability created by any partner acting for the partnership
6 as if the partnership had not been dissolved unless;

7 (a) The dissolution being by act of any partner, the
8 partner acting for the partnership had knowledge of the
9 dissolution, or

10 (b) The dissolution being by the death or bankruptcy
11 of a partner, the partner acting for the partnership had
12 knowledge or notice of the death or bankruptcy.

Sec. 35. *Power of Partner to Bind Partnership to Third*
2 *Persons After Dissolution.*—(1) After dissolution a part-
3 ner can bind the partnership except as provided in para-
4 graph (3)

5 (a) By any act appropriate for winding up partnership
6 affairs or completing transactions unfinished at dissolu-
7 tion;

8 (b) By any transaction which would bind the partner-

9 ship if dissolution had not taken place, provided the other
10 party to the transaction:

11 (I) Had extended credit to the partnership prior to
12 dissolution and had no knowledge or notice of the disso-
13 lution; or

14 (II) Though he had not so extended credit, had never-
15 theless known of the partnership prior to dissolution, and,
16 having no knowledge or notice of dissolution, the fact of
17 dissolution had not been advertised in a newspaper of
18 general circulation in the place (or in each place if more
19 than one) at which the partnership business was regularly
20 carried on.

21 (2) The liability of a partner under paragraph (1-b)
22 shall be satisfied out of partnership assets alone when such
23 partner had been prior to dissolution:

24 (a) Unknown as a partner to the person with whom
25 the contract is made; and

26 (b) So far unknown and inactive in partnership affairs
27 that the business reputation of the partnership could not
28 be said to have been in any degree due to his connection
29 with it.

30 (3) The partnership is in no case bound by any act of
31 a partner after dissolution:

32 (a) Where the partnership is dissolved because it is
33 unlawful to carry on the business, unless the act is appro-
34 priate for winding up partnership affairs; or

35 (b) Where the partner has become bankrupt; or

36 (c) Where the partner has no authority to wind up
37 partnership affairs; except by a transaction with one who:

38 (I) Had an extended credit to the partnership prior to
39 dissolution and had no knowledge or notice of his want
40 of authority; or

41 (II) Had not extended credit to the partnership prior
42 to dissolution, and, having no knowledge or notice of his
43 want of authority, the fact of his want of authority has
44 not been advertised in the manner provided for advertis-
45 ing the fact of dissolution in paragraph (1bII).

46 (4) Nothing in this section shall affect the liability un-
47 der section sixteen of any person who after dissolution
48 represents himself or consents to another representing

49 him as a partner in a partnership engaged in carrying on
50 business.

Sec. 36. *Effect of Dissolution on Partner's Existing Liability.*—(1) The dissolution of the partnership does not
2 of itself discharge the existing liability of any partner.

4 (2) A partner is discharged from any existing liability
5 upon dissolution of the partnership by an agreement to
6 that effect between himself, the partnership creditor and
7 the person or partnership continuing the business; and
8 such agreement may be inferred from the course of deal-
9 ing between the creditor having knowledge of the dissolu-
10 tion and the person or partnership continuing the busi-
11 ness.

12 (3) Where a person agrees to assume the existing obli-
13 gations of a dissolved partnership, the partners whose ob-
14 ligations have been assumed shall be discharged from
15 any liability to any creditor of the partnership who, know-
16 ing of the agreement, consents to a material alteration in
17 the nature or time of payment of such obligations.

18 (4) The individual property of a deceased partner shall
19 be liable for all obligations of the partnership incurred
20 while he was a partner but subject to the prior payment
21 of his separate debts.

Sec. 37. *Right to Wind Up.*—Unless otherwise agreed
2 the partners who have not wrongfully dissolved the part-
3 nership or the legal representative of the last surviving
4 partner, not bankrupt, has the right to wind up the part-
5 nership affairs: *Provided, however,* That any partner, his
6 legal representative or his assignee, upon cause shown,
7 may obtain winding up by the court.

Sec. 38. *Rights of Partners to Application of Partnership Property.*—(1) When dissolution is caused in any way,
2 except in contravention of the partnership agreement,
3 each partner, as against his copartners and all persons
4 claiming through them in respect of their interests in the
5 partnership, unless otherwise agreed, may have the part-
6 nership property applied to discharge its liabilities, and
7 the surplus applied to pay in cash the net amount owing
8 to the respective partners. But if dissolution is caused
9

10 by expulsion of a partner, bona fide under the partnership
11 agreement and if the expelled partner is discharged from
12 all partnership liabilities, either by payment or agreement
13 under section thirty-six (2), he shall receive in cash only
14 the net amount due him from the partnership.

15 (2) When dissolution is caused in contravention of the
16 partnership agreement the rights of the partners shall be
17 as follows:

18 (a) Each partner who has not caused dissolution wrong-
19 fully shall have,

20 (I) All the rights specified in paragraph (1) of this
21 section, and

22 (II) The right, as against each partner who has caused
23 the dissolution wrongfully, to damages for breach of the
24 agreement.

25 (b) The partners who have not caused the dissolution
26 wrongfully, if they all desire to continue the business in
27 the same name, either by themselves or jointly with
28 others, may do so, during the agreed term for the partner-
29 ship and for that purpose may possess the partnership
30 property, provided they secure the payment by bond ap-
31 proved by the court, or pay to any partner who has caused
32 the dissolution wrongfully, the value of his interest in the
33 partnership at the dissolution, less any damages recover-
34 able under clause (2aII) of this section, and in like manner
35 indemnify him against all present or future partnership
36 liabilities.

37 (c) A partner who has caused the dissolution wrong-
38 fully shall have:

39 (I) If the business is not continued under the provisions
40 of paragraph (2-b) all the rights of a partner under para-
41 graph (1), subject to clause (2aII), of this section,

42 (II) If the business is continued under paragraph (2-b)
43 of this section the right as against his copartners and all
44 claiming through them in respect of their interests in the
45 partnership, to have the value of his interest in the part-
46 nership, less any damages caused to his copartners by the
47 dissolution, ascertained and paid to him in cash, or the
48 payment secured by bond approved by the court, and to
49 be released from all existing liabilities of the partnership;
50 but in ascertaining the value of the partner's interest the

51 value of the good will of the business shall not be con-
52 sidered.

Sec. 39. *Rights Where Partnership is Dissolved for*
2 *Fraud or Misrepresentation.*—Where a partnership con-
3 tract is rescinded on the ground of the fraud or misrepre-
4 sentation of one of the parties thereto, the party entitled to

5 rescind is, without prejudice to any other right, entitled,
6 (a) To a lien on, or right of retention of, the surplus
7 of the partnership property after satisfying the partner-
8 ship liabilities to third persons for any sum of money
9 paid by him for the purchase of an interest in the partner-
10 ship and for any capital or advances contributed by him;
11 and

12 (b) To stand, after all liabilities to third persons have
13 been satisfied, in the place of the creditors of the partner-
14 ship for any payments made by him in respect of the
15 partnership liabilities; and

16 (c) To be indemnified by the person guilty of the
17 fraud or making the representation against all debts and
18 liabilities of the partnership.

Sec. 40. *Rules for Distribution.*—In settling accounts
2 between the partners after dissolution, the following rules
3 shall be observed, subject to any agreement to the con-
4 trary:

5 (a) The assets of the partnership are:

6 (I) The partnership property,

7 (II) The contributions of the partners necessary for
8 the payment of all the liabilities specified in clause (b) of
9 this paragraph.

10 (b) The liabilities of the partnership shall rank in order
11 of payment, as follows:

12 (I) Those owing to creditors other than partners,

13 (II) Those owing to partners other than for capital
14 and profits,

15 (III) Those owing to partners in respect of capital,

16 (IV) Those owing to partners in respect of profits.

17 (c) The assets shall be applied in the order of their
18 declaration in clause (a) of this paragraph to the satis-
19 faction of the liabilities.

20 (d) The partners shall contribute, as provided by sec-

21 tion eighteen (a) the amount necessary to satisfy the
22 liabilities; but if any, but not all, of the partners are
23 insolvent, or, not being subject to process, refuse to con-
24 tribute, the other partners shall contribute their share of
25 the liabilities, and, in the relative proportions in which
26 they share the profits, the additional amount necessary
27 to pay the liabilities.

28 (e) An assignee for the benefits of creditors or any
29 person appointed by the court shall have the right to en-
30 force the contributions specified in clause (d) of this
31 paragraph.

32 (f) Any partner or his legal representative shall have
33 the right to enforce the contributions specified in clause
34 (d) of this paragraph, to the extent of the amount which
35 he has paid in excess of his share of the liability.

36 (g) The individual property of a deceased partner
37 shall be liable for the contributions specified in clause (d)
38 of this paragraph.

39 (h) When partnership property and the individual
40 properties of the partners are in possession of a court for
41 distribution, partnership creditors shall have priority on
42 partnership property and separate creditors on individual
43 property, saving the rights of lien or secured creditors as
44 heretofore.

45 (i) Where a partner has become bankrupt or his estate
46 is insolvent the claims against his separate property shall
47 rank in the following order:

48 (I) Those owing to separate creditors,

49 (II) Those owing to partnership creditors,

50 (III) Those owing to partners by way of contribution.

Sec. 41. *Liability of Persons Continuing the Business*
2 *in Certain Cases.*—(1) When any new partner is ad-
3 mitted into an existing partnership, or when any partner
4 retires and assigns (or the representative of the deceased
5 partner assigns) his rights in partnership property to two
6 or more of the partners, or to one or more of the partners
7 and one or more third persons, if the business is continued
8 without liquidation of the partnership affairs, creditors
9 of the first or dissolved partnership are also creditors
10 of the partnership so continuing the business.

11 (2) When all but one partner retire and assign (or
12 the representative of a deceased partner assigns) their
13 rights in partnership property to the remaining partner,
14 who continues the business without liquidation of partner-
15 ship affairs, either alone or with others, creditors of the
16 dissolved partnership are also creditors of the person or
17 partnership so continuing the business.

18 (3) When any partner retires or dies and the business
19 of the dissolved partnership is continued as set forth in
20 paragraphs (1) and (2) of this section, with the consent
21 of the retired partners or the representative of the
22 deceased partner, but without any assignment of his
23 right in partnership property, rights of creditors of the
24 dissolved partnership and of the creditors of the person
25 or partnership continuing the business shall be as if
26 such assignment had been made.

27 (4) When all the partners or their representatives
28 assign their rights in partnership property to one or more
29 third persons who promise to pay the debts and who
30 continue the business of the dissolved partnership,
31 creditors of the dissolved partnership are also creditors
32 of the person or partnership continuing the business.

33 (5) When any partner wrongfully causes a dissolution
34 and the remaining partners continue the business under
35 the provisions of section thirty-eight, (2-b), either alone
36 or with others, and without liquidation of the partnership
37 affairs, creditors of the dissolved partnership are also
38 creditors of the person or partnership continuing the
39 business.

40 (6) When a partner is expelled and the remaining
41 partners continue the business either alone or with others,
42 without liquidation of the partnership affairs, creditors
43 of the dissolved partnership are also creditors of the
44 person or partnership continuing the business.

45 (7) The liability of a third person becoming a partner
46 in the partnership continuing the business, under this
47 section, to the creditors of the dissolved partnership shall
48 be satisfied out of partnership property only.

49 (8) When the business of a partnership after dissolu-
50 tion is continued under any conditions set forth in this
51 section the creditors of the dissolved partnership, as

52 against the separate creditors of the retiring or deceased
53 partner or the representative of the deceased partner,
54 have a prior right to any claim of the retired partner or
55 the representative of the deceased partner against the
56 person or partnership continuing the business, on account
57 of the retired or deceased partner's interest in the dis-
58 solved partnership or on account of any consideration
59 promised for such interest or for his right in partnership
60 property.

61 (9) Nothing in this section shall be held to modify
62 any right of creditors to set aside any assignment on the
63 ground of fraud.

64 (10) The use by the person or partnership continuing
65 the business of the partnership name, or the name of a
66 deceased partner as a part thereof, shall not of itself make
67 the individual property of the deceased partner liable
68 for any debts contracted by such person or partnership.

Sec. 42. *Rights of Retiring or Estate of Deceased Part-*
2 *ner When the Business is Continued.*—When any partner
3 retires or dies, and the business is continued under any
4 of the conditions set forth in section forty-one (1, 2, 3,
5 5, 6) or section thirty-eight (1-b), without any settlement
6 of accounts as between him or his estate and the person
7 or partnership continuing the business, unless otherwise
8 agreed, he or his legal representative as against such
9 persons or partnership may have the value of his interest
10 at the date of dissolution ascertained, and shall receive
11 as an ordinary creditor an amount equal to the value of
12 his interest in the dissolved partnership with interest,
13 or, at his option or at the option of his legal representative,
14 in lieu of interest, the profits attributable to the use
15 of his right in the property of the dissolved partnership:
16 *Provided,* That the creditors of the dissolved partnership
17 as against the separate creditors, or the representative of
18 the retired or deceased partner, shall have priority on any
19 claim arising under this section, as provided by section
20 forty-one (8) of this article.

Sec. 43. *Accrual of Actions.*—The right to an account
2 of his interest shall accrue to any partner, or his legal

3 representative, as against the winding up partners or the
4 surviving partners or the person or partnership continu-
5 ing the business, at the date of dissolution, in the absence
6 of any agreement to the contrary.

Sec. 44. *Suit for Accounting Not to Work Dissolution*
2 *of Mining Partnership; Sale of Interest.*—Any member
3 or members of a mining partnership may institute and
4 prosecute to final decree a suit in equity for an account-
5 ing among the members of the partnership without the
6 dissolution thereof. Upon such accounting the court shall
7 decree the sale of the undivided interest or interests
8 of such member or members as may be ascertained to
9 be indebted to any member or members, or to the partner-
10 ship, without decreeing the dissolution thereof, unless
11 such dissolution shall be necessary to enable a fair sale
12 of such undivided interest or interests to be made in
13 such suit.

Sec. 45. *Legislation Repealed.*—All acts or parts of acts
2 inconsistent with this article are hereby repealed.

CHAPTER 140

(House Bill No. 171—By Mr. Ballard and Mr. Richardson)

AN ACT to repeal article nine, chapter forty-seven of the code
of West Virginia, one thousand nine hundred thirty-one,
as amended, and to enact in lieu thereof a new article nine,
relating to limited partnerships.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the
Governor.]

Article 9. Uniform Limited Partnership Act.

Section

1. Limited partnership defined.
2. Formation.
3. Business which may be carried on.
4. Character of limited partner's contribution.
5. A name not to contain surname of limited partner: exceptions.
6. Liability for false statements in certificate.
7. Limited partner not liable to creditors.

8. Admission of additional limited partners.
9. Rights, powers and liabilities of a general partner.
10. Rights of a limited partner.
11. Status of person erroneously believing himself a limited partner.
12. One person both general and limited partner.
13. Loans and other business transactions with limited partner.
14. Relation of limited partners inter se.
15. Compensation of limited partner.
16. Withdrawal or reduction of limited partner's contribution.
17. Liability of limited partner to partnership.
18. Nature of limited partner's interest in partnership.
19. Assessment of limited partner's interest.
20. Effect of retirement, death or insanity of a general partner.
21. Death of limited partner.
22. Rights of creditors of limited partner.
23. Distribution of assets.
24. When certificate shall be cancelled or amended.
25. Requirements for amendment and for cancellation of certificate.
26. Parties to actions.
27. Name of act.
28. Rules of construction.
29. Rules for cases not provided for in this article.
30. Provisions for existing limited partnerships.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new article nine be enacted in lieu thereof, to read as follows:

Section 1. *Limited Partnership Defined.*—A limited partnership is a partnership formed by two or more persons under the provisions of section two of this article, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership.

Sec. 2. *Formation.*—(1) Two or more persons desiring to form a limited partnership shall:

- (a) Sign and swear to a certificate, which shall state:
 - I. The name of the partnership,
 - II. The character of the business,
 - III. The location of the principal place of business,
 - IV. The name and place of residence of each member; general and limited partners being respectively designated,
 - V. The term for which the partnership is to exist,
 - VI. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner,

13 VII. The additional contributions, if any, agreed to be
14 made by each limited partner and the times at which
15 or events on the happenings of which they shall be made,

16 VIII. The time, if agreed upon, when the contribution
17 of each limited partner is to be returned,

18 IX. The share of the profits or the other compensa-
19 tion by way of income which each limited partner shall
20 receive by reason of his contribution,

21 X. The right, if given, of a limited partner to sub-
22 stitute an assignee as contributor in his place, and the
23 terms and conditions of the substitution,

24 XI. The right, if given, of the partners to admit addi-
25 tional limited partners,

26 XII. The right, if given, of one or more of the limited
27 partners to priority over other limited partners, as to
28 contributions or as to compensation by way of income,
29 and the nature of such priority,

30 XIII. The right, if given, of the remaining general
31 partner or partners to continue the business on the death,
32 retirement or insanity of a general partner, and

33 XIV. The right, if given, of a limited partner to demand
34 and receive property other than cash in return for his
35 contribution.

36 (b) File for record the certificate in the office of the
37 clerk of the county court of each county in which such
38 partnership has a place of business.

39 (2) A limited partnership is formed if there has been
40 substantial compliance in good faith with the require-
41 ments of paragraph (1) of this section.

Sec. 3. *Business Which May Be Carried On.*—A limited
2 partnership may carry on any business which a partner-
3 ship without limited partners may carry on, except the
4 business of banking, brokerage, or making insurance.

Sec. 4. *Character of Limited Partner's Contribution.*—
2 The contributions of a limited partner may be cash or
3 other property, but not services.

Sec. 5. *A Name Not to Contain Surname of Limited*
2 *Partner: Exceptions.*—(1) The surname of a limited part-
3 ner shall not appear in the partnership name, unless:

4 (a) It is also the surname of a general partner, or
5 (b) Prior to the time when the limited partner became
6 such the business had been carried on under a name in
7 which his surname appeared.

8 (2) A limited partner whose name appears in a par-
9 nership name contrary to the provisions of paragraph
10 (1) of this section is liable as a general partner to part-
11 nership creditors who extend credit to the partnership
12 without actual knowledge that he is not a general partner.

Sec. 6. *Liability for False Statements in Certificate.*—

2 If the certificate contains a false statement, one who
3 suffers loss by reliance on such statement may hold liable
4 any party to the certificate who knew the statement to
5 be false:

6 (a) At the time he signed the certificate, or

7 (b) Subsequently, but within a sufficient time before
8 the statement was relied upon to enable him to cancel
9 or amend the certificate, or to file a petition for its can-
10 cellation or amendment as provided in section twenty-
11 five (3) of this article.

Sec. 7. *Limited Partner Not Liable to Creditors.*—A

2 limited partner shall not become liable as a general part-
3 ner unless, in addition to the exercise of his rights and
4 powers as a limited partner, he takes part in the control
5 of the business.

Sec. 8. *Admission of Additional Limited Partners.*—

2 After the formation of a limited partnership, additional
3 limited partners may be admitted upon filing an amend-
4 ment to the original certificate in accordance with the
5 requirements of section twenty-five of this article.

Sec. 9. *Rights, Powers and Liabilities of a General Partner.*—(1) A general partner shall have all the rights
3 and powers and be subject to all the restrictions and
4 liabilities of a partner in a partnership without limited
5 partners, except that without the written consent or
6 ratification of the specific act by all the limited partners,
7 a general partner or all of the general partners have no
8 authority to:

- 9 (a) Do any act in contravention of the certificate,
10 (b) Do any act which would make it impossible to
11 carry on the ordinary business of the partnership,
12 (c) Confess a judgment against the partnership,
13 (d) Possess partnership property, or assign their rights
14 in specific partnership property, for other than a partner-
15 ship purpose,
16 (e) Admit a person as a general partner,
17 (f) Admit a person as a limited partner, unless the
18 right so to do is given in the certificate,
19 (g) Continue the business with partnership property
20 on the death, retirement or insanity of a general partner,
21 unless the right so to do is given in the certificate.

Sec. 10. *Rights of a Limited Partner.*—(1) A limited
2 partner shall have the same rights as a general partner
3 to:

- 4 (a) Have the partnership books kept at the principal
5 place of business of the partnership, and at all times to
6 inspect and copy any of them,
7 (b) Have on demand true and full information of all
8 things affecting the partnership, and a formal account
9 of partnership affairs whenever circumstances render
10 it just and reasonable, and
11 (c) Have dissolution and winding up by decree of
12 court.
13 (2) A limited partner shall have the right to receive
14 a share of the profits or other compensation by way of
15 income, and to the return of his contribution as provided
16 in sections fifteen and sixteen of this article.

Sec. 11. *Status of Person Erroneously Believing Him-
2 self a Limited Partner.*—A person who has contributed
3 to the capital of a business conducted by a person or
4 partnership erroneously believing that he has become a
5 limited partner in a limited partnership, is not, by reason
6 of his exercise of the rights of a limited partner, a general
7 partner with the person or in the partnership carrying
8 on the business, or bound by the obligations of such
9 person or partnership: *Provided*, That on ascertaining the
10 mistake he promptly renounces his interest in the profits
11 of the business, or other compensation by way of income.

Sec. 12. *One Person both General and Limited Partner.*

2 —(1) A person may be a general partner and a limited
3 partner in the same partnership at the same time.

4 (2) A person who is a general, and also at the same
5 time a limited partner, shall have all the rights and
6 powers and be subject to all the restrictions of a general
7 partner; except that, in respect to his contribution, he
8 shall have the rights against the other members which
9 he would have had if he were not also a general partner.

Sec. 13. *Loans and Other Business Transactions with*
2 *Limited Partner.*—(1) A limited partner also may loan
3 money to and transact other business with the partner-
4 ship, and, unless he is also a general partner, receive on
5 account of resulting claims against the partnership, with
6 general creditors, a pro rata share of the assets. No
7 limited partner shall in respect to any such claim:

8 (a) Receive or hold as collateral security any partner-
9 ship property, or

10 (b) Receive from a general partner or the partnership
11 any payment, conveyance, or release from liability, if
12 at the time the assets of the partnership are not sufficient
13 to discharge partnership liabilities to persons not claim-
14 ing as general or limited partners,

15 (2) The receiving of collateral security, or a payment,
16 conveyance, or release in violation of the provisions of
17 paragraph (1) of this section is a fraud on the creditors
18 of the partnership.

Sec. 14. *Relation of Limited Partners Inter Se.*—Where
2 there are several limited partners the members may agree
3 that one or more of the limited partners shall have a
4 priority over other limited partners as to the return of
5 their contributions, as to their compensation by way of
6 income, or as to any other matter. If such an agreement
7 is made it shall be stated in the certificate, and in the
8 absence of such a statement all the limited partners shall
9 stand upon equal footing.

Sec. 15. *Compensation of Limited Partner.*—A limited
2 partner may receive from the partnership the share of
3 the profits or the compensation by way of income stipu-

4 lated for in the certificate: *Provided*, That after such pay-
5 ment is made, whether from the property of the partner-
6 ship or that of a general partner, the partnership assets
7 are in excess of all liabilities of the partnership except
8 liabilities to limited partners on account of their contribu-
9 tions and to general partners.

Sec. 16. *Withdrawal or Reduction of Limited Partner's*
2 *Contribution.*—(1) A limited partner shall not receive
3 from a general partner or out of partnership property any
4 part of his contribution until:

5 (a) All liabilities of the partnership, except liabilities
6 to general partners and to limited partners on account of
7 their contributions, have been paid or there remains prop-
8 erty of the partnership sufficient to pay them,

9 (b) The consent of all members is had, unless the re-
10 turn of the contribution may be rightfully demanded un-
11 der the provisions of paragraph (2) of this section, and

12 (c) The certificate is cancelled or so amended as to set
13 forth the withdrawal or reduction.

14 (2) Subject to the provisions of paragraph (1) of this
15 section a limited partner may rightfully demand the re-
16 turn of his contribution

17 (a) On the dissolution of a partnership, or

18 (b) When the date specified in the certificate for its
19 return has arrived, or

20 (c) After he has given six months' notice in writing
21 to all other members, if no time is specified in the certifi-
22 cate either for the return of the contribution or for the
23 dissolution of the partnership,

24 (3) In the absence of any statement in the certificate
25 to the contrary or the consent of all members, a limited
26 partner, irrespective of the nature of his contribution, has
27 only the right to demand and receive cash in return for
28 his contribution.

29 (4) A limited partner may have the partnership dis-
30 solved and its affairs wound up when

31 (a) He rightfully but unsuccessfully demands the re-
32 turn of his contribution, or

33 (b) The other liabilities of the partnership have not
34 been paid, or the partnership property is insufficient for

35 their payment as required by paragraph (1a) of this sec-
36 tion and the limited partner would otherwise be entitled
37 to the return or his contribution.

Sec. 17. *Liability of Limited Partner to Partnership.*—

2 (1) A limited partner is liable to the partnership:

3 (a) For the difference between his contribution as ac-
4 tually made and that stated in the certificate as having
5 been made, and

6 (b) For any unpaid contribution which he agreed in
7 the certificate to make in the future at the time and on
8 the conditions stated in the certificate.

9 (2) A limited partner holds as trustee for the partner-
10 ship:

11 (a) Specific property stated in the certificate as con-
12 tributed by him, but which was not contributed or which
13 has been wrongfully returned, and

14 (b) Money or other property wrongfully paid or con-
15 veyed to him on account of his contribution.

16 (3) The liabilities of a limited partner as set forth in
17 this section can be waived or compromised only by the
18 consent of all members; but a waiver or compromise shall
19 not affect the right of a creditor of a partnership, who
20 extended credit or whose claim arose after the filing and
21 before a cancellation or amendment of the certificate, to
22 enforce such liabilities.

23 (4) When a contributor has rightfully received the
24 return in whole or in part of the capital of his contribu-
25 tion, he is nevertheless liable to the partnership for any
26 sum, not in excess of such return with interest, necessary
27 to discharge its liabilities to all creditors who extended
28 credit or whose claims arose before such return.

Sec. 18. *Nature of Limited Partner's Interest in Part-
2 nership.*—A limited partner's interest in the partnership
3 is personal property.

Sec. 19. *Assessment of Limited Partner's Interest.*—

2 (1) A limited partner's interest is assignable.

3 (2) A substituted limited partner is a person admitted
4 to all the rights of a limited partner who has died or has
5 assigned his interest in a partnership.

6 (3) An assignee, who does not become a substituted

7 limited partner, has no right to require any information
8 or account of the partnership transactions or to inspect
9 the partnership books; he is only entitled to receive the
10 share of the profits or other compensation by way of in-
11 come, or the return of his contribution, to which his as-
12 signor would otherwise be entitled.

13 (4) An assignee shall have the right to become a sub-
14 stituted limited partner if all the members (except the
15 assignor) consent thereto or if the assignor, being there-
16 unto empowered by the certificate, gives the assignee
17 that right.

18 (5) An assignee becomes a substituted limited partner
19 when the certificate is appropriately amended in accord-
20 ance with section twenty-five of this article.

21 (6) The substituted limited partner has all the rights
22 and powers, and is subject to all the restrictions and lia-
23 bilities of his assignor, except those liabilities of which
24 he was ignorant at the time he became a limited partner
25 and which could not be ascertained from the certificate.

26 (7) The substitution of the assignee as a limited part-
27 ner does not release the assignor from liability of the part-
28 nership under sections six and seventeen of this article.

Sec. 20. *Effect of Retirement, Death or Insanity of a*
2 *General Partner.*—The retirement, death or insanity of a
3 general partner dissolves the partnership, unless the busi-
4 ness is continued by the remaining general partners:

- 5 (a) Under a right so to do stated in the certificate, or
6 (b) With the consent of all members.

Sec. 21. *Death of Limited Partner.*—(1) On the death
2 of a limited partner his executor or administrator shall
3 have all the rights of a limited partner for the purpose of
4 settling his estate, and such power as the deceased had to
5 constitute his assignee a substituted limited partner.

6 (2) The estate of a deceased limited partner shall be
7 liable for all his liabilities as a limited partner.

Sec. 22. *Rights of Creditors of Limited Partner.*—(1) On
2 due application to a court of competent jurisdiction by
3 any judgment creditor of a limited partner, the court may
4 charge the interest of the indebted limited partner with
5 payment of the unsatisfied amount of the judgment debt;

6 and may appoint a receiver, and make all other orders,
7 directions, and inquiries which the circumstances of the
8 case may require.

9 (2) The interest may be redeemed with the separate
10 property of any general partner, but may not be redeemed
11 with partnership property.

12 (3) The remedies conferred by paragraph (1) of this
13 section shall not be deemed exclusive of others which may
14 exist.

15 (4) Nothing in this act shall be held to deprive a limit-
16 ed partner of his statutory exemption.

Sec. 23. *Distribution of Assets.*— (1) In settling accounts
2 after dissolution the liabilities of the partnership shall be
3 entitled to payment in the following order:

4 (a) Those to creditors, in the order of priority as pro-
5 vided by law, except those to limited partners on account
6 of their contributions, and to general partners,

7 (b) Those to limited partners in respect to their share
8 of the profits and other compensation by way of income on
9 their contributions,

10 (c) Those to limited partners in respect to the capital
11 of their contributions,

12 (d) Those to general partners other than for capital
13 and profits,

14 (e) Those to general partners in respect to profits,

15 (f) Those to general partners in respect to capital.

16 (2) Subject to any statement in the certificate or to
17 subsequent agreement, limited partners share in the part-
18 nership assets in respect to their claims for capital, and
19 in respect to their claims for profits or for compensation
20 by way of income on their contributions respectively, in
21 proportion to the respective amounts of such claims.

Sec. 24. *When Certificate Shall Be Cancelled or Amend-*
2 *ed.*— (1) The certificate shall be cancelled when the part-
3 nership is dissolved or all limited partners cease to be
4 such.

5 (2) A certificate shall be amended when:

6 (a) There is a change in the name of the partnership
7 or in the amount or character of the contribution of any
8 limited partner,

- 9 (b) A person is substituted as a limited partner,
10 (c) An additional limited partner is admitted,
11 (d) A person is admitted as a general partner,
12 (e) A general partner retires, dies or becomes insane,
13 and the business is continued under section twenty of
14 this article,
15 (f) There is a change in the character of the business
16 of the partnership,
17 (g) There is a false or erroneous statement in the cer-
18 tificate,
19 (h) There is a change in the time as stated in the cer-
20 tificate for the dissolution of the partnership or for the
21 return of a contribution,
22 (i) A time is fixed for the dissolution of the partner-
23 ship, or the return of a contribution, no time having been
24 specified in the certificate, or
25 (j) The members desire to make a change in any other
26 statement in the certificate in order that it shall accurately
27 represent the agreement between them.

Sec. 25. *Requirements for Amendment and for Cancel-*
2 *lation of Certificate.*—(1) The writing to amend a certifi-
3 cate shall

4 (a) Conform to the requirements of section two (1a)
5 of this article as far as necessary to set forth clearly the
6 change in the certificate which it is desired to make, and

7 (b) Be signed and sworn to by all members, and an
8 amendment substituting a limited partner or adding a
9 limited or general partner shall be signed also by the
10 member to be substituted or added, and when a limited
11 partner is to be substituted, the amendment shall also be
12 signed by the assigning limited partner.

13 (2) The writing to cancel a certificate shall be signed
14 by all members.

15 (3) A person desiring the cancellation or amendment
16 of a certificate, if any person designated in paragraphs
17 (1) and (2) of this section as a person who must execute
18 the writing refuses to do so, may petition the circuit court
19 of the county in which the person refusing to execute the
20 writing resides, or, at the election of the petitioner, the
21 circuit court of the county in which the principal office

22 or place of business of the partnership is located, to direct
23 a cancellation or amendment thereof.

24 (4) If the court finds that the petitioner has a right
25 to have the writing executed by a person who refuses to
26 do so, it shall order the clerk of the county court of the
27 county, or counties, where the certificate is recorded to
28 record the cancellation or amendment of the certificate;
29 and where the certificate is to be amended, the court shall
30 also cause to be filed for record in said office a certified
31 copy of its decree setting forth the amendment.

32 (5) A certificate is amended or cancelled when there
33 is filed for record in the office of the clerk of the county
34 court, or counties, where the certificate is recorded:

35 (a) A writing in accordance with the provisions of
36 paragraph (1) or (2) of this section or

37 (b) A certified copy of the order of court in accordance
38 with the provisions of paragraph (4) of this section.

39 (6) After the certificate is duly amended in accordance
40 with this section, the amended certificate shall thereafter
41 be for all purposes the certificate provided for by this
42 article.

Sec. 26. *Parties to Actions.*—A contributor, unless he is
2 a general partner, is not a proper party to proceedings by
3 or against a partnership, except where the object is to en-
4 force a limited partner's right against or liability to the
5 partnership.

Sec. 27. *Name of Act.*—This act may be cited as the
2 Uniform Limited Partnership Act.

Sec. 28. *Rules of Construction.*—(1) The rule that
2 statutes in derogation of the common law are to be strictly
3 construed shall have no application to this article.

4 (2) This article shall be so interpreted and construed
5 as to effect its general purpose to make uniform the law
6 of those states which enact it.

7 (3) This article shall not be so construed as to impair
8 the obligations of any contract existing when the article
9 goes into effect, nor to affect any action on proceedings
10 begun or right accrued before this article takes effect.

Sec. 29. *Rules for Cases not Provided for in this Article.*—

2 In any case not provided for in this article the rules of law
3 and equity, including the law merchant, shall govern.

Sec. 30. Provisions for Existing Limited Partnerships.—

2 A limited partnership formed under any statute of this
3 state prior to the enactment of this article, may become
4 a limited partnership under this article by complying with
5 the provisions of section two of this article; provided the
6 certificate sets forth:

7 (a) The amount of the original contribution of each
8 limited partner, and the time when the contribution was
9 made, and

10 (b) That the property of the partnership exceeds the
11 amount sufficient to discharge its liabilities to persons
12 not claiming as general or limited partners by an amount
13 greater than the sum of the contributions of its limited
14 partners.

15 (2) A limited partnership formed under any statute of
16 this state prior to the enactment of this article, until or
17 unless it becomes a limited partnership under this article,
18 shall continue to be governed by the provisions of chapter
19 forty-seven, article nine of this code as the same hereto-
20 fore existed, except that such partnership shall not be
21 renewed unless so provided in the original agreement.

CHAPTER 141

(Senate Bill No. 21—By Mr. Love)

AN ACT to amend and reenact section one, article ten, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, relating to interpleaders and procedure thereon.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 10. Miscellaneous Provisions Relating to Procedure.

Section

1. Interpleaders; procedure thereon.

Be it enacted by the Legislature of West Virginia:

That section one, article ten, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. *Interpleaders; Procedure Thereon.*—A defendant in an action brought against him for the recovery of money which he does not wish to defend, but which money is claimed by some third person, or for the recovery of the possession of personal property to which he makes no claim, but which is claimed by a third person, may file his affidavit stating the facts in relation thereto, and that he does not collude with such third person but is ready to pay the money claimed, or deliver the property, to the owner thereof, as the court may direct, and the court may thereupon make an order requiring such third person to appear and state the nature of his claim, and maintain or relinquish the same, and may in the meantime stay the proceedings in such action. If such third person, on being served with a copy of such order, shall not appear, the court may, on proof of the plaintiff's right, render judgment for him, and declare such third person to be forever barred of any claim in respect of the subject matter, either against the plaintiff or the original defendant, or his personal representative. If such third person, on being so served, shall appear, the court shall allow him to make himself defendant in the action and, either in such action or otherwise, cause such issue or issues to be tried as it may prescribe, and may direct which party shall be considered the plaintiff in the issues; and shall give judgment upon the verdict rendered or, if a jury be waived by the parties interested, shall determine their claims in a summary way. The court may also make such order for the disposition of the money or property which is the subject matter of the action, pending the same, as to it may seem proper, and may enter judgment as to costs as may be just and proper.

CHAPTER 142

(Com. Sub. for Senate Bill No. 38—Originating in the Senate Committee on the Judiciary)

AN ACT to repeal sections seven, eight, nine, ten and eleven, article eleven, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation, expenses, personnel and office of the judicial council.

[Passed March 11, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 11. Judicial Council for Study of Procedure and Practice.

Section

1. Repeal.

Be it enacted by the Legislature of West Virginia:

Section 1. *Repeal.*—That sections seven, eight, nine, ten and eleven, article eleven, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be, and they are hereby repealed.

CHAPTER 143

(Com. Sub. for House Bill No. 366—Originating in the House Committee on the Judiciary)

AN ACT to amend chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section twelve, article three; by repealing article five and reenacting in lieu thereof a new article five; by adding thereto a new article to be designated article five-a; and by amending and reenacting section two, article eleven, relating to the duties of the board of review of the state department of public assistance; and enabling the state to take full advantage of the recent amendments to the federal social security act by providing, in addition to assistance to needy aged persons, blind per-

sons and dependent children, assistance to the relative with whom a dependent child is living and assistance to permanently and totally disabled persons, and establishing a special fund in the state treasury for the use and benefit of the state department of public assistance to pay costs of necessary medical care of recipients of public assistance.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article

3. The Director of Public Assistance.
5. Public Assistance.
- 5-a. The State of West Virginia Public Assistance Medical Services Fund.
11. General Provisions.

Be it enacted by the Legislature of West Virginia:

That chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section twelve, article three; by repealing article five and reenacting in lieu thereof a new article five; by adding thereto a new article to be designated article five-a; and by amending and reenacting section two, article eleven, all to read as follows:

Section

12. Board of Review.

Section 12. *Board of Review.*—The state director shall
2 organize within the department a board of review, con-
3 sisting of the director as chairman and as many other
4 members, not to exceed five, as may be necessary. The
5 board of review shall conduct hearings and make decisions
6 as provided in article five of this chapter. Hearings may
7 be held by individual board members in the counties, but
8 all decisions shall be by the board.

Section

1. Purpose.
2. Definitions.
3. Aged persons.
4. Blind persons.
5. Dependent children and relatives of dependent children.
6. Permanently and totally disabled persons.

7. Application and assistance.
8. Investigation.
9. Recommendation by county council.
10. Notice and certification.
11. Examination and decision by state department.
12. Amount of grant.
13. Limitation of amount.
14. Limitation on assistance to same person.
15. Reinvestigation.
16. Hearing by board of review.
17. Hearing and notice.
18. Action on hearing.
19. Complaint by citizens; appeal.
20. Tax and process exemptions.
21. Agreement to reimburse.
22. Lien against assets.
23. Insurance policies.
24. Certificate of amount of assistance paid.
25. Lien against real estate.
26. Powers of county councils; enforcement and release of liens.
27. Exemptions.
28. Reimbursement to federal government.
29. Notice of change in resources.
30. Grants conditional.

Section 1. *Purpose.*—The purpose of this article is to
2 provide public assistance for the indigent aged, the in-
3 digent blind, dependent children, the indigent relative
4 with whom any dependent child is living, and the indigent
5 permanently and totally disabled, that will conform to
6 the requirements for federal grants-in-aid under the Fed-
7 eral "Social Security Act," as amended.

8 Public assistance shall be granted only:

- 9 (1) To the extent that funds are available for the pur-
10 pose.
- 11 (2) To those actually in need.
- 12 (3) To the extent necessary to safeguard a decent and
13 healthful subsistence.

Sec. 2. *Definitions.*—Unless the context clearly requires
2 a different meaning, when used in this article:

3 "Public assistance" shall mean money payments to, or
4 in behalf of, aged persons, blind persons, dependent chil-
5 dren, the relative with whom any dependent child is
6 living, or permanently and totally disabled persons. Pub-
7 lic assistance may include medical care or other type of
8 remedial care recognized by law.

9 "Resources" shall mean all property, real and personal,
10 tangible and intangible, and all income, whether in the
11 form of money or otherwise.

12 "Applicant" shall mean the person for whose use and
13 benefit application is made.

14 "Recipient" shall mean the person for whose use and
15 benefit a grant of public assistance is made.

 Sec. 3. *Aged Persons*.—An aged person shall be eligible
2 for public assistance who:

3 (1) Has attained the age of sixty-five years.

4 (2) Has resided in the state for at least one year imme-
5 diately preceding application for public assistance.

6 (3) Has not made an assignment or transfer of property
7 for the purpose of qualifying for assistance, except as re-
8 quired by section twenty-one of this article.

9 (4) Is not an inmate of a public institution (except as
10 a patient in a medical institution).

11 (5) Is not a patient in an institution for tuberculosis
12 or mental diseases, nor has been diagnosed as having tu-
13 berculosis or psychosis and is a patient in a medical insti-
14 tution as a result thereof.

15 (6) Is actually in need and has not sufficient income
16 or other resources to provide a subsistence compatible
17 with decency and health.

 Sec. 4. *Blind Persons*.—A blind person shall be eligible
2 for public assistance who:

3 (1) Has no vision, or has vision which is so defective
4 as to prevent the performance of ordinary activities for
5 which eyesight is essential.

6 (2) Has been examined by an ophthalmologist or by a
7 physician skilled in the diseases of the eye or by an op-
8 tometrist approved or designated by the state department,
9 and the findings of the examination have been certified by
10 such examiner in the manner and form required by the
11 state department.

12 (3) Has resided in the state for one year immediately
13 preceding the application for public assistance.

14 (4) Is not an inmate of a public institution (except as
15 a patient in a medical institution).

16 (5) Is not a patient in an institution for tuberculosis
17 or mental diseases, nor has been diagnosed as having tu-
18 berculosis or psychosis and is a patient in a medical insti-
19 tution as a result thereof.

20 (6) Is actually in need and has not sufficient income or
21 other resources to provide a subsistence compatible with
22 decency and health; except that in making this determina-
23 tion an amount not to exceed the first fifty dollars per
24 month of earned income shall be disregarded.

Sec. 5. *Dependent Children and Relatives of Dependent*
2 *Children.*—(a) A dependent child shall be eligible for
3 public assistance who:

4 (1) Has not attained the age of eighteen years.

5 (2) Is deprived of parental support or care by rea-
6 son of the death, continued absence from home, or physi-
7 cal or mental incapacity of a parent.

8 (3) Is living with his father, mother, grandfather,
9 grandmother, brother, sister, stepfather, stepmother, step-
10 brother, stepsister, uncle or aunt in a place of residence
11 maintained by one or more of such relatives as his or their
12 own home.

13 (4) Has resided in the state for one year immediately
14 preceding application for public assistance; or, was born
15 within one year immediately preceding the application of
16 a mother who resided within the state for one year imme-
17 diately preceding such birth; or, was born within one year
18 immediately preceding the application, if the parent or
19 other relative with whom the child is living has resided
20 in the state for one year immediately preceding such
21 birth.

22 (5) Is actually in need and has not sufficient income or
23 other resources to provide a subsistence compatible with
24 decency and health.

25 (b) The relative of a dependent child shall be eligible
26 for public assistance for any month in which public as-
27 sistance is paid with respect to such child, who:

28 (1) Is the father, mother, grandfather, grandmother,
29 brother, sister, stepfather, stepmother, stepbrother, step-
30 sister, uncle or aunt of a dependent child.

31 (2) Maintains himself, or together with any one or
32 more of the other specified relatives, a place of residence
33 as his or their own home, and is the person with whom a
34 dependent child is living in such place of residence.

35 (3) Is actually in need and has not sufficient income

36 or other resources to provide a subsistence compatible with
37 decency and health.

Sec. 6. *Permanently and Totally Disabled Persons.*—A

2 permanently and totally disabled person shall be eligible
3 for public assistance who:

4 (1) Has attained the age of eighteen years.

5 (2) Has resided in the state for at least one year imme-
6 diately preceding the application for public assistance.

7 (3) Is not an inmate of a public institution (except as
8 a patient in a medical institution).

9 (4) Is not a patient in an institution for tuberculosis
10 or mental diseases, nor has been diagnosed as having tu-
11 berculosis or psychosis and is a patient in a medical insti-
12 tution as a result thereof.

13 (5) Is actually in need and has not sufficient income
14 or other resources to provide a subsistence compatible
15 with decency and health.

16 (6) Is permanently and totally disabled as shall be
17 defined in regulations by the state director, which defini-
18 tion shall not include as permanently and totally disabled,
19 persons with respect to whom Federal matching funds
20 would not be available under Title XIV of the Social Se-
21 curity Act, as amended.

Sec. 7. *Application for and Furnishing Assistance.*—All

2 persons wishing to make application for public assistance
3 shall have opportunity to do so, and public assistance shall
4 be furnished with reasonable promptness to all eligible
5 persons. Application shall be in writing, or reduced to
6 writing, and made according to reasonable rules and regu-
7 lations of the state department. The person making the
8 application shall subscribe to an oath or affirmation
9 attesting to the correctness and completeness of the in-
10 formation stated therein.

Sec. 8. *Investigation.*—Upon receipt of an application

2 for public assistance an investigation shall be made with
3 reasonable promptness to determine the eligibility of the
4 applicant and the amount of assistance.

Sec. 9. *Recommendation by County Council.*—Upon the

2 completion of the investigation the application and the

3 results of the investigation shall be submitted to the county
4 council. The county council shall immediately consider
5 the application and recommend its approval or denial to
6 the state department.

Sec. 10. *Notice and Certification.*—Upon determining its
2 recommendation on the application the county council
3 shall immediately certify the record of the application and
4 its recommendation to the state department.

Sec. 11. *Examination and Decision by State Department.*—Upon receipt of the certification from the county
2 council the state department shall examine the recom-
3 mendation of the county council. The state department
4 may approve, reverse, or change the recommendation of
5 the county council, or, if it finds the record of the applica-
6 tion incomplete, it may take or cause to be taken such
7 other action with respect to the application as it deems
8 necessary. The state department shall notify the county
9 council and the applicant of its decision in writing.

Sec. 12. *Amount of Grant.*—When the state department
2 approves an application for public assistance it shall fix
3 the amount of the monthly grant in accordance with its
4 established standard of need and the funds available for
5 the purpose. Public assistance shall be paid monthly and
6 out of funds appropriated for the purpose of this article
7 upon requisition of the director by means of a warrant
8 signed by the auditor and treasurer.

Sec. 13. *Limitation of Amount.*—The amount of public
2 assistance granted from state funds to a recipient shall
3 not in any case exceed the amount for which maximum
4 financial participation is available from the federal gov-
5 ernment under the social security act, as amended.

Sec. 14. *Limitation on Assistance to Same Person.*—
2 During any period for which a person is receiving public
3 assistance, he shall receive it only as an aged person, or
4 as a blind person, or as a dependent child, or as the rela-
5 tive with whom a dependent child is living, or as a per-
6 manently and totally disabled person, and for no period
7 shall he receive public assistance as two or more such
8 persons.

2 Sec. 15. *Reinvestigation*.—Each grant of public assist-
3 ance shall be reinvestigated at least once every twelve
4 months, or whenever there is reason to believe that the
5 conditions governing a grant of public assistance have
6 changed so as to affect the eligibility of a recipient or the
7 amount of assistance granted. Upon consideration of the
8 results of a reinvestigation the state department shall take,
9 or cause to be taken, such action with respect to a rein-
10 vestigated grant of public assistance, consistent with the
11 provisions of this article, as it deems necessary. If a grant
12 of assistance is revoked or reduced, the recipient shall be
13 notified immediately in writing of such action and that
14 he has an opportunity for a hearing before the board of
 review of the state department.

2 Sec. 16. *Hearing by Board of Review*.—An applicant for
3 or a recipient of public assistance under this article shall
4 be afforded an opportunity for a hearing before the board
5 of review of the state department when:

6 (1) His application is denied or he is denied the oppor-
7 tunity to apply.

8 (2) His application is not acted upon with reasonable
9 promptness.

10 (3) His grant of assistance is not forthcoming with rea-
11 sonable promptness after he has been determined to be
12 eligible therefor.

13 (4) He deems the grant inadequate.

14 (5) The grant is revoked.

15 (6) The grant is reduced.

16 The state department shall inform applicants and re-
17 cipients in writing of their right to a hearing, and such
18 a hearing shall be afforded upon request in writing setting
 forth the reasons it is desired.

2 Sec. 17. *Hearing and Notice*.—Upon receipt of the re-
3 quest the board of review shall set a time for hearing at
4 a place convenient for the person making the request, and
5 reasonable notice with respect to the hearing shall be
6 given such person. The hearing shall be held in not less
7 than ten nor more than thirty days. The person making
8 the request may appear and be heard in person or may
 designate another person to represent him. The hearing

9 may be before a single member of the board of review,
10 but the decision on the hearing shall be by the board.

Sec. 18. *Action on Hearing.*—The board of review, on
2 the basis of a hearing, may affirm, reverse or modify the
3 determination of the state department and the decision
4 of the board of review shall be the final decision of the
5 state department with respect thereto. A hearing may be
6 continued from time to time at the discretion of the board
7 of review for the purpose of further investigation by, or
8 at the direction of, the state department, or for such other
9 purpose as the board of review deems necessary. Reason-
10 able notice of the resumption of a continued hearing shall
11 be given to interested parties. The board of review shall
12 notify the person who requested the hearing and the
13 county council of its decision in writing.

Sec. 19. *Complaint by Citizens; Appeal.*—A citizen or
2 group of citizens of the county may file with the county
3 council objections to a grant or the continuance of a grant
4 of public assistance. The council shall, upon request,
5 afford opportunity for a hearing of such objections.
6 If, after hearing, the complainants are dissatisfied, they
7 may appeal to the board of review of the state depart-
8 ment. The appeal shall be heard and decided in the man-
9 ner provided by sections sixteen, seventeen and eighteen
10 of this article.

Sec. 20. *Tax and Process Exemptions.*—Public assist-
2 ance grants received under the provisions of this article
3 shall be exempt from the collection of taxes (except sales
4 taxes), from levy of execution, garnishment, and any other
5 legal process.

Sec. 21. *Agreement to Reimburse.*—As a condition of
2 receiving public assistance, an aged person shall submit
3 to the county council a properly acknowledged agreement
4 granting to the state a lien upon all or any part of his
5 real or personal property including that subsequently ac-
6 quired, as may be required by the rules of the state de-
7 partment. The lien shall attach upon the signing of the
8 agreement and shall be for the total amount of public
9 assistance paid to such person.

2 Sec. 22. *Lien Against Assets.*—The lien provided for by
3 section twenty-one shall extend to assets accruing to the
4 estate of a recipient of old age assistance.

2 Sec. 23. *Insurance Policies.*—As a condition of receiving
3 public assistance, an aged person shall assign to the state
4 department any life insurance policy on which he has
5 paid or is paying premiums as security for the amount of
6 public assistance granted to him.

2 Sec. 24. *Certificate of Amount of Assistance Paid.*—Un-
3 der the rules and in the form prescribed by the state de-
4 partment, the county council shall execute and file with
5 the clerk of the county court of the county wherein the
6 recipient resides, or owns property, a certificate showing
7 the amount of public assistance paid to an aged person.
8 The certificate when filed shall be a legal claim of the
9 state against the recipient and his estate, which claim shall
10 have the force and effect of a judgment at law with pri-
11 ority over all unsecured claims except funeral expenses
12 for such recipient, which expenses shall not exceed one
13 hundred dollars.

14 A claim of the state under this section shall not be ex-
15 tinguished by the statute of limitations.

2 Sec. 25. *Lien Against Real Estate.*—A lien given under
3 this article shall not be enforced against real estate occu-
4 pied by the surviving spouse of a recipient unless:

5 (1) Such person is a widow who remarries.

6 (2) There is a threatened or actual sale or transfer of
7 the property.

2 Sec. 26. *Powers of County Councils; Enforcement and*
3 *Release of Liens.*—A county council shall receive all as-
4 signments and perform any and all acts necessary to pro-
5 tect the financial interests of the state in the assets of
6 recipients of public assistance.

7 All liens and claims under this article shall be enforced
8 by the county council as the agent and in the name of the
9 state, and all money reclaimed shall be paid by the council
10 into the state treasury.

11 Whenever, on application in writing, it shall appear to
12 a county council that the obligation of a lien, as provided

12 in this article, has been satisfied by payment, reimburse-
13 ment, or otherwise by the recipient of public assistance,
14 his heirs or assigns, the council shall thereupon enter an
15 order accordingly and the chairman of the council shall
16 thereupon prepare, execute and acknowledge a release of
17 such lien and deliver same to said recipient, his heirs or
18 assigns, as the case may be, for recordation. Any and all
19 such releases heretofore ordered by a county council and
20 executed, acknowledged and delivered, as herein provided,
21 shall be as legal, valid, effective and binding as if ordered,
22 executed, acknowledged and delivered after the effective
23 date of this section.

Sec. 27. *Exemptions.*—In the enforcement of a lien held
2 by the state under this article, real property to the value
3 of fifteen hundred dollars and personal property to the
4 value of two hundred dollars shall be exempt, and such
5 exemption shall apply to the estate after the death of the
6 recipient as well as during his lifetime. The foregoing
7 exemptions shall apply to all reimbursement liens here-
8 tofore granted to the state and remaining unsatisfied at
9 the time this act takes effect and all such liens are hereby
10 expressly released to the extent of, but not exceeding,
11 said exemptions. No lien shall be required on real or per-
12 sonal property where the value of such property does not
13 exceed the exemption for such property herein granted.
14 The value of the exemption shall be determined in the
15 same manner as exemptions claimed in pursuance of sec-
16 tion forty-eight, article six of the state constitution.

Sec. 28. *Reimbursement to Federal Government.*—That
2 portion of the net amount collected from the estate of a
3 recipient of old age assistance under the provisions of
4 this article which represents the amount to which the
5 federal government would be equitably entitled by virtue
6 of grants-in-aid for old age assistance under the social se-
7 curity act, as amended, shall be reimbursed to the federal
8 government as may be required under such act. At such
9 times as the federal government may require, the state
10 director shall draw his requisition upon the state auditor
11 in favor of the treasurer of the United States for the
12 amount of such funds in the state treasury which are pay-

13 able to the federal government. The reimbursement shall
14 be paid out of the state treasury as other claims against
15 the state are paid.

Sec. 29. *Notice of Change in Resources.*—A recipient of
2 public assistance shall notify immediately the county di-
3 rector of any increase in his resources. If a recipient fails
4 to notify the county director of any such increase, the
5 amount of aid paid to him in excess of his actual needs
6 shall be recoverable in the name of the state as a debt.

Sec. 30. *Grants Conditional.*—A grant of public assist-
2 ance shall be subject to:

- 3 (1) Reconsideration, revocation, or change.
- 4 (2) Appropriation by the Legislature of public funds.
- 5 (3) Amendment or repeal.
- 6 (4) Continuation of federal grants-in-aid.

Article 5-a. The State of West Virginia Public Assistance Medi- cal Services Fund.

Section

1. Medical services fund.
2. Payments into medical services fund.
3. Payments from medical services fund.
4. Other powers and duties of director.
5. Definitions.
6. Advisory council; powers and duties; members; meetings; chair-
man; expenses.

Section 1. *Medical Services Fund.*—In order that the
2 state of West Virginia may receive full advantage of the
3 provisions of the federal Social Security Act, as amended,
4 whereby Federal grants-in-aid may be used on behalf of
5 recipients of public assistance for medical care or any
6 other type of remedial care recognized by law, the state
7 department of public assistance is authorized, empow-
8 ered, and directed to establish a special fund to be known
9 as "The State of West Virginia Public Assistance Medical
10 Services Fund," hereinafter referred to as "the fund." The
11 fund shall be only for the purpose of providing necessary
12 medical services for recipients of assistance, and any bal-
13 ance in the fund at the end of any fiscal year shall remain
14 in the fund and shall not expire or revert. Payments shall
15 be made out of the fund upon requisition of the director
16 by means of a warrant signed by the auditor and treas-
17 urer.

Sec. 2. *Payments Into Medical Services Fund.*—The fund shall consist of payments made into the fund with respect to recipients of assistance out of state money appropriated for the purpose and such federal grants-in-aid as are available for the purpose under the federal Social Security Act, as amended. The amount of such payments into the fund shall be fixed from time to time by the director, and shall be sufficient to pay the costs of necessary medical services as determined by the director to be feasible in accordance with section three of this article.

Sec. 3. *Payments from Medical Services Fund.*—Recipients of assistance shall be entitled to have costs of necessary medical services paid out of the fund, in such amounts, and to the extent and in the manner determined from time to time to be feasible by the director pursuant to rules, regulations and standards established by him. Such rules, regulations and standards shall be established on the basis of money available for the purpose, the number of recipients, the experience with respect to the incidence of illness, disease, accidents, and other causes among such recipients causing them to require medical services and the costs thereof, the amounts which recipients require otherwise in order to maintain a subsistence compatible with decency and health, and any other factors considered relevant and proper by the director.

Sec. 4. *Other Powers and Duties of Director.*—The director shall establish reasonable rules, regulations and standards necessary to carry out the provisions of this article.

Sec. 5. *Definitions.*—As used in this article:

- (1) "Medical services" means medical, surgical, dental and nursing services, and other remedial services recognized by law, in the home, office, hospital, clinic and any other suitable place, provided or prescribed by persons permitted or authorized by law to give such services; such services to include drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care and such other medical services and supplies as may be prescribed by such persons.
- (2) "Costs of necessary medical services" means such

12 fees and charges as are approved and scheduled by the
13 director upon consultation with the advisory council.

Sec. 6. *Advisory Council; Powers and Duties; Members; Meetings; Chairman; Expenses.*—There shall be an advisory council of six members, all of whom shall be citizens of West Virginia, to assist in the establishment of rules, regulations and standards necessary to carry out the provisions of this article and to serve as consultants to the director in carrying out the provisions of this article. The council shall meet at least twice each year and at the call of the director. The members of the council shall elect annually one of its members to serve as chairman.

12 Five of the members of the advisory council shall be
13 appointed by the director. The sixth member shall be
14 the state director of health, ex officio.

15 Of the five members of the council appointed by the
16 director, one shall be a person of recognized ability in
17 the field of medicine and surgery with respect to whose
18 appointment the state medical association shall be afforded
19 the opportunity of making nomination of three qualified
20 persons, one shall be a person of recognized ability
21 in the field of dentistry with respect to whose appointment
22 the state dental association shall be afforded the opportunity
23 of making nomination of three qualified persons,
24 and the remaining three shall be chosen from persons of
25 recognized ability in the fields of hospital organization
26 and administration, nursing, welfare, public health, or
27 allied professions in the field of health, or consumers of
28 medical services.

29 The members appointed by the director shall be ap-
30 pointed for five year terms except that in the original ap-
31 pointments one person shall be appointed for one year,
32 one person for two years, one person for three years, one
33 person for four years, and one person for five years. There-
34 after each member shall be appointed to serve five years
35 or until his successor is appointed. In the case of a vacancy
36 the appointee shall serve the remainder of the unexpired
37 term.

38 Members of the advisory council shall be eligible to suc-

39 ceed themselves. Members of the advisory council shall
40 serve without compensation but shall be entitled to re-
41 imbursement for actual expenses incurred in the perform-
42 ance of the duties of their office.

Article 11. General Provisions.

Section

2. Grants conditional.

Section 2. *Grants Conditional.*—The grant of general
2 relief under the provisions of this chapter shall be condi-
3 tional, and a person shall have no claim as of right to such
4 relief.

CHAPTER 144

(House Bill No. 386—By Mr. Bowles)

AN ACT to amend article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section four-a, relating to the temporary investment of political subdivision funds raised by levy, sale of bonds, or otherwise for capital expenditures.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 3. State Sinking Fund Commission.

Section

4-a. Authorizing the transfer and investment of funds raised by levy, sale of bonds, or otherwise.

Be it enacted by the Legislature of West Virginia:

That article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section four-a, to read as follows:

Section 4-a. *Authorizing the Transfer and Investment
2 of Funds Raised by Levy, Sale of Bonds, or Otherwise.—*

3 Any funds of a political subdivision raised by levy, sale
4 of bonds, or otherwise for the purpose of capital outlay,
5 and which cannot be used within a reasonable time, may
6 be transferred to the state sinking fund commission. Any
7 funds so raised for the purpose of capital outlay shall be
8 invested by the state sinking fund commission in accor-
9 dance with the provisions of this article. The proceeds of
10 the fund may be withdrawn by the political subdivision
11 as authorized by this article upon one hundred twenty
12 days' notice in writing to the state sinking fund com-
13 mission.

CHAPTER 145

(Com. Sub. for House Bill No. 65—Originating in the House Committee on the Judiciary)

AN ACT to amend article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections one, five, six, seven, nine and fifteen thereof and by adding thereto a new section, to be designated section six-a, relating to the powers, duties and responsibilities of the state water commission with respect to the prevention, control and elimination of water pollution in this state and judicial review thereof.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 11. State Water Commission.

Section

1. Definitions.
5. Control and abatement of pollution; permits; citations.
6. Orders controlling and eliminating pollution; procedure and enforcement.
- 6-a. Authority of commission to authorize the exercise of eminent domain.
7. Judicial review; duties of commission, prosecuting attorney and attorney general.
9. Cooperation with the United States government, state and interstate agencies.
15. Construction of act; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections one, five, six, seven, nine and fifteen thereof, and by adding thereto a new section, to be designated section six-a, all to read as follows:

Section 1. *Definitions.*—Terms used in this article are

2 defined as follows:

3 (a) "Commission" shall mean the state water commiss-
4 ion, hereby created.

5 (b) "Commissioner" shall mean a member of the com-
6 mission.

7 (c) "Water" or "waters" shall mean all waters of any
8 river, stream, watercourse, pond or lake.

9 (d) "Pollution" shall mean the discharge or deposit,
10 directly or indirectly, of sewage, industrial wastes or other
11 substances, in such condition, manner or quantity as may
12 contaminate or alter the physical, chemical or biological
13 properties of any of the waters of the state to such extent
14 as to render such waters directly or indirectly detrimental
15 to the public health or unreasonably and adversely affect
16 such waters for present or future domestic, commercial, in-
17 dustrial, agricultural, recreational or other legitimate
18 uses.

19 (e) "Person" shall mean any and all persons natural or
20 artificial, including any municipal or private corporation
21 organized or existing under the laws of this or any other
22 state or country, any county court, government institu-
23 tion, agency or political subdivision as well as any firm
24 or association.

Sec. 5. *Control and Abatement of Pollution; Permits;*
2 *Citations.*—Within six months after July one, one thousand
3 nine hundred fifty-three, all persons who on July one, one
4 thousand nine hundred fifty-three, are causing a material
5 contribution of sewage, industrial wastes or other pol-
6 luting substances to the waters of the state shall file with
7 the commission such information as the commission may
8 require with regard thereto, including, but not limited to,
9 the kind, characteristics and rate of flow.

10 After July one, one thousand nine hundred fifty-three,
11 no person shall, without first securing a permit from the
12 commission, construct, install or operate a new sewer,
13 disposal system or treatment works; extensions, modifi-
14 cations or additions to new or existing disposal systems
15 or treatment works; extensions, modifications or additions
16 to industrial or commercial establishments or the oper-
17 ation thereof, or make or cause to be made any new outlet,
18 or to add to the load from any existing outlet; which
19 would cause a material pollution of the waters of the
20 state. For the purposes herein, the commission may issue
21 temporary or conditional permits and renew, change, mod-
22 ify, amend or revoke the same: *Provided, however,* That
23 any person who is denied a permit by the commission or
24 who has such permit revoked or modified shall be afforded
25 an opportunity for hearing in connection therewith, as
26 hereinafter provided, upon written application filed with
27 the commission within twenty days of receipt of such de-
28 nial, revocation or modification, which notice shall be com-
29 municated to the commission by registered mail, addressed
30 to its chairman or executive secretary, and upon any other
31 persons affected, personally or by registered mail. All such
32 applications for permits primarily relating to sewage
33 shall be submitted to the state department of health
34 in such form as shall have been approved by both the
35 commission and the department. After the decision by
36 the state department of health in regard thereto and the
37 reasons have been noted therein, the application, the
38 notation of the department's decision and other papers
39 making up the file shall be forwarded by the department
40 to the commission. The commission's permit or other
41 decision shall be returned with the entire file to the
42 state department of health, which shall notify the appli-
43 cant in writing of the decisions of both the department
44 and the commission, enclosing certificates where granted,
45 and shall deliver to the commission a copy of such notifi-
46 cation.

47 Any person causing the pollution of any water, or al-
48 leged to be causing the pollution of any water, may be
49 cited by the commission on its own motion to appear
50 not less than fifteen nor more than thirty days from

51 the service of such citation at a place designated by
52 it, within the county wherein the pollution is alleged
53 to have occurred or is being caused, then and there to
54 show cause, if any shall exist, why said commission should
55 not issue an order regulating such pollution, and any per-
56 sons affected by such pollution may by petition intervene
57 as a party complainant or respondent in any proceeding in-
58 stituted by or before such commission. Such citation may
59 be issued by the commission or any member thereof and
60 may be served and returned in the same manner as pro-
61 cess in any civil action, or it may be served by sending
62 a copy thereof by registered mail addressed to the person
63 causing, or alleged to be causing, any pollution of any
64 water, at his, their or its usual, or last known, post office
65 address. The hearings herein provided may be conducted
66 by the commission, any member thereof, or any person
67 authorized to take depositions by the laws of this state:
68 *Provided*, That where any such hearing is not conducted
69 by the commission all the testimony shall be reduced to
70 writing as provided by law applicable to the taking of
71 depositions, the cost thereof to be borne by the party
72 presenting the same, and all findings in connection there-
73 with shall be made by the commission. Any commissioner
74 may issue any subpoena, administer oaths and cause the
75 attendance of witnesses, the production of evidence and
76 testimony in any proceeding, subject to the same condi-
77 tions as are provided by the general statutes for the attend-
78 ance of witnesses and the production of evidence and testi-
79 mony in civil actions.

Sec. 6. *Orders Controlling and Eliminating Pollution;*
2 *Procedure and Enforcement.*—After a full hearing the
3 commission shall make its finding of facts, and if it finds
4 that any person is polluting any of the waters of the state,
5 or that the construction, installation or operation of any
6 new sewer, disposal system or treatment works, exten-
7 sions, modifications or additions to new or existing dis-
8 posal systems or treatment works, extensions, modifi-
9 cations or additions to industrial or commercial establish-
10 ments or the operation thereof, or any new outlet or addi-
11 tional load from any existing outlet would cause a mater-

12 ial pollution of the waters of the state, and that the same
13 should be prevented, eliminated, controlled or reduced,
14 considering the purposes of this article, the amount and
15 effect of such pollution, the practicality and physical and
16 economic feasibility of eliminating, controlling or reducing
17 such pollution, the health and welfare of the public and
18 other present and future uses of the waters of the state, it
19 shall make and enter an order directing such person to
20 cease such pollution, or shall make and enter an order
21 denying any permit being sought under the provisions of
22 section five of this article, and such person shall have
23 thirty days after notice of the entry of such final order to
24 notify the commission that he will comply therewith or
25 will install, use and operate some practical and reasonably
26 available system or means which will so eliminate, control
27 or reduce such pollution, having regard for the rights and
28 interests of all persons concerned, and if such person does
29 not so comply with such order, thereafter the commission
30 may cause the enforcement of any order issued by it to
31 cease such pollution and, as well all other orders entered
32 by it in matters subject to its jurisdiction, by application
33 to the circuit court of any county wherein the alleged pol-
34 lution originated or naturally flows or to any judge of
35 such court if the same shall be in vacation, to enjoin any
36 persons from causing or continuing such pollution, which
37 application shall be brought and the proceedings thereon
38 conducted by the prosecuting attorney of the county
39 wherein such proceedings may be pending, or by special
40 counsel employed by any intervening petitioner. If any
41 person notifies the commission that he will comply with
42 such final order by installing, using and operating some
43 practical and available system to so eliminate, control or
44 reduce such pollution, and makes application for an ex-
45 tension of time, the commission within reasonable limits
46 may grant such extension of time. The person against
47 whom such order shall be issued shall, before proceeding
48 to install any system or means, submit to the commission
49 for its consideration and approval, a plan or statement
50 describing the system or means which is proposed to be
51 used or operated; if any person shall desire to make any
52 substantial change in any system or means used or oper-

ated, such person shall, before making such change, file with the commission for its consideration and approval a plan or statement describing such proposed change, together with application for the action of the commission thereon and in respect thereto. The commission shall, in any case, enter an order approving or disapproving any such system or means proposed to be used or operated, or permit or refuse to permit the proposed change in any system or means adopted, used or operated, and shall make and enter all such orders as the commission deems proper and necessary. Any order of the commission may, at any time after at least twenty days' notice in writing to any person affected thereby and any intervening petitioner, and after a hearing thereon, be modified or revoked by an order entered by the commission, and the commission shall forthwith cause an attested copy of any order entered by it to be served upon all persons affected thereby in the same manner as writs or summons in civil actions may be served, or by sending the same by registered mail to such person, or intervener, at his, their or its usual or last known post office address.

Sec. 6-a. *Authority of Commission to Authorize the Exercise of Eminent Domain.*—All persons not otherwise having the right to condemn lands to effectuate the purposes of this article shall be vested with the right of eminent domain under the provisions of chapter fifty-four of the code of West Virginia, as amended, upon application to the state water commission for and the entry by the commission of an order finding that the use by the applicant of a specified interest in a specifically described piece of land is necessary in connection with the elimination or control of a substantial pollution or the substantial reduction of the pollution of any of the waters of the state and directing the applicant to put the said land to use for such purpose within a reasonable time after the acquisition of title or the right of possession thereof.

Sec. 7. *Judicial Review; Duties of Commission, Prosecuting Attorney and Attorney General.*—Any party feeling aggrieved by the entry of a final order by the commission, affecting him or it, may present a petition in writing

5 to the circuit court of the county wherein the pollution
6 originated or naturally flows, or to the judge of such
7 court in vacation, within thirty days after the entry of
8 such order, praying that such final order may be set aside
9 or modified. The applicant shall deliver a copy of such
10 petition to the secretary of the commission before pre-
11 senting the same to the court or judge. The court or
12 judge shall fix a time for the hearing on the application,
13 but such hearing, unless by agreement by the parties,
14 shall not be held sooner than five days after its presenta-
15 tion; and notice of the time and place of such hearing
16 shall be forthwith delivered to the secretary of the com-
17 mission, so that the commission may be represented at
18 such hearing by one or more of its members or by counsel.
19 For such hearing the commission shall file with the clerk
20 of said court all papers, documents, evidence and records
21 or certified copies thereof as were before the commission
22 at the hearing or investigation resulting in the entry of
23 the order from which the petitioner appeals. The com-
24 mission shall file with the court before the day fixed for
25 the final hearing a written statement of its reasons for
26 the entry of such order, and after arguments by counsel
27 the court shall by order entered of record, affirm, modify
28 or set aside in whole or in part the order of the commis-
29 sion. Upon such judicial review, the findings of fact made
30 by the commission shall have like weight to that accorded
31 to the findings of fact of a trial chancellor or at any equity
32 procedure. The supreme court of appeals of the state
33 shall have jurisdiction to review the order of the circuit
34 court upon application of either party or any intervener.
35 The prosecuting attorney of the county wherein the pro-
36 ceedings in the circuit court are had shall represent the
37 commission and the attorney general of the state shall
38 represent it in any proceedings in the supreme court of
39 appeals and any intervener may be represented by counsel
40 specially employed.

Sec. 9. *Cooperation with the United States Government,*
2 *State and Interstate Agencies.*—The state water commis-
3 sion is hereby designated as the water pollution agency
4 for this state for all purposes of the Water Pollution Con-

5 trol Act, Public Law 845, 80th Congress (62 Stat. 1155)
6 approved June thirtieth, one thousand nine hundred
7 forty-eight, hereinafter called the "federal act", and is
8 hereby authorized to take all action necessary or appro-
9 priate to secure to this state the benefits of said act. In
10 carrying out the purposes of this section the commission,
11 in addition to any other action which may be necessary
12 or appropriate, is authorized to cooperate with the surgeon
13 general of the United States public health service and
14 other agencies of the federal government, other states,
15 interstate agencies and other interested parties in all mat-
16 ters relating to water pollution. including the develop-
17 ment of programs for eliminating or reducing pollution
18 and improving the sanitary conditions of waters; on be-
19 half of this state to apply for and receive funds made
20 available to the commission under the aforesaid federal
21 act by any agency of the federal government: *Provided*,
22 That all moneys received from any federal agency as
23 herein provided shall be paid into the state treasury and
24 shall be expended, under the direction of the commission,
25 solely for the purpose or purposes for which the grant or
26 grants shall have been made; to approve projects for
27 which application for loans or grants under the federal
28 act is made by any municipality (including any city, town,
29 district or other public body created by or pursuant to
30 the laws of this state and having jurisdiction over disposal
31 of sewage, industrial wastes or other substances) or
32 agency of this state or by any interstate agency; to partic-
33 ipate through its authorized representatives in proceed-
34 ings under the federal act to recommend measures for
35 abatement of water pollution originating in this state; to
36 give consent on behalf of this state to requests by the
37 federal security administrator to the attorney general of
38 the United States for the bringing of suits for abatement
39 of such pollution; and to consent to the joinder as a de-
40 fendant in such suit of any person who is alleged to be
41 discharging matter contributing to the pollution, abate-
42 ment of which is sought in such suit.

2 Sec. 15. *Construction of Act; Inconsistent Acts Re-*
pealed.—Being for the public health, safety and welfare,

3 this article shall be liberally construed to effectuate the
4 purposes thereof, and all other existing laws or parts of
5 laws of this state inconsistent with this article are hereby
6 repealed: *Provided, however,* That the provisions of this
7 article shall not be construed to abridge or change any of
8 the powers and duties of the state department of health.

CHAPTER 146

(House Bill No. 228—By Mr. Seibert and Mr. Beneke)

AN ACT to amend and reenact section eighteen, chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter ninety-six, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, (Code, C. 16, Art. 13, S. 18) relating to municipal revenue bonds for sewage works.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 13. Sewage Works of Municipal Corporations and Sanitary Districts.

Section

18. Supervision of sanitary board; qualification, etc., of members; organization and compensation.

Be it enacted by the Legislature of West Virginia:

That section eighteen, chapter twenty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, as amended by chapter ninety-six, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

- Section 18. *Supervision of Sanitary Board; Qualification, Etc., of Members; Organization and Compensation.*— The governing body shall provide by ordinance that the custody, administration, operation and maintenance of such

5 works shall be under the supervision and control of a
6 sanitary board, created as herein provided. Such sanitary
7 board shall be composed of the mayor of the municipality
8 and two persons appointed by the governing body, one
9 of whom, during the construction period, must be a regis-
10 tered professional engineer. The engineer member of the
11 board need not be a resident of said municipality. After
12 the construction of the plant has been completed, the
13 engineer member may be succeeded by a person not an
14 engineer. No officer or employee of the municipality,
15 whether holding a paid or unpaid office, shall be eligible
16 to appointment on said sanitary board until at least one
17 year after the expiration of the term of his public office.
18 Said appointees shall originally be appointed for terms
19 of two and three years respectively, and upon the ex-
20 piration of each such term and each succeeding term,
21 an appointment of a successor shall be made in like man-
22 ner for a term of three years. Vacancies shall be filled
23 for an unexpired term in the same manner as the original
24 appointment. Each member shall give such bond, if any,
25 as may be required by ordinance. Such mayor shall act
26 as chairman of the sanitary board, which shall elect a
27 vice chairman from its members and shall designate a
28 secretary and treasurer (but the secretary and the treas-
29 urer may be one and the same), who need not be a mem-
30 ber or members of the sanitary board. The vice chairman,
31 secretary and treasurer shall hold office as such at the
32 will of the sanitary board. The members of the sanitary
33 board shall receive such compensation for their services,
34 either as a salary or as payments for meetings attended,
35 as the governing body may determine, and shall be en-
36 titled to payment for their reasonable expenses incurred
37 in the performance of their duties. The governing body
38 shall fix the reasonable compensation of the secretary
39 and treasurer in its discretion, and shall fix the amounts
40 of bond to be given by the treasurer. All compensation,
41 together with the expenses in this section referred to,
42 shall be paid solely from funds provided under the author-
43 ity of this article. The sanitary board shall have power to
44 establish by-laws, rules and regulations for its own govern-
45 ment.

CHAPTER 147

(Com. Sub. for House Bill No. 237—Originating in the House Committee on the Judiciary)

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article thirteen-a, providing for the creation of public service districts, prescribing the powers and duties of such districts in the acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, and to authorize the issuance of bonds of such districts payable solely from the revenue to be derived from the operation of such properties.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 13-a. Public Service Districts for Water and Sewerage Services.

Section

1. General purpose of districts.
2. Creation of districts by county court.
3. Powers of districts, creation of governing boards.
4. Procedural regulations.
5. General manager.
6. Employees.
7. Acquisition and operation of district properties.
8. Purchase; eminent domain; extra territorial powers.
9. Service rates and charges.
10. Budget.
11. Accounts; audits.
12. Disbursement of district funds.
13. Revenue bonds.
14. Items included in cost of properties.
15. Trust indenture.
16. Sinking fund for revenue bonds.
17. Limited security and enforcement of revenue bonds.
18. Operating contracts.
19. Statutory mortgage.
20. Refunding revenue bonds.
21. Law complete and to be liberally construed.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by add-

ing thereto a new article, to be designated article thirteen-a, to read as follows:

Section 1. *General Purpose of Districts.*—Any territory
2 constituting the whole or any part of one or more counties
3 in the state so situated that the construction or acquisition
4 by purchase or otherwise and the maintenance, operation,
5 improvement and extension of properties supplying water
6 or sewerage services, or both, within such territory, will
7 be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a
8 public service district under and in the manner provided
9 by this article. The words “public service properties”,
10 when used in this article, shall mean and include any
11 facility used or to be used for or in connection with (1)
12 the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or
13 for the public for industrial, public, private or other uses
14 (herein sometimes referred to as “water facilities”), or
15 (2) the collection, treatment, purification or disposal of
16 liquid or solid wastes, sewage or industrial wastes (herein
17 sometimes referred to as “sewer facilities.”)

Sec. 2. *Creation of Districts by County Court.*—The
2 county court of any county may on its own motion by
3 order duly adopted propose the creation of such public
4 service district within such county, setting forth in such
5 order a description sufficient to identify the territory to
6 be embraced therein and the name of such proposed district, or any one hundred legal voters resident within
7 and owning real property within the limits of such proposed public service district within one or more counties
8 may petition for the creation thereof, which petition shall
9 contain a description sufficient to identify the territory to
10 be embraced therein and the name of such proposed district. Any territory may be included regardless of
11 whether or not such territory includes one or more cities,
12 incorporated towns or other municipal corporations which
13 own and operate any public service properties and regardless of whether or not it includes one or more cities,
14 incorporated towns or other municipal corporations being
15 served by privately owned public service properties: *Pro-*

20 *vided, however,* That no territory shall be included within
21 more than one public service district organized under this
22 article and the boundaries shall conform to or follow
23 magisterial district lines except where less than a whole
24 of any magisterial district is to be included, in which lat-
25 ter case that part of any such boundary shall conform
26 to other natural boundary lines, or the lines of a fixed
27 survey: *And provided further,* That no city, incorpor-
28 ated town or other municipal corporation shall be in-
29 cluded within the boundaries of such proposed district
30 except upon the adoption of a resolution of the governing
31 body of such city, incorporated town or other municipal
32 corporation consenting thereto.

33 Such petition shall be filed in the office of the clerk of
34 the county court of the county in which the territory to
35 constitute the proposed district is situated, and if such
36 territory is situated in more than one county then such
37 petition shall be filed in the office of the clerk of the
38 county court of the county in which the major portion of
39 such territory extends, and a copy thereof (omitting sig-
40 natures) shall be filed with each of the clerks of the county
41 courts of the other county or counties into which the terri-
42 tory extends. It shall be the duty of the clerk of the county
43 court receiving such petition to present same to the county
44 court of such county at the first regular meeting after
45 such filing or at a special meeting called for the considera-
46 tion thereof.

47 When the county clerk of any county enters an order
48 on its own motion proposing the creation of a public serv-
49 ice district, as aforesaid, or when a petition for such crea-
50 tion is presented, as aforesaid, the county court shall at
51 the same session fix a date of hearing in such county on
52 the creation of the proposed public service district, which
53 date so fixed shall be not more than forty days nor less
54 than twenty days from the date of such action. If the ter-
55 ritory proposed to be included is situated in more than
56 one county, the county court, when fixing a date of hear-
57 ing, shall provide for notifying the county court and
58 clerk thereof of each of the other counties into which the
59 territory extends of the date so fixed. The clerk of the
60 county court of each county in which any territory in the

61 proposed public service district is located shall cause
62 notice of such hearing and the time and place thereof, and
63 setting forth a description of all of the territory proposed
64 to be included therein to be given by publication at least
65 once in a newspaper of general circulation published in
66 such county at least ten days prior to such hearing. In
67 all cases where proceedings for the creation of such public
68 service districts are initiated by petition as aforesaid the
69 person filing the petition shall advance or satisfactorily
70 indemnify the payment of the costs and expenses of pub-
71 lishing the hearing notice, and otherwise the costs and
72 expenses of such notice shall be paid in the first instance
73 by the county court out of contingent funds or any other
74 funds available or made available for that purpose.

75 All persons residing in or owning or having any interest
76 in property in such proposed public service district shall
77 have an opportunity to be heard for and against its crea-
78 tion. At such hearing the county court before which the
79 hearing is conducted shall consider and determine the
80 feasibility of the creation of the proposed district. When
81 it shall have been thus determined that the construction
82 or acquisition by purchase or otherwise, and maintenance,
83 operation, improvement, and extension of public service
84 properties by such public service district will be conducive
85 to the preservation of public health, comfort and con-
86 venience of such area, then such county court shall by
87 order create such public service district, and such order
88 shall be conclusive and final in that regard. The clerk of
89 the county court of each county into which any part of
90 such district extends shall retain in his office an authentic
91 copy of the order creating the same: *Provided, how-*
92 *ever,* That if at such hearing written protest is filed
93 by thirty per cent or more of the qualified voters re-
94 gistered and residing within said district, then the county
95 court shall not take any further action in creating
96 such district unless the creation of such district shall
97 be approved by a majority vote of the qualified re-
98 gistered voters voting at a referendum to be called by
99 the county court for such purpose. Such referendum
100 shall be called and held in the manner provided in the
101 general election laws of the state of West Virginia ap-

102 plicable thereto and the funds therefor shall be supplied
103 from any county funds available for such purpose, or
104 from funds supplied from the persons who petitioned for
105 the creation of such district. If a majority of the qualified
106 registered electors participating in said election shall
107 vote against the creation of said district, then such district
108 shall not be created. If, however, a majority of the
109 qualified, registered voters participating in such refer-
110 endum vote in favor of the creation of such district, then
111 the county court shall duly enter its order creating such
112 district.

Sec. 3. *Powers of Districts, Creation of Governing*
2 *Boards.*—From and after the date of the adoption of the
3 order creating any such public service district, it shall
4 thereafter be a public corporation and political sub-
5 division of the state with power of perpetual succession,
6 but without any power to levy or collect ad valorem
7 taxes. Each such district shall have power to acquire,
8 own and hold property, both real and personal, in its
9 corporate name, and shall have power to sue, may be sued,
10 may adopt an official seal, and may enter into contracts
11 necessary or incidental to its purposes, including con-
12 tracts with any city, incorporated town or other municipal
13 corporation located within or without its boundaries for
14 furnishing wholesale supply of water for the distribution
15 system of such city, town or other municipal corpora-
16 tion, and contract for the operation, maintenance, servic-
17 ing, repair and extension of any properties owned by it,
18 or for the operation and improvement or extension by
19 such district of all or any part of the existing municipally
20 owned public service properties of any city, incorporated
21 town or other municipal corporation included within
22 such district: *Provided*, That no such contract shall ex-
23 tend over a period of forty years, but provisions may be
24 included therein for a renewal or successive renewals
25 thereof, and shall conform to and comply with the rights
26 of the holders of any outstanding bonds issued by such
27 municipalities for such public service properties.
28 The powers of each such public service district shall
29 be vested in and exercised by a public service board

30 consisting of not less than three members, who shall
31 be appointed in the following manner:

32 Each city, incorporated town, or other municipal cor-
33 poration having a population in excess of three thousand,
34 but not exceeding eighteen thousand, shall be entitled to
35 appoint one member of such board, and each such city,
36 incorporated town, or other municipal corporation having
37 a population in excess of eighteen thousand shall be
38 entitled to appoint one additional member of such board
39 for each additional eighteen thousand population. The
40 members of said board representing such cities, incor-
41 porated towns or other municipal corporations shall be
42 residents thereof and shall be appointed by a resolution
43 of the governing bodies thereof, and upon the filing of a
44 certified copy or copies of such resolution or resolutions
45 in the office of the clerk of the county court which en-
46 tered the order creating such district, such persons so
47 appointed shall thereby become members of said board
48 without any further act or proceedings. If the number
49 of members of said board so appointed by the governing
50 bodies of cities, incorporated towns or other municipal
51 corporations included in the district shall equal or exceed
52 three, then no further members shall be appointed to
53 such board and such members shall be and constitute
54 the board of said district.

55 If no city, incorporated town or other municipal cor-
56 poration having a population in excess of three thousand
57 is included within the district, then the county court
58 which entered the order creating the district shall ap-
59 point three members of said board, who shall be persons
60 residing within the district, which said three members
61 shall become members of and constitute the board of said
62 district without any further act or proceedings.

63 If the number of members of said board appointed by
64 the governing bodies of cities, incorporated towns or other
65 municipal corporations included within the district shall
66 be less than three, then the county court which entered
67 the order creating the district shall appoint such addi-
68 tional member or members of said board, who shall
69 be persons residing within the district, as shall be neces-

70 sary to make the number of members of said board equal
71 three, and said additional member or members shall
72 thereupon become members of such board; and the mem-
73 ber or members appointed by the governing bodies of
74 the cities, incorporated towns or other municipal cor-
75 porations included within the district and the additional
76 member or members appointed by such county court as
77 aforesaid, shall be and constitute the board of said district.

78 The population of any city, incorporated town or other
79 municipal corporation, for the purpose of determining the
80 number of members of such board, if any, to be appointed
81 by the governing body or bodies thereof, shall be con-
82 clusively deemed to be the population stated for such
83 city, incorporated town or other municipal corporation
84 in the official federal census for the year one thousand nine
85 hundred fifty.

86 The respective terms of office of the members of the first
87 board shall be fixed by the county court and shall be as
88 equally divided as may be, that is approximately one-third
89 of the members for a term of two years, a like number for
90 a term of four, and the term of the remaining member or
91 members for six years, from the first day of the month dur-
92 ing which such appointments are made. The first members
93 of the board appointed as aforesaid shall meet at the office
94 of the clerk of the county court which entered the order
95 creating the district as soon as practicable after such ap-
96 pointments and shall qualify by taking an oath of office.

97 Any vacancy shall be filled for the unexpired term, and
98 otherwise successor members of the board shall be ap-
99 pointed for terms of six years, and the terms of office
100 shall continue until successors have been appointed and
101 qualified. All successor members shall be appointed in
102 the same manner as the member succeeded was appointed.

103 The board shall organize promptly following the first
104 appointments, and annually thereafter at its first meeting
105 after January one of each year, by selecting one of its
106 members to serve as chairman and by appointing a secre-
107 tary and a treasurer who need not be members of such
108 board. The secretary shall keep a record of all proceed-
109 ings of the board which shall be available for inspection
110 as other public records. The treasurer shall be the lawful

111 custodian of all funds of the public service district and
112 shall pay same out on orders authorized or approved by
113 the board. The secretary and treasurer shall perform such
114 other duties appertaining to the affairs of the district and
115 shall receive such salaries as shall be prescribed by the
116 board, and either or both may be required to furnish bond
117 in sums to be fixed by the board for the use and benefit
118 of the district.

Sec. 4. *Procedural Regulations.*—The chairman shall
2 preside at all meetings of the board and shall have the
3 right to vote as any other members of the board, but if
4 he should be absent from any meeting the remaining
5 members may select a temporary chairman, and if the
6 member selected as chairman resigns as such or ceases
7 for any reason to be a member of the board, the board
8 shall select one of its members as chairman to serve until
9 the next annual organization meeting. The board shall
10 fix the salaries of each of its members, but same shall
11 not be on a basis of more than five hundred dollars per
12 annum payable in equal monthly amounts. The board
13 shall by resolution determine its own rules of procedure,
14 fix the time and place of its meetings and the manner in
15 which special meetings may be called. A majority of the
16 members constituting the board shall also constitute a
17 quorum to do business. The members of the board shall
18 not be personally liable or responsible for any obligations
19 of the district or the board, but shall be answerable only
20 for willful misconduct in the performance of their duties.
21 At any time prior to the issuance of bonds as hereinafter
22 provided the board may by resolution change the official
23 or corporate name of the public service district and such
24 change shall be effective from and after filing an authen-
25 ticated copy of such resolution with the clerk of the
26 county court of each county in which the territory em-
27 braced within such district or any part thereof is located.
28 The official name of any district created under the pro-
29 visions of this article may contain the name or names of
30 any city, incorporated town or other municipal corpor-
31 ation included therein or the name of any county or coun-
32 ties in which it is located.

2 Sec. 5. *General Manager.*—The board may appoint a
3 general manager to serve a term of not more than five
4 years and until his successor is appointed, and his com-
5 pensation shall be fixed by resolution of the board. Such
6 general manager shall devote all or the required portion
7 of his time to the affairs of the district and shall have
8 power to employ, discharge and fix the compensation of
9 all employees of the district, except as in this article
10 otherwise provided, and he shall perform and exercise
11 such other powers and duties as may be conferred upon
12 him by the board.

13 Such general manager shall be chosen without regard
14 to his political affiliations and upon the sole basis of his
15 administrative and technical qualifications to manage
16 public service properties and affairs of the district and
17 he may be discharged only upon the affirmative vote
18 of two-thirds of the board. Such general manager need
19 not be a resident of the district at the time he is chosen.

2 Sec. 6. *Employees.*—The board may in its discretion
3 from time to time by resolution passed by a majority vote
4 provide for the appointment of an attorney, fiscal agent,
5 one or more engineers, and such other officers as said
6 board may determine necessary and expedient. The board
7 shall in and by such resolution fix the term of office, com-
8 pensation, and prescribe the duties to be performed by
9 such appointees or officers.

2 Sec. 7. *Acquisition and Operation of District Properties.*
3 —The board of such districts shall have the supervision
4 and control of all public service properties acquired or
5 constructed by the district and shall have power, and it
6 shall be its duty, to maintain, operate, extend and improve
7 the same. All contracts involving the expenditure by the
8 district of more than two thousand dollars for construction
9 work or for the purchase of equipment and improvements,
10 extensions or replacements, shall be entered into only
11 after notice inviting bids shall have been published in a
12 newspaper of general circulation in the district at least
13 once not less than ten days prior to the date of making
14 any such contract. Any obligations incurred of any kind
15 or character shall not in any event constitute or be deemed

15 an indebtedness within the meaning of any of the pro-
16 visions or limitations of the constitution but all such
17 obligations shall be payable solely and only out of re-
18 venues derived from the operation of the public service
19 properties of the district or from proceeds of bonds issued
20 as hereinafter provided. No continuing contract for the
21 purchase of materials or supplies or for furnishing the
22 district with electrical energy or power shall be entered
23 into for a longer period than fifteen years.

Sec. 8. *Purchase; Eminent Domain; Extra Territorial*
2 *Powers.*—The board is hereby authorized to acquire any
3 publicly or privately owned public service properties
4 located within the boundaries of the district regardless
5 of whether or not all or any part of such properties are
6 located within the corporate limits of any city, incorporat-
7 ed town or other municipal corporation, included within
8 the district, and shall have power to purchase and acquire
9 all rights and franchises and any and all property within
10 or outside the district necessary or incidental to the pur-
11 pose of the district.

12 The board shall have power and authority to construct
13 any public service properties within or outside the district
14 necessary or incidental to its purposes, and each such dis-
15 trict is hereby empowered and authorized to acquire, con-
16 struct, maintain and operate any such public service pro-
17 perties within the corporate limits of any city, incorpor-
18 ated town, or other municipal corporation included within
19 the district or in any unincorporated territory within ten
20 miles of the territorial boundaries of the district: *Pro-*
21 *vided, however,* That if any incorporated city, town or
22 other municipal corporation included within the district
23 shall own and operate either water facilities or sewer
24 facilities, or both, then the district shall not acquire, con-
25 struct, establish, improve or extend any public service pro-
26 perties of the same kind within such city, incorporated
27 towns or other municipal corporations, or the adjacent
28 unincorporated territory served by such cities, incorpor-
29 ated towns or other municipal corporations, except upon
30 the consent of such cities, incorporated towns or other
31 municipal corporations, and in conformity and compliance

32 with the rights of the holders of any revenue bonds or
33 obligations theretofore issued by such cities, incorporated
34 towns or other municipal corporations then outstanding,
35 and in accordance with the ordinance, resolution or other
36 proceedings which authorize the issuance of such revenue
37 bonds or obligations.

38 Whenever such district shall have constructed, acquired
39 or established water facilities or sewer facilities for water
40 or sewer services within any city, incorporated town or
41 other municipal corporation included within a district,
42 then such city, incorporated town or other municipal cor-
43 poration shall not thereafter construct, acquire or estab-
44 lish any facilities of the same kind within such city, in-
45 corporated town or other municipal corporation without
46 the consent of such district.

47 For the purpose of acquiring any public service pro-
48 perties or lands, rights or easements deemed necessary
49 or incidental for the purposes of the district, each such
50 district shall have the right of eminent domain to the
51 same extent and to be exercised in the same manner as
52 now or hereafter provided by law for such right of emi-
53 nent domain by cities, incorporated towns and other muni-
54 cipal corporations: *Provided, however,* That such board
55 shall not acquire all or any substantial part of a privately
56 owned waterworks system, unless and until authorized so
57 to do by the public service commission of West Virginia,
58 and that this section shall not be construed to authorize
59 any district to acquire through condemnation proceedings
60 either in whole or substantial part an existing privately
61 owned waterworks plant or system located in or furnish-
62 ing water service within such district or extensions made
63 or to be made by it in territory contiguous to such existing
64 plant or system, nor shall any such board construct or
65 extend its public service properties to supply its services
66 into areas served by or in competition with existing water-
67 works or extensions made or to be made in territory con-
68 tiguous to such existing plant or system by the owner
69 thereof.

Sec. 9. *Service Rates and Charges.*—The board shall
2 have the power to make, enact and enforce all needful

3 rules and regulations in connection with the acquisition,
4 construction, improvement, extension, management, main-
5 tenance, operation, care, protection and the use of any
6 public service properties owned or controlled by the dis-
7 trict, and it shall be the duty of such board to establish
8 rates and charges for the services and facilities it furnishes.
9 which shall be sufficient at all times, notwithstanding the
10 provisions of any other law or laws, to pay the cost of
11 maintenance, operation and depreciation of such public
12 service properties and principal of and interest on all
13 bonds issued and other obligations incurred under the
14 provisions of this article and all reserve or other payments
15 provided for in the proceedings which authorized the
16 issuance of any bonds hereunder. The schedule of such
17 rates and charges may be based upon either (a) the con-
18 sumption of water on premises connected with such faci-
19 lities, taking into consideration domestic, commercial,
20 industrial and public use of water; or (b) the number
21 and kind of fixtures connected with such facilities located
22 on the various premises; or (c) the number of persons
23 served by such facilities; or (d) any combination thereof;
24 or (e) may be determined on any other basis or classi-
25 fication which the board may determine to be fair and
26 reasonable taking into consideration the location of the
27 premises served and the nature and extent of the services
28 and facilities furnished. Where both water and sewer
29 services are furnished to any premises the schedule of
30 charges may be billed as a single amount for the aggregate
31 thereof. Whenever any rates, rentals or charges for ser-
32 vices or facilities furnished shall remain unpaid for a
33 period of thirty days after the same shall become due and
34 payable the property and the owner thereof, as well as the
35 user of the services and facilities shall be delinquent until
36 such time as all such rates and charges are fully paid. The
37 board shall be obligated under reasonable rules and re-
38 gulations, to shut off and discontinue both water and
39 sewer services to all delinquent users of either water faci-
40 lities or sewer facilities, or both, and shall not restore
41 either water facilities or sewer facilities to any delinquent
42 user of either water facilities or sewer facilities until all
43 delinquent charges for both water facilities and sewer

44 facilities, including reasonable interest and penalty
45 charges, have been paid in full.

46 In the event that any city, incorporated town or other
47 municipal corporation included within the district shall
48 own and operate separately either water facilities or sewer
49 facilities, and the district shall own and operate within
50 such city, incorporated town or other municipal corpor-
51 ation the other kind of facilities, either water or sewer
52 facilities, as the case may be, then the district and such
53 city, incorporated town or other municipal corporation
54 shall have power to covenant and contract with each other
55 to shut off and discontinue, the supplying of the kind of
56 facilities furnished by the district or such city, incorpo-
57 rated town or other municipal corporation as the case may
58 be, for the nonpayment of fees and charges for the other
59 kind of facilities furnished by the district or city, incor-
60 porated town or other municipal corporation, as the case
61 may be.

62 Any district furnishing sewer facilities within the dis-
63 trict shall also have power to require all owners, tenants or
64 occupants of any houses, buildings or premises abutting
65 on any such sewer facilities, or which can use such sewer
66 facilities, to connect with and use such sewer facilities,
67 and to cease the use of all other means for the collection,
68 treatment and disposal of sewage and waste matters from
69 such houses, buildings or premises which can be ade-
70 quately served by the sewer facilities of the district, and
71 it is hereby found, determined and declared that the man-
72 datory use of such sewer facilities provided for in this
73 paragraph is necessary and essential for the health and
74 welfare of the inhabitants and residents of such districts
75 and of the state.

76 All delinquent fees, rates and charges of the district for
77 either water facilities or sewer facilities shall be liens on
78 the premises served of equal dignity, rank and priority
79 with the lien on such premises of state, county, school and
80 municipal taxes. When such fees, rates and charges have
81 been delinquent for thirty days, the district shall have
82 power to forthwith foreclose the lien on the premises
83 served in the same manner now provided in the laws of

84 the state of West Virginia for the foreclosure of mortgages
85 on real property.

Sec. 10. *Budget.*—The board shall establish the beginning
2 and ending of its fiscal year, which period shall constitute
3 its budget year, and at least thirty days prior to the be-
4 ginning of the first full fiscal year after the creation of the
5 district and annually thereafter the general manager
6 shall prepare and submit to the board a tentative budget
7 which shall include all operation and maintenance ex-
8 penses for the ensuing fiscal year. Such tentative budget
9 shall be considered by the board, and, subject to any re-
10 visions or amendments that may be determined by said
11 board, shall be adopted as the budget for the ensuing fiscal
12 year, and no expenditures for operation and maintenance
13 expenses in excess of the budget, shall be made during
14 such fiscal year unless unanimously authorized and di-
15 rected by the board. It shall not be necessary to include
16 in such budget any statement of necessary expenditures
17 for annual interest or principal payments on bonds or for
18 capital outlays, but it shall be the duty of the board to
19 make provisions for their payment as they become due.

Sec. 11. *Accounts; Audits.*—It shall be the duty of the
2 general manager under direction of the board to install
3 and maintain a proper system of accounts showing re-
4 cepts from operation and application of the same, and the
5 board shall at least once a year cause such accounts to be
6 properly audited by an independent public accountant.

Sec. 12. *Disbursement of District Funds.*—No money
2 shall be paid out by a district except upon an order signed
3 by the chairman and secretary of such board, or such
4 other person or persons authorized by the chairman or
5 secretary, as the case may be, to sign such orders on their
6 behalf. Each order for the payment of money shall specify
7 the purposes for which the amount thereof is to be paid,
8 with sufficient clearness to indicate the purpose for which
9 the order is issued, and there shall be endorsed thereon
10 the name of the particular fund out of which it is payable
11 and it shall be payable from the fund constituted for such
12 purpose, and no other.

Sec. 13. *Revenue Bonds.*—For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding five per cent per annum payable semi-annually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in the office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signature appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed six per cent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such

42 covenants and restrictions upon the issuance of additional
43 bonds thereafter as may be deemed necessary or advis-
44 able for the assurance of the payment of the bonds thereby
45 authorized.

Sec. 14. *Items Included in Cost of Properties.*—The cost
2 of any public service properties acquired under the pro-
3 visions of this article shall be deemed to include the cost
4 of the acquisition or construction thereof, the cost of
5 all property rights, easements and franchises deemed
6 necessary or convenient therefor and for the improve-
7 ments and extensions thereto; interest upon bonds prior
8 to and during construction or acquisition and for six
9 months after completion of construction or of acquisition
10 of the improvements and extensions; engineering, fiscal
11 agents and legal expenses; expense for estimates of cost
12 and of revenues, expenses for plans, specifications and
13 surveys; other expenses necessary or incident to deter-
14 mining the feasibility or practicability of the enterprise,
15 administrative expense, and such other expenses as may
16 be necessary or incident to the financing herein author-
17 ized, and the construction or acquisition of the properties
18 and the placing of same in operation, and the performance
19 of the things herein required or permitted, in connection
20 with any thereof.

Sec. 15. *Trust Indenture.*—In the discretion and at the
2 option of the board such bonds may be secured by a trust
3 indenture by and between the district and a corporate
4 trustee, which may be a trust company or bank having
5 powers of a trust company within or without the state
6 of West Virginia, but no such trust indenture shall convey,
7 mortgage or create any lien upon the public service prop-
8 erties or any part thereof. The resolution authorizing the
9 bonds and fixing the details thereof may provide that such
10 trust indenture may contain such provisions for protect-
11 ing and enforcing the rights and remedies of bondholders
12 as may be reasonable and proper, not in violation of law,
13 including covenants setting forth the duties of the district
14 and the members of its board and officers in relation to
15 the construction or acquisition of public service properties
16 and the improvement, extension, operation, repair, main-

17 tenance and insurance thereof, and the custody, safe-
18 guarding and application of all moneys, and may provide
19 that all or any part of the construction work shall be
20 contracted for, constructed and paid for, under the super-
21 vision and approval of consulting engineers employed or
22 designated by the board and satisfactory to the original
23 bond purchasers, their successors, assignees or nominees,
24 who may be given the right to require the security given
25 by contractors and by any depository of the proceeds of
26 bonds or revenues of the public service properties or other
27 money pertaining thereto be satisfactory to such purchas-
28 ers, their successors, assignees or nominees. Such inden-
29 ture may set forth the rights and remedies of the bond-
30 holders and such trustee.

Sec. 16. *Sinking Fund for Revenue Bonds.*—At or before
2 the time of the issuance of any bonds under this article
3 the board shall by resolution or in the trust indenture
4 provide for the creation of a sinking fund and for monthly
5 payments into such fund from the revenues of the public
6 service properties operated by the district such sums in
7 excess of the cost of maintenance and operation of such
8 properties as will be sufficient to pay the accruing interest
9 and retire the bonds at or before the time each will re-
10 spectively become due and to establish and maintain re-
11 serves therefor. All sums which are or should be, in ac-
12 cordance with such provisions, paid into such sinking fund
13 shall be used solely for payment of interest and for the
14 retirement of such bonds at or prior to maturity as may
15 be provided or required by such resolutions.

Sec. 17. *Limited Security and Enforcement of Revenue*
2 *Bonds.*—The board of any such district shall have power
3 to insert enforceable provisions in any resolution author-
4 izing the issuance of bonds relating to the collection, cus-
5 tody and application of revenues of the district from the
6 operation of the public service properties under its con-
7 trol and to the enforcement of the covenants and under-
8 takings of the district. In the event there shall be default
9 in the sinking fund provisions aforesaid or in the payment
10 of the principal or interest on any of such bonds or, in
11 the event the district or its board or any of its officers,

12 agents or employees, shall fail or refuse to comply with
13 the provisions of this article, or shall default in any cov-
14 enant or agreement made with respect to the issuance of
15 such bonds or offered as security therefor, then any holder
16 or holders of such bonds and any such trustee under the
17 trust indenture, if there be one, shall have the right by
18 suit, action, mandamus or other proceeding instituted in
19 the circuit court for the county or any of the counties
20 wherein the district extends, or in any other court of
21 competent jurisdiction, to enforce and compel perform-
22 ance of all duties required by this article or undertaken
23 by the district in connection with the issuance of such
24 bonds, and upon application of any such holder or hold-
25 ers, or such trustee, such court shall, upon proof of such
26 defaults, appoint a receiver for the affairs of the district
27 and its properties, which receiver so appointed, shall
28 forthwith directly, or by his agents and attorneys, enter
29 into and upon and take possession of the affairs of the
30 district and each and every part thereof, and hold, use,
31 operate, manage, and control the same, and in the name
32 of the district exercise all of the rights and powers of
33 such district as shall be deemed expedient, and such re-
34 ceiver shall have power and authority to collect and re-
35 ceive all revenues and apply same in such manner as the
36 court shall direct. Whenever the default causing the ap-
37 pointment of such receiver shall have been cleared and
38 fully discharged and all other defaults shall have been
39 cured, the court may in its discretion and after such notice
40 and hearing as it deems reasonable and proper direct the
41 receiver to surrender possession of the affairs of the dis-
42 trict to its board. Such receiver so appointed shall have
43 no power to sell, assign, mortgage, or otherwise dispose
44 of any assets of the district except as hereinbefore pro-
45 vided.

Sec. 18: *Operating Contracts.*—The board may enter
2 into contracts or agreements with any persons, firms or
3 corporations for the operation and management of the
4 public service properties within the district, or any part
5 thereof, for such period of time and under such terms
6 and conditions as shall be agreed upon between the board
7 and such persons, firms or corporations. The board shall

8 have power to provide in the resolution authorizing the
9 issuance of bonds, or in any trust indenture securing such
10 bonds, that such contracts or agreements shall be valid
11 and binding upon the district as long as any of said bonds,
12 or interest thereon, are outstanding and unpaid.

Sec. 19. *Statutory Mortgage*.—There shall be and is
2 hereby created a statutory mortgage lien upon such public
3 service properties of the district, which shall exist in
4 favor of the holders of bonds hereby authorized to be
5 issued, and each of them, and the coupons attached to
6 said bonds, and such public service properties shall re-
7 main subject to such statutory mortgage lien until pay-
8 ment in full of all principal of and interest on such bonds.
9 Any holder of such bonds, of any coupons attached there-
10 to, may, either at law or in equity, enforce said statutory
11 mortgage lien conferred hereby and upon default in the
12 payment of the principal of or interest on said bonds, may
13 foreclose such statutory mortgage lien in the manner now
14 provided by the laws of the state of West Virginia for the
15 foreclosure of mortgages on real property.

Sec. 20. *Refunding Revenue Bonds*.—The board of any
2 district having issued bonds under the provisions of this
3 article is hereby empowered thereafter by resolution to
4 issue refunding bonds of such district for the purpose of
5 retiring or refinancing such outstanding bonds, together
6 with any unpaid interest thereon and redemption pre-
7 mium thereunto appertaining and all of the provisions
8 of this article relating to the issuance, security and pay-
9 ment of bonds shall be applicable to such refunding bonds,
10 subject, however, to the provisions of the proceedings
11 which authorized the issuance of the bonds to be so re-
12 funded.

Sec. 21. *Law Complete and to Be Liberally Con-*
2 *strued*.—This article shall constitute full and complete
3 authority for the creation of public service districts and
4 for carrying out the powers and duties of same as herein
5 provided. The provisions of this article shall be liberally
6 construed to accomplish its purpose and no procedure or
7 proceedings, notices, consents or approvals, shall be re-

8 quired in connection therewith except as may be pre-
9 scribed by this article: *Provided*, That all functions,
10 powers and duties of the public service commission of
11 West Virginia, the state department of health and the state
12 water commission shall remain unaffected by this article.
13 Every district organized under this article is declared
14 to be a public instrumentality created and functioning
15 in the interest and for the benefit of the public, and its
16 property and income and any bonds issued by it shall be
17 exempt from taxation by the state of West Virginia, and
18 the other taxing bodies of the state: *Provided, however*,
19 That the board of any such district may use and apply
20 any of its available revenues and income for the payment
21 of what such board determines to be tax or license fee
22 equivalents to any local taxing body and in any proceed-
23 ings for the issuance of bonds of such district may reserve
24 the right to annually pay a fixed or computable sum to
25 such taxing bodies as such tax or license fee equivalent.

CHAPTER 148

(House Bill No. 463—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section seven, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the governor's staff of the national guard and to the appointment, qualifications, duties and compensation of the adjutant general.

[Passed March 13, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 1. National Guard.

Section

7. Governor's staff; adjutant general.

Be it enacted by the Legislature of West Virginia:

That section seven, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 7. *Governor's Staff; Adjutant General.*—The
2 staff of the governor shall consist of one adjutant general
3 with rank of brigadier general, an assistant adjutant gen-
4 eral with rank not above that of colonel, and, in addition
5 thereto, such other officers as may be currently prescribed
6 by existing tables of organizations as established by
7 federal authority. The governor may also appoint and
8 commission an honorary staff to serve during his term
9 of office, of such number as he may deem advisable, with
10 such rank as he may fix, which honorary staff will not be
11 held to be a part of the regularly organized militia.

12 The adjutant general shall be appointed and commis-
13 sioned by the governor, but no person shall be appointed
14 adjutant general unless such person has had at least six
15 years' service in the national guard of this or some other
16 state, or in the armed forces of the United States, or in
17 all combined.

18 In time of peace he shall perform the duties of chief of
19 the pay, quartermaster and ordnance departments unless
20 otherwise ordered by the governor, and shall give bond in
21 such sum as the governor may require, such bond to be
22 provided in like manner as the bonds of other officers.
23 He shall receive a compensation of seven thousand dollars
24 per annum, which shall be paid to him in equal monthly
25 installments, and his term of office shall be for four years.
26 He shall attest, record, and seal with the seal of the state
27 all commissions issued by the governor, and keep a
28 register of all commissioned officers, with dates of com-
29 mission, and all changes occurring in the commissioned
30 force, and shall keep a full and complete record at all
31 times of the organized militia of the state. He shall, as
32 soon as possible after the first day of July in even years,
33 make a biennial report to the governor of the transactions
34 and the expenditures of his department and the condi-
35 tion of the national guard. Such report shall show all
36 receipts into the military or militia fund of the state
37 from every source, including fines, appropriations from
38 the state, and all money received from the federal govern-
39 ment and from every other source. All such funds and
40 moneys shall be paid into the state treasury as soon as
41 received, and shall be credited to the military fund. Such

42 report shall also show in detail all expenditures made
43 from each fund, and the purpose of the expenditures,
44 and shall state such other details as the governor may
45 order; and the report shall be communicated by the
46 governor to the next session of the legislature. He shall
47 also make such other reports and returns as may be re-
48 quired by the governor from time to time. He shall cause
49 to be procured, prepared and issued to the different
50 organizations of the national guard all necessary books
51 and blanks for reports, records, returns and general
52 administration, and shall, at the expense of the state,
53 cause the military laws, military code, and rules and
54 regulations in force to be printed, bound in proper form,
55 and distributed, one copy to each commissioned officer,
56 and one each to all the circuit, intermediate and criminal
57 court judges, sheriffs, assessors, and justices of the peace
58 in the state requiring them; and shall procure and supply
59 all necessary textbooks of drill and instruction. He shall
60 keep in his office an accurate account of all state and
61 United States property issued to the state. He shall keep
62 on file in his office all official bonds, except the bond of
63 the adjutant general, which shall be filed with the auditor
64 of the state; the reports and returns of troops and heads
65 of military departments; and all other writings and
66 papers which are required to be transmitted to and per-
67 served at the general headquarters of the state militia.
68 He shall employ such clerical force and assistants as
69 may be required in the military department, in addition
70 to the assistant adjutant general herein authorized. He
71 shall keep records of all service personnel from the state
72 of West Virginia, commissioned or enlisted, in any of the
73 wars of the United States, and of individual claims of
74 citizens of West Virginia for service rendered in such
75 wars. He shall assist all persons residing in this state
76 having claims against the United States for pension,
77 bounty or back pay, or such claims as have arisen out of,
78 or by reason of, service in any of said wars. To this end
79 he shall cooperate with the agents or attorneys of such
80 claimants, furnish to claimants only all necessary certifi-
81 cates or certified abstracts from, or copies of, records or
82 documents in his office, and shall in all practicable ways

83 seek to secure speedy and just action in all claims now
84 pending or which may hereafter be filed: *Provided*, That
85 any and all of the above services shall be rendered with-
86 out charge to the claimant. He shall establish and main-
87 tain as a part of his office a bureau of records of the serv-
88 ices of the West Virginia troops during such wars, and
89 shall keep arranged in proper and convenient form all
90 records and papers pertaining thereto.

CHAPTER 149

(House Bill No. 138—By Mr. Maxwell)

AN ACT to amend and reenact section twenty-eight-f, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to benefits payable from disability and retirement fund for children of state police.

[Passed March 3, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

28-f. Death of member in performance of duty; dependents; awards and benefits.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight-f, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 28-f. *Death of Member in Performance of Duty; Dependents; Awards and Benefits.*—The widow or the children under the age of eighteen years or dependent parent or parents of any member who has lost or shall lose his life by reason of injury, illness or disease resulting from an occupational risk or hazard inherent in or peculiar to the service required of members while such member was or shall be engaged in the performance of his duties

9 as a member of said department, or if said member shall
10 die from any cause after having been retired pursuant
11 to the provisions of section twenty-eight-b of this article,
12 shall be entitled to receive and shall be paid from the
13 death, disability and retirement fund benefits as follows:
14 To the widow annually, in equal monthly installments
15 during her lifetime or until her remarriage, an amount
16 equal to two per cent of the total salary which would have
17 been earned by said deceased member during twenty-five
18 years of service in said department based on his average
19 earnings while employed as a member of said department.
20 In addition thereto such widow shall be entitled to receive
21 and there shall be paid to her twenty dollars monthly for
22 each child until such child shall attain the age of eighteen
23 years. If such widow shall die or remarry or if there be
24 no widow there shall be paid monthly to such child or
25 children from the death, disability and retirement fund
26 the sum of twenty dollars each until such child or children
27 shall respectively attain the age of eighteen years. If there
28 be no widow and no child or children, there shall be paid
29 annually in equal monthly installments from said death,
30 disability and retirement fund to the dependent parents
31 of said deceased member during their joint lifetimes a
32 sum equal to the amount which a widow, without child-
33 ren, would have received; *Provided*, That when there
34 shall be but one dependent parent surviving, such parent
35 shall be entitled to receive during his or her lifetime one-
36 half the amount which both parents, if living, would have
37 been entitled to receive.

CHAPTER 150

(Senate Bill No. 281—By Mr. Amos)

AN ACT to amend and reenact article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment of a civil defense agency and other organizations for civil defense within this state, and granting certain executive powers with respect thereto.

[Passed March 13, 1953; in effect from passage. Approved by the Governor.]

Article 5. State Council of Defense.

Section

1. Policy and purpose.
2. Definitions.
3. State civil defense agency.
4. Civil defense advisory council.
5. Civil defense powers of the governor.
6. Emergency powers.
7. Mobile support units.
8. Local organization for civil defense.
9. Mutual aid arrangements.
10. Immunity and exemption.
11. Private liability.
12. Appropriations and authority to accept services, gifts, grants and loans.
13. Utilization of existing services and facilities.
14. Political activity prohibited.
15. Civil defense personnel.
16. Separability.
17. Enforcement.
18. Arrest without warrant.
19. Duration of article.

Be it enacted by the Legislature of West Virginia:

That article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Policy and Purpose.*—In view of the existing
2 and increasing possibility of the occurrence of disasters
3 of unprecedented size and destructiveness resulting from
4 enemy attack, sabotage or other hostile action, or from
5 fire, flood, earthquakes, or other natural causes, and in
6 order to insure that preparations of this state will be
7 adequate to deal with such disasters, and generally to
8 provide for the common defense and to protect the pub-
9 lic peace, health, and safety, and to preserve the lives and
10 property of the people of the state, it is hereby found and
11 declared to be necessary: (1) To create a state civil de-
12 fense agency, and to authorize the creation of local or-
13 ganizations for civil defense in the political subdivisions
14 of the state; (2) to confer upon the governor and upon
15 the executive heads of governing bodies of the political
16 subdivisions of the state the emergency powers provided
17 herein; and (3) to provide for the rendering of mutual

18 aid among the political subdivisions of the state and with
19 other states, and to cooperate with the federal govern-
20 ment with respect to the carrying out of civil defense
21 functions.

22 It is further declared to be the purpose of this article
23 and the policy of the state that all civil defense functions
24 of this state be coordinated to the maximum extent with
25 the comparable functions of the federal government in-
26 cluding its various departments and agencies, of other
27 states and localities, and of private agencies of every type,
28 to the end that the most effective preparation and use
29 may be made of the nation's manpower, resources, and
30 facilities for dealing with any disaster that may occur.

Sec. 2. *Definitions.*—As used in this article:

2 (a) "Civil Defense" shall mean the preparation for and
3 the carrying out of all emergency functions, other than
4 functions for which military forces are primarily respon-
5 sible, to prevent, minimize and repair injury and damage
6 resulting from disasters caused by enemy attack, sabotage
7 or other hostile action, or by fire, flood, earthquake, or
8 other natural causes. These functions include, without
9 limitation, fire fighting services, police services, medical
10 and health services, rescue, engineering, air raid warning
11 services, communications, radiological, chemical and
12 other special weapons defense, evacuation of persons
13 from stricken areas, emergency welfare services,
14 emergency transportation, existing or properly
15 assigned functions of plant protection, temporary
16 restoration of public utility services, and other
17 functions related to civilian protection, together
18 with all other activities necessary or incidental to the
19 preparation for and carrying out of the foregoing func-
20 tions.

21 (b) "Local organization for civil defense" shall mean
22 an organization created in accordance with the provisions
23 of this article by state or local authority to perform local
24 civil defense functions.

25 (c) "Mobile support unit" shall mean an organization
26 for civil defense created in accordance with the provisions
27 of this article by state or local authority to be dispatched

28 by the governor to supplement local organizations for
29 civil defense in a stricken area.

30 (d) "Political subdivision" shall mean any county or
31 municipal corporation.

Sec. 3. *State Civil Defense Agency.*—There is hereby
2 created within the executive branch of the state govern-
3 ment a department of civil defense, hereinafter called
4 the civil defense agency, and a director of civil defense,
5 hereinafter called the director, who shall be the head
6 thereof. The director shall be appointed by the governor,
7 with the advice and consent of the Senate, to serve dur-
8 ing the pleasure of the governor.

9 The director may employ such technical, clerical, steno-
10 graphic and other personnel and fix their compensation,
11 and may make such expenditures within the appropria-
12 tion therefor, or from other funds made available to him
13 for the purpose of civil defense, as may be necessary to
14 carry out the purposes of this article.

15 The director and other personnel of the civil defense
16 agency shall be provided with appropriate office space,
17 furniture, equipment, supplies, stationery and printing
18 in the same manner as provided for personnel of other
19 state agencies.

20 The director, subject to the direction and control of
21 the governor, shall be the executive head of the civil
22 defense agency and shall be responsible to the governor
23 for carrying out the program for civil defense of this
24 state. He shall coordinate the activities of all organiza-
25 tions for civil defense within the state, and shall maintain
26 liaison with and cooperate with civil defense agencies
27 and organizations of other states and of the federal gov-
28 ernment, and shall have such additional authority, duties,
29 and responsibilities authorized by this article as may be
30 prescribed by the governor.

Sec. 4. *Civil Defense Advisory Council.*—There is here-
2 by created a civil defense advisory council, hereinafter
3 called the council, which shall consist of seven members
4 to be appointed by the governor. The council shall ad-
5 vise the governor and the director on all matters pertain-

6 ing to civil defense. The governor shall serve as chair-
7 man of the council, and the members thereof shall serve
8 without compensation, but shall be reimbursed for the
9 reasonable and necessary expenses incurred in the per-
10 formance of their duties.

Sec. 5. *Civil Defense Powers of the Governor.*—The
2 governor shall have general direction and control of the
3 civil defense agency, and shall be responsible for the
4 carrying out of the provisions of this article, and in the
5 event of disaster beyond local control, may assume direct
6 operational control over all or any part of the civil de-
7 fense functions within this state.

8 In performing his duties under this article, the governor
9 is authorized to cooperate with the federal government,
10 with other states, and with private agencies in all matters
11 pertaining to the civil defense of this state and of the
12 nation.

13 In performing his duties under this article to effect its
14 policy and purpose, the governor is further authorized
15 and empowered:

16 (1) To make, amend, and rescind the necessary orders,
17 rules and regulations to carry out the provisions of this
18 article within the limits of the authority conferred upon
19 him herein, with due consideration of the plans of the
20 federal government.

21 (2) To prepare a comprehensive plan and program for
22 the civil defense of this state, such plan and program to
23 be integrated into and coordinated with the civil defense
24 plans of the federal government and of other states to
25 the fullest possible extent, and to coordinate the prepara-
26 tion of plans and programs for civil defense by the politi-
27 cal subdivisions of this state, such plans to be integrated
28 into and coordinated with the civil defense plan and pro-
29 gram of this state to the fullest possible extent.

30 (3) In accordance with such plan and program for the
31 civil defense of this state, to procure supplies and equip-
32 ment, to institute training programs and public informa-
33 tion programs, and to take all other preparatory steps
34 including the partial or full mobilization of civil defense
35 organizations in advance of actual disaster, to insure the

36 furnishing of adequately trained and equipped forces of
37 civil defense personnel in time of need.

38 (4) To make such studies and surveys of the indus-
39 tries, resources, and facilities in this state as may be
40 necessary to ascertain the capabilities of the state for
41 civil defense, and to plan for the most efficient emergency
42 use thereof.

43 (5) On behalf of this state, to enter into mutual aid
44 arrangements with other states and to coordinate mutual
45 aid plans between political subdivisions of this state.

46 (6) To delegate any administrative authority vested
47 in him under this article, and to provide for the sub-
48 delegation of any such authority.

49 (7) To appoint, in cooperation with local authorities,
50 metropolitan area directors when practicable.

51 (8) To cooperate with the President and the heads of
52 the armed forces, the civil defense agency of the United
53 States, and other appropriate federal officers and agen-
54 cies, and with the officers and agencies of other states in
55 matters pertaining to the civil defense of the state and
56 nation, including the direction or control of (a) black-
57 outs and practice black-outs, air-raids drills, mobilization
58 of civil defense forces, and other tests and exercises;
59 (b) warnings and signals for drills or attacks and the
60 mechanical devices to be used in connection therewith;
61 (c) the effective screening or extinguishing of all lights
62 and lighting devices and appliances; (d) shutting off
63 water mains, gas mains, electric power connections and
64 the suspension of all other utility services; (e) the con-
65 duct of civilians and the movement and cessation of
66 movement of pedestrians and vehicular traffic during,
67 prior, and subsequent to drills or attack; (f) public meet-
68 ings or gatherings; and (g) the evacuation and reception
69 of the civilian population.

Sec. 6. *Emergency Powers.*—The provisions of this
2 section shall be operative only during the existence of a
3 state of civil defense emergency (referred to hereinafter
4 in this section as "emergency"). The existence of such
5 emergency may be proclaimed by the governor or by
6 concurrent resolution of the Legislature if the governor

7 in such proclamation, or the legislature in such resolu-
8 tion, finds that an attack upon the United States has
9 occurred or is anticipated in the immediate future, or
10 that a natural disaster of major proportions has actually
11 occurred within this state, and that the safety and wel-
12 fare of the inhabitants of this state require an invocation
13 of the provisions of this section. Any such emergency,
14 whether proclaimed by the governor or by the Legisla-
15 ture, shall terminate upon the proclamation of the termi-
16 nation thereof by the governor, or the passage by the
17 Legislature of a concurrent resolution terminating such
18 emergency. During such period as such state of emer-
19 gency exists or continues, the governor shall have an may
20 exercise the following additional emergency powers:

21 (a) To enforce all laws, rules, and regulations, relating
22 to civil defense and to assume direct operational control
23 of any or all civil defense forces and helpers in the state;

24 (b) To sell, lend, lease, give, transfer, or deliver ma-
25 terials or perform services for civil defense purposes on
26 such terms and conditions as the governor shall pre-
27 scribe and without regard to the limitations of any exist-
28 ing law, and to account to the state treasurer for any
29 funds received for such property;

30 (c) To procure materials and facilities for civil de-
31 fense by purchase, condemnation under the provisions of
32 chapter fifty-four of the code, or seizure pending institu-
33 tion of condemnation proceedings within thirty days from
34 the seizing thereof, and to construct, lease, transport,
35 store, maintain, renovate, or distribute such materials
36 and facilities. Compensation for the property so pro-
37 cured shall be as is provided in chapter fifty-four of the
38 code;

39 (d) To provide for and compel the evacuation of all
40 or part of the population from any stricken or threatened
41 area or areas within the state and to take such steps as
42 are necessary for the receipt and care of such evacuees;

43 (e) Subject to the provisions of the state constitution,
44 to remove from office any public officer having adminis-
45 trative responsibilities under this article for wilful failure
46 to obey an order, rule or regulation adopted pursuant to
47 this article. Such removal shall be upon charges after ser-

48 vice upon such person of a copy of such charges and after
49 giving him an opportunity to be heard in his defense.
50 Pending the preparation and disposition of charges, the
51 governor may suspend such person for a period not ex-
52 ceeding thirty days. A vacancy resulting from removal
53 or suspension pursuant to this section shall be filled by
54 the governor until it is filled as otherwise provided by
55 law;

56 (f) To perform and exercise such other functions,
57 powers, and duties as are necessary to promote and se-
58 cure the safety and protection of the civilian population.

Sec. 7. *Mobile Support Units.*—The governor or his
2 duly designated representative is authorized to create
3 and establish such number of mobile support units as
4 may be necessary to reinforce civil defense organizations
5 in stricken areas and with due consideration of the plans
6 of the federal government and of other states. He shall
7 appoint a commander for each such unit who shall have
8 primary responsibility for the organization, administra-
9 tion and operation of such unit. Mobile support units
10 shall be called to duty upon orders of the governor and
11 shall perform their functions in any part of the state, or,
12 upon the conditions specified in this section, in other
13 states.

14 Personnel of mobile support units while on duty,
15 whether within or without the state, shall: (1) If they
16 are employees of the state, have the powers, duties, rights,
17 privileges and immunities and receive the compensation
18 incidental to their employment; (2) if they are employees
19 of a political subdivision of the state, and whether serv-
20 ing within or without such political subdivision, have
21 the powers, duties, rights, privileges and immunities and
22 receive the compensation incidental to their employment;
23 and (3) if they are not employees of the state or a politi-
24 cal subdivision thereof, be entitled to compensation by
25 the state at the same rate as is paid members of circuit
26 court juries and to the same rights and immunities as
27 are provided by law for the employees of this state. All
28 personnel of mobile support units shall, while on duty,
29 be subject to the operational control of the authority in

30 charge of civil defense activities in the area in which
31 they are serving, and shall be reimbursed for all actual
32 and necessary travel and subsistence expenses.

33 The state shall reimburse a political subdivision for
34 the compensation paid and actual and necessary travel,
35 subsistence and maintenance expenses of employees of
36 such political subdivision while serving as members of
37 a mobile support unit and for all payments for death,
38 disability or injury of such employees incurred in the
39 course of such duty, and for all losses of or damage to
40 supplies and equipment of such political subdivision re-
41 sulting from the operation of such mobile support unit.

Sec. 8. *Local Organization for Civil Defense.*—Each
2 political subdivision of this state is hereby authorized
3 and directed to establish a local organization for civil
4 defense in accordance with the state civil defense plan
5 and program. Such political subdivision may confer or
6 authorize the conferring upon members of the auxiliary
7 police the powers of peace officers, subject to such re-
8 strictions as shall be imposed. Each local organization
9 for civil defense shall have a director who shall be ap-
10 pointed by the local civil defense council, and who shall
11 have direct responsibility for the organization, adminis-
12 tration and operation of such local organization for civil
13 defense, subject to the direction and control of such
14 local civil defense council. Each local organization for
15 civil defense shall perform civil defense functions within
16 the territorial limits of the political subdivision within
17 which it is organized, and, in addition, shall conduct such
18 functions outside of such territorial limits as may be
19 required pursuant to the provisions of section nine of
20 this article.

21 In carrying out the provisions of this article each po-
22 litical subdivision, in which any disaster as described
23 in section one hereof occurs, shall have the power to
24 enter into contracts and incur obligations necessary to
25 combat such disaster, protecting the health and safety
26 of persons and property, and providing emergency as-
27 sistance to the victims of such disaster. Each political
28 subdivision is authorized to exercise the powers vested
29 under this section in the light of the exigencies of the

30 extreme emergency situation without regard to time-
31 consuming procedures and formalities prescribed by law
32 (excepting mandatory constitutional requirements), per-
33 taining to the performance of public work, entering into
34 contracts, the incurring of obligations, the employment
35 of temporary workers, the rental of equipment, the pur-
36 chase of supplies and materials, the levying of taxes,
37 and the appropriation and expenditure of public funds.

Sec. 9. *Mutual Aid Arrangements.*—The director of
2 each local organization for civil defense may, in collab-
3 orating with other public and private agencies within
4 this state, develop or cause to be developed mutual aid
5 arrangements for reciprocal civil defense aid and as-
6 sistance in case of disaster too great to be dealt with un-
7 assisted. Such arrangements shall be consistent with the
8 state civil defense plan and program, and in time of
9 emergency it shall be the duty of each local organization
10 for civil defense to render assistance in accordance with
11 the provisions of such mutual aid arrangements.

12 The director of each local organization for civil de-
13 fense may, subject to the approval of the governor, enter
14 into mutual aid arrangements with civil defense agencies
15 or organizations in other states for reciprocal civil de-
16 fense aid and assistance in case of disaster too great to
17 be dealt with unassisted.

Sec. 10. *Immunity and Exemption.*—(a) All functions
2 hereunder and all other activities relating to civil de-
3 fense are hereby declared to be governmental functions.
4 Neither the state nor any political subdivision thereof
5 nor other agencies of the state or political subdivision
6 thereof, nor, except in cases of wilful misconduct, gross
7 negligence, or bad faith, any civil defense worker com-
8 plying with or reasonably attempting to comply with
9 this article, or any order, rule or regulation promulgated
10 pursuant to the provisions of this article, or pursuant to
11 any ordinance relating to black-out or other precaution-
12 ary measures enacted by any political subdivision of the
13 state, shall be liable for the death of or injury to persons,
14 or for damage to property, as a result of any such activity.
15 The provisions of this section shall not affect the right

16 of any person to receive benefits to which he would
17 otherwise be entitled under this article, or under the
18 Workmen's Compensation Law, or under any pension law,
19 nor the right of any such person to receive any benefits
20 or compensation under any act of Congress.

21 (b) Any requirement for a license to practice any pro-
22 fessional, mechanical or other skill shall not apply to
23 any authorized civil defense worker who shall, in the
24 course of performing his duties as such, practice such
25 professional, mechanical or other skill during a civil de-
26 fense emergency.

27 (c) As used in this section, the term civil defense
28 worker shall include any full or part-time paid, volun-
29 teer or auxiliary employee of this state, or other states,
30 territories, possessions or the District of Columbia, of
31 the federal government, or any neighboring country, or
32 of any political subdivision thereof, or of any agency
33 or organization, performing civil defense services at any
34 place in this state subject to the order or control of, or
35 pursuant to a request of, the state government or any
36 political subdivision thereof.

37 (d) Any civil defense worker, as defined in this sec-
38 tion, performing civil defense services at any place in
39 this state pursuant to agreements, compacts or arrange-
40 ments for mutual aid and assistance, to which the state
41 or a political subdivision thereof is a party, shall possess
42 the same powers, duties, immunities and privileges he
43 would ordinarily possess if performing his duties in the
44 state, province or political subdivision thereof in which
45 normally employed or rendering services.

Sec. 11. *Private Liability.*—Any person owning or con-
2 trolling real estate or other premises who voluntarily and
3 without compensation grants a license or privilege, or
4 otherwise permits the designation or use of the whole
5 or any part or parts of such real estate or premises for
6 the purpose of sheltering persons during an actual, im-
7 pending, mock or practice attack shall, together with his
8 successors in interest, if any, not be civilly liable for
9 negligently causing the death of, or injury to, any per-
10 son on or about such real estate or premises for loss of,
11 or damage to, the property of such person.

2 Sec. 12. *Appropriations and Authority to Accept Serv-*
3 *ices, Gifts, Grants, and Loans.*—Each political subdivision
4 shall have the power to make appropriations, in the man-
5 ner provided by law for making appropriations for the
6 ordinary expenses of such political subdivision, for the
7 payment of expenses of its local organization for civil
8 defense.

9 Whenever the federal government or any agency or
10 officer thereof shall offer to the state, or through the
11 state to any political subdivision thereof, services, equip-
12 ment, supplies, materials, or funds by way of gift, grant,
13 or loan, for purposes of civil defense, the state, acting
14 through the governor, or such political subdivision, act-
15 ing with the consent of the governor and through its
16 executive officer or governing body, may accept such
17 offer and upon such acceptance the governor of the state
18 or executive officer or governing body of such political
19 subdivision may authorize any officer of the state or of
20 the political subdivision, as the case may be, to receive
21 such services, equipment, supplies, materials, or funds
22 on behalf of the state or such political subdivision, and
23 subject to the terms of the offer and the rules and reg-
24 ulations, if any, of the agency making the offer.

25 Whenever any person, firm or corporation shall offer
26 to the state or to any political subdivision thereof, serv-
27 ices, equipment, supplies, materials, or funds by way of
28 gift, grant or loan, for purposes of civil defense, the
29 state, acting through the governor, or such political sub-
30 division, acting through its executive officer or governing
31 body, may accept such offer and upon such acceptance
32 the governor of the state or executive officer or govern-
33 ing body of such political subdivision may authorize any
34 officer of the state or of the political subdivision, as the
35 case may be, to receive such services, equipment, sup-
36 plies, materials, or funds on behalf of the state or such
37 political subdivision, and subject to the terms of the
38 offer.

2 Sec. 13. *Utilization of Existing Services and Facilities.*—

3 In carrying out the provisions of this article, the gov-
4 ernor and the executive officers or governing bodies of
5 the political subdivisions of the state are directed to

5 utilize the services, equipment, supplies and facilities
6 of existing departments, offices, and agencies of the state
7 and of the political subdivisions thereof to the maximum
8 extent practicable, and the officers and personnel of all
9 such departments, offices, and agencies are directed to
10 cooperate with and extend such services and facilities
11 to the governor and to the civil defense organizations
12 of the state upon request.

Sec. 14. *Political Activity Prohibited.*—No organization
2 for civil defense established under the authority of this
3 article shall participate in any form of political activity,
4 nor shall it be employed directly or indirectly for political
5 purposes.

Sec. 15. *Civil Defense Personnel.*—No person shall be
2 employed or associated in any capacity in any civil de-
3 fense organization established under this article who ad-
4 vocates or has advocated a change by force or violence
5 in the constitutional form of the government of the
6 United States or in this state or the overthrow of any
7 government in the United States by force or violence,
8 or who has been convicted of or is under indictment or
9 information charging any subversive act against the
10 United States. Each person who is appointed to serve
11 in an organization for civil defense shall, before en-
12 tering upon his duties, take an oath, in writing, before
13 a person authorized to administer oaths in this state,
14 which oath shall be substantially as follows:

15 "I, _____, do solemnly swear, or affirm, that
16 I will support and defend the constitution of the United
17 States and the constitution of the state of West Virginia,
18 against all enemies, foreign and domestic; that I will
19 bear true faith and allegiance to the same; that I take
20 this obligation freely, without any mental reservation
21 or purpose of evasion; and that I will well and faithfully
22 discharge the duties upon which I am about to enter.

23 "And I do further swear, or affirm, that I do not ad-
24 vocate, nor am I a member of any political party or
25 organization that advocates the overthrow of the gov-
26 ernment of the United States or of this state by force or
27 violence; and that during such time as I am a member

28 of the (name of organization), I will not advocate nor
29 become a member of any political party or organization
30 that advocates the overthrow of the government of the
31 United States or of this state by force or violence."

Sec. 16. *Separability*.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or application, and
6 to this end the provisions of this article are declared to
7 be severable.

Sec. 17. *Enforcement*.—It shall be the duty of every
2 organization for civil defense established pursuant to this
3 article and of the officers thereof to execute and enforce
4 such orders, rules and regulations as may be made by the
5 governor under authority of this article. Each such or-
6 ganization shall have available for inspection at its office
7 all orders, rules and regulations made by the governor,
8 or under his authority.

Sec. 18. *Arrest without Warrant*.—A peace officer, when
2 in full and distinctive uniform or displaying a badge or
3 other insignia of authority, may arrest without a warrant
4 any person violating or attempting to violate in such
5 officer's presence any order, rule, or regulation made pur-
6 suant to this article. This authority shall be limited to
7 those rules and regulations which affect the public gen-
8 erally.

Sec. 19. *Duration of Article*.—The provisions of this
2 article shall expire and be inoperative on and after the
3 first day of July, one thousand nine hundred fifty-five.

CHAPTER 151

(House Bill No. 88—By Mr. Bowles)

AN ACT to amend and reenact section two, article one, chapter
twenty-four of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to compensation of members of public service commission.

[Passed March 14, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 1. General Provisions.

Section

2. Appointment, qualification and disqualification of commissioners; removal from office; terms of office; salaries.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Appointment, Qualification and Disqualification of Commissioners; Removal from Office; Terms of Office; Salaries.*—There shall be a public service commission of West Virginia which by that name may sue and be sued. The commission shall consist of three members who shall be appointed by the governor with the advice and consent of the senate. The commissioners shall be citizens and residents of this state and at least one of them shall be a lawyer of not less than ten years' actual experience at the bar. The commissioners in office when this code becomes effective shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified. A commissioner shall be appointed to take office on the first day of June, nineteen hundred and thirty-one, and on the first day of June of every alternate year thereafter. The term of office shall be six years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each commissioner shall, before entering upon the duties of his office, take and subscribe to the oath provided by section five, article four of the constitution, which oath shall be filed in the office of the secretary of state. The governor shall annually designate one of the commissioners as chairman, and may remove any commissioner for incompetency, neglect of duty, gross immorality or malfeasance in office.

27 No person while in the employ of, or holding any
28 official relation to, any public utility subject to the pro-
29 visions of this chapter, or holding any stocks or bonds
30 thereof, or who is pecuniarily interested therein, shall
31 serve as a member of the commission. Nor shall any of
32 such commissioners be a candidate for or hold public
33 office, or be a member of any political committee, while
34 acting as such commissioner; nor shall any commissioner
35 or employee of said commission receive any pass, free
36 transportation or other thing of value, either directly or
37 indirectly, from any public utility subject to the pro-
38 visions of this chapter. In case any of such commissioners
39 shall become a candidate for any public office or shall
40 become a member of any political committee, his office
41 as commissioner shall be ipso facto vacated.

42 For the administration of this chapter each commission-
43 er shall receive a salary of seven thousand five hundred
44 dollars per annum to be paid in monthly installments from
45 the special fund collected from public utilities under the
46 provisions of section six-a, article three, chapter twenty-
47 four of the code of West Virginia.

CHAPTER 152

(House Bill No. 233—By Mr. Snyder)

AN ACT to amend and reenact section three, article one; section four, article two and section six, article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, so as to authorize the public service commission to appoint its employees to hold hearings, take evidence, administer oaths, subpoena witnesses and to have such other powers and perform such other duties as the commission may require; to authorize the public service commission to suspend any proposed change in rates or charges under certain conditions for a period of one hundred twenty days, and providing for the posting of appropriate bond to secure refunds should such schedule be put into effect upon expiration of such period of

suspension and to increase the amount of certain special license fees and to provide for the use thereof.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article

1. General Provisions.
2. Powers and Duties of Public Service Commission.
3. Duties and Privileges of Public Utilities Subject to Regulations of Commission.

Be it enacted by the Legislature of West Virginia:

That section three, article one; section four, article two, and section six, article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. General Provisions.

Section

3. Secretary and other employees; compensation; duties.

Section 3. *Secretary and Other Employees; Compensation; Duties.*—The commission shall appoint a secretary and such other employees as may be necessary to carry out the provisions of this chapter, and shall fix their respective salaries or compensations. Such secretary and other employees shall hold office during the pleasure of the commission. It shall be the duty of the secretary to keep a full and true record of all proceedings, acts, orders and judgments of the commission, to issue all necessary process, returns and notices, to keep all books, maps, documents and papers ordered filed by the commission, and all orders made by the commission or approved and confirmed by it and ordered to be filed; and he shall be responsible to the commission for the safe custody and preservation of all such documents in his office. He may administer oaths in all parts of the state, so far as the exercise of such power is properly incidental to the performance of his duty or that of the commission. The commission may designate such of its employees as it deems necessary to hold hearings, held or required by this chapter, and to take evidence at such hearings,

22 which employees are hereby empowered to subpoena
23 witnesses, administer oaths, take testimony, require the
24 production of documentary evidence and exercise such
25 other powers and perform such other duties as may be
26 delegated to them and required by the commission, in
27 any proceeding or examination instituted or conducted
28 by the commission under this chapter, at any designated
29 place of hearing within the state.

Article 2. Powers and Duties of Public Service Commission.

Section

4. Procedure for changing rates.

Section 4. *Procedure for Changing Rates.*—No public
2 utility subject to this chapter shall change, suspend or
3 annul any rate, joint rate, charge, rental or classification
4 except after thirty days' notice to the commission and
5 the public, which notice shall plainly state the changes
6 proposed to be made in the schedule then in force and
7 the time when the changed rates or charges shall go
8 into effect. But the commission may enter an order
9 suspending the proposed rate as hereinafter provided.
10 The proposed changes shall be shown by printing new
11 schedules, or shall be plainly indicated upon the schedules
12 in force at the time, and kept open to public inspection:
13 *Provided, however,* That the commission may, in its
14 discretion, and for good cause shown, allow changes upon
15 less time than the notice herein specified, or may modify
16 the requirements of this section in respect to publishing,
17 posting and filing of tariffs, either by particular instruc-
18 tions or by general order.

19 Whenever there shall be filed with the commission any
20 schedule stating a change in the rates or charges, or
21 joint rates or charges, or stating a new individual or
22 joint rate or charge or joint classification or any new
23 individual or joint regulation or practice affecting any
24 rate or charge, the commission shall have authority,
25 either upon complaint or upon its own initiative without
26 complaint, to enter upon a hearing concerning the pro-
27 priety of such rate, charge, classification, regulation or
28 practice; and, if the commission so orders, it may proceed
29 without answer or other form of pleading by the inter-

30 ested parties, but upon reasonable notice, and, pending
31 such hearing and the decision thereon, the commission,
32 upon filing with such schedule and delivering to the
33 public utility affected thereby a statement in writing of
34 its reasons for such suspension, may suspend the opera-
35 tion of such schedule and defer the use of such rate,
36 charge, classification, regulation, or practice, but not for
37 a longer period than one hundred and twenty days
38 beyond the time when such rate, charge, classification,
39 regulation or practice would otherwise go into effect;
40 and after full hearing, whether completed before or
41 after the rate, charge, classification, regulation or prac-
42 tice goes into effect, the commission may make such
43 order in reference to such rate, charge, classification,
44 regulation or practice as would be proper in a proceed-
45 ing initiated after the rate, charge, classification, regula-
46 tion or practice had become effective: *Provided*, That
47 if any such hearing and decision thereon cannot be con-
48 cluded within the period of suspension, as above stated,
49 such rate, charge, classification, regulation or practice
50 shall go into effect at the end of such period. In such
51 case the commission may require such public utility to
52 enter into a bond in an amount deemed by the commis-
53 sion to be reasonable and conditioned for the refund
54 to the persons or parties entitled thereto of the amount
55 of the excess, plus interest at the rate of six per cent per
56 annum, if such rates so put into effect are subsequently
57 determined to be higher than those finally fixed for such
58 utility. No such accrued interest paid shall be deemed
59 part of the cost of doing business in a subsequent applica-
60 tion for changing rates or any decision thereon. At any
61 hearing involving a rate sought to be increased or involv-
62 ing the change of any fare, charge, classification, regula-
63 tion or practice, the burden of proof to show that the in-
64 creased rate or proposed increased rate, or the proposed
65 change of fare, charge, classification, regulation or prac-
66 tice is just and reasonable shall be upon the public utility
67 making application for such change. When in any case
68 pending before the commission all evidence shall have
69 been taken, and the hearing completed, the commission
70 shall, within three months, render a decision in such case.

71 Where more than twenty members of the public are
72 affected by a proposed change in rates, it shall be a
73 sufficient notice to the public within the meaning of
74 this section if such notice is published once a week for
75 four consecutive weeks in some newspaper of general
76 circulation in the community where the majority of the
77 resident members of the public affected by such change
78 reside, or, in case of nonresidents, have their principal
79 place of business within this state.

Article 3. Duties and Privileges of Public Utilities Subject to Regulations of Commission.

Section

6. Special license fee.

Section 6. *Special License Fee.*—(a) All public utilities
2 subject to the provisions of this chapter shall pay a
3 special license fee in addition to those now required by
4 law. The amount of such fees shall be fixed by the
5 auditor and levied by him upon each of such public
6 utilities according to the value of its property as ascer-
7 tained by the last assessment, and shall be apportioned
8 among such public utilities upon the basis of such valua-
9 tion, so as to produce a revenue of one hundred thousand
10 dollars per annum, which fees shall be paid on or before
11 the twentieth day of January in each year. Such sum of
12 one hundred thousand dollars, together with that pro-
13 vided in sub-section (b) hereof shall be paid into the
14 state treasury and kept as a special fund, designated
15 "Public Service Commission Fund", to be appropriated
16 as provided by law for the purpose of paying the salaries
17 of the commission, as fixed by this chapter, its expenses
18 and salaries, compensations, costs and expenses of its
19 employees.

20 (b) All public utilities subject to the provisions of
21 this chapter shall pay a special license fee in addition
22 to any and all fees now required by law. The amount
23 of such fees shall be fixed by the auditor and levied by
24 him upon each of such public utilities, in the proportion
25 which the total gross revenue derived from intra-state
26 business done by each of such public utilities in the
27 calendar year next preceding bears to the total gross

28 revenue derived from intra-state business done in such
29 year by all public utilities subject to regulation by the
30 public service commission, so as to produce a revenue of
31 two hundred thousand dollars per annum, in addition
32 to such fees as may be fixed by the auditor under the
33 provisions of subsection (a) hereof and which fees shall
34 be paid on or before the first day of July in each year.
35 Such sum of two hundred thousand dollars shall be
36 paid into the state treasury and be kept, appropriated
37 and used as provided in subsection (a) hereof.

38 (c) Any balance remaining in said fund at the end
39 of any fiscal year shall not revert to the treasury but
40 shall be credited by the auditor upon the amounts to be
41 raised for the next fiscal year, under sub-sections (a)
42 and (b), on the same basis and in the same proportion
43 as said fund was raised under said subsections.

CHAPTER 153

(House Bill No. 189—By Mr. Moreland)

AN ACT to amend and reenact section fourteen, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the giving of bond in summary proceedings.

[Passed February 20, 1953; in effect from passage. Approved by the Governor.]

Article 1. Lands of Infants, Insane Persons, or Convicts, and Lands Held in Trust.

Section

14. Bond for proceeds.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 14. *Bond for Proceeds.*—In case such sale or
2 lease be made, the guardian or committee shall enter

3 into bond, with approved security, conditioned for the
4 faithful application of the proceeds of sale or lease. And
5 in case of a mortgage or trust deed such guardian or
6 committee shall enter into bond, with approved security,
7 conditioned for the faithful application of any moneys
8 which may come into his hands from the encumbrancing.
9 In either case such bonds shall be taken in open court,
10 or before the judge in vacation, or before the clerk, and
11 shall be payable to the state, in such penalty as shall be
12 prescribed by the court; and the court may thereafter
13 order a new bond, with other security, to be given if
14 deemed necessary. If the court shall find that the bond
15 already given by the guardian or committee is sufficient,
16 no additional bond need be required.

CHAPTER 154

(House Bill No. 173—By Mr. Snyder)

AN ACT to amend and reenact section three, article four, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to make provision for allocation or sale without the appointment of commissioners where it clearly appears to the court that partition cannot be conveniently made.

[Passed February 23, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Partition.

Section

3. Allotment or sale.

Be it enacted by the Legislature of West Virginia:

That section three, article four, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Allotment or Sale.*—When partition cannot

2 be conveniently made, the entire subject may be allotted
3 to any party who will accept it, and pay therefor to the
4 other parties such sums of money as their interest therein
5 may entitle them to; or in any case in which partition
6 cannot be conveniently made, if the interests of one or
7 more of those who are entitled to the subject, or its pro-
8 ceeds, will be promoted by a sale of the entire subject, or
9 allotment of part and sale of the residue, and the interests
10 of the other persons so entitled will not be prejudiced
11 thereby, the court, notwithstanding any of those entitled
12 may be an infant, insane person, or convict, may order
13 such sale, or such sale and allotment, and make distribu-
14 tion of the proceeds of sale, according to the respective
15 rights of those entitled, taking care, when there are
16 creditors of any deceased person who was a tenant in
17 common, joint tenant, or coparcener, to have the pro-
18 ceeds of such deceased person's part applied according
19 to the rights of such creditors. Where it clearly appears
20 to the court that partition cannot be conveniently made
21 the court may order sale without appointing commission-
22 ers. The court making an order for sale shall, when the
23 dividend of a party exceeds the value of three hundred
24 dollars, if such party be an infant, insane person, or
25 convict, require security for the faithful application of
26 the proceeds of his interest, in like manner as if the sale
27 were made under article one of this chapter.

CHAPTER 155

(House Bill No. 236—By Mr. Knapp)

AN ACT to amend and reenact section eleven, article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recording of writings and plats and papers annexed, index and interlineations.

[Passed March 10, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Authentication and Record of Writings.**Section**

11. Recordation of writings and plats and papers annexed; index; interlineations.

Be it enacted by the Legislature of West Virginia:

That section eleven, article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 11. Recordation of Writings and Plats and Papers

2 *Annexed; Index; Interlineations.*—Every writing, except
3 chattel deeds of trust, authorized by law to be recorded,
4 when admitted to record, shall, with all certificates of
5 acknowledgment, and all plats, schedules and other papers
6 thereto annexed or thereon indorsed, be recorded by, or
7 under the direction of, the clerk of the county court, in
8 a well-bound book, to be carefully preserved; and there
9 shall be an index to such book as well in the name of the
10 grantee as of the grantor. After being so recorded, such
11 writing may be delivered to the party entitled to claim
12 under the same. If, except in those cases where such writ-
13 ing is recorded by photography or similar process produc-
14 ing exact facsimile copies, there appear upon such writing,
15 or any paper or certificate annexed thereto, any interline-
16 ation, erasure or alteration, of which no memorandum is
17 contained in the writing, paper or certificate, the clerk
18 shall append to the record thereof a memorandum describ-
19 ing as accurately as may be such interlineation, erasure or
20 alteration; and such memorandum shall be copied into
21 every such writing, paper or certificate. Every such mem-
22 orandum shall be prima facie evidence of what is therein
23 stated: *Provided, however,* That the clerk of the county
24 court may refuse to accept for recordation any instrument
25 printed on both sides of the paper or printed in whole
26 or part in smaller than ten point type with at least
27 two points separating each line. Any failure of such
28 instrument to be so accepted by the clerk of the county
29 court shall not affect the validity thereof as to the
30 parties thereto: *Provided further,* That any such instru-

31 ment shall be accepted by the clerk for recordation at
32 one and one-half times the legal fee therefor.

33 The clerk of the county court shall record chattel deeds
34 of trust in a well-bound book, when the principal amount
35 secured is in excess of two thousand dollars and the index
36 kept in his office shall give the names of the grantors,
37 beneficiary of the lien, date and hour of recording, book
38 and page number in which recorded, amount of principal
39 sum, and brief description of property conveyed: *Provided*
40 *further*, That any chattel deed of trust or any designated
41 duplicate copy thereof, duly executed, in which the prin-
42 cipal amount secured is two thousand dollars or less, may
43 at the discretion of the clerk be filed instead of recorded,
44 the index shall be the same as provided for recorded
45 chattel deeds of trust, except that the same shall indicate
46 a filing number instead of a book and page number: *Pro-*
47 *vided*, That any such chattel deed of trust that has been
48 recorded in a well-bound book shall be returned to the
49 beneficiary named therein: *Provided further*, That any
50 such chattel deed of trust that is filed by the clerk shall
51 be retained by said clerk in a proper file kept in his office:
52 *Provided further*, That any chattel deed of trust may after
53 the lapse of a ten year period from the last payment date
54 provided therein be removed from the files in the office
55 of the clerk of the county court and at his discretion be
56 either destroyed or returned to the beneficiary named
57 therein. Interlineations, erasures or alterations appearing
58 in chattel deeds of trust or copies thereof shall be dealt
59 with the same as provided for other instruments covered
60 by this section.

CHAPTER 156

(Senate Bill No. 302—By Mr. Reed, of Clay)

AN ACT to amend article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen-a, relating to the recordation and indexing of real estate consolidation orders.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Authentication and Record of Writings.

Section

13-a. Consolidation order book; entries to be recorded therein.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, to be designated section thirteen-a, to read as follows:

Section 13-a. *Consolidation Order Book; Entries to Be Recorded Therein.*—The county court of any county may order the clerk of such county court to provide a book or series of books, to be entitled "Consolidation Order Book", in which such clerk shall record all real estate consolidation orders entered by the county court pursuant to section seventeen, article four, chapter eleven of this code, and likewise to provide an index therefor in which shall be entered pertinent index data consistent with the provisions of section two, article two of this chapter. The county court shall provide funds for the payment for such record book, index and other necessary supplies incident to the keeping thereof.

CHAPTER 157

(House Bill No. 66—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section seven, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salary and expenses of the state road commissioner.

[Passed March 13, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 2-a. State Road Commissioner.

Section

7. Salary and expenses.

Be it enacted by the Legislature of West Virginia:

That section seven, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 7. *Salary and Expenses.*—The commissioner shall
2 receive an annual salary of nine thousand dollars, and the
3 necessary traveling expenses incident to the performance
4 of his duties. Requisition for traveling expenses shall be
5 accompanied by a sworn and itemized statement which
6 shall be filed with the auditor and permanently preserved
7 as a public record.

CHAPTER 158

(House Bill No. 201—By Mr. Bowles)

AN ACT to amend and reenact section five, article five, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the escape of a convict from state road force.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 5. State Convict Road Force.

Section

5. Escape of convict from state road force.

Be it enacted by the Legislature of West Virginia:

That section five, article five, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Escape of Convict from State Road Force.*—
2 Any penitentiary convict who shall escape from the state
3 road force, or in going to or returning therefrom, shall
4 be guilty of a felony and on conviction in the county
5 where the escape was made, shall be sentenced by the
6 court for a term of not less than one nor more than two

7 years in addition to the unserved time of his original
8 sentence; and he shall be returned to the West Virginia
9 penitentiary; and it is made the duty of all arresting
10 officers in the state to apprehend such escaped prisoner
11 and return him to the West Virginia penitentiary where
12 he will be available for court arraignment in the county
13 where the escape was made; and the costs shall be paid
14 by the state road commissioner, and the road commis-
15 sioner may offer and pay suitable rewards for his appre-
16 hension, and any guard may pursue and arrest him in
17 any county.

CHAPTER 159

(Senate Com. Sub. for House Bill No. 188—Originating in the Senate
Committee on the Judiciary)

AN ACT to amend and reenact section twelve, article five,
chapter seventeen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to what work convicts may be employed in by warden.

[Passed March 12, 1953; in effect from passage. Approved by the Governor.]

Article 5. State Convict Road Force.

Section

12. In what work convicts may be employed by warden.

Be it enacted by the Legislature of West Virginia:

That section twelve, article five, chapter seventeen of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted to read as follows:

Section 12. *In What Work Convicts May Be Employed*
2 *By Warden.*—Convicts of either sex not employed in the
3 state convict road force as provided by article five,
4 chapter seventeen, may be employed by the warden un-
5 der the directions of the state board of control in work
6 for the state penitentiary or any farm now or hereafter
7 under control of the state and in work for any public,

8 nonprofit enterprise or program sponsored by the state
9 or any of its governmental subdivisions, but such convicts
10 actually confined within the penitentiary and not avail-
11 able for outside work shall as far as possible, be used in
12 the making of articles required by the state departments
13 and institutions. The warden may charge the various
14 state departments and institutions for such convict-made
15 supplies the actual costs of the materials used in the
16 manufacture of the articles furnished them and, in addi-
17 tion thereto, an amount sufficient to defray the mainten-
18 ance cost of the prisoners employed in such manufacture
19 and to keep in repair with suitable replacements the
20 machinery, tools and appliances used in the manufacture
21 of such articles, to the extent of the fair market price
22 thereof, the amount of which shall be stated by the state
23 board of control. Any articles and supplies so manufac-
24 tured and not required by the state departments and in-
25 stitutions may be sold by the warden to municipalities
26 and counties and the agencies thereof, or to federal agen-
27 cies, upon the same terms and conditions, but in no event
28 shall such articles be sold to private persons, firms or
29 corporations, or be sold or consumed otherwise than by
30 public departments and institutions of government.

31 This article shall not impair any contracts now existing
32 between the state board of control and any person, firm
33 or corporation for the use of convict labor for manufac-
34 turing within the walls of the penitentiary, nor prevent
35 the hiring of convicts either within or without the walls
36 as otherwise provided by this article.

C

CHAPTER 160

(Senate Bill No. 149—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section twenty-three, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the cessation of tolls upon toll bridges.

[Passed February 27, 1953; in effect from passage. Approved by the Governor.]

Article 17. Toll Bridges.**Section****23. When tolls to cease.**

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 23. *When Tolls to Cease.*—When the particular
2 bonds issued for any bridge or bridges and the interest
3 thereon shall have been paid, or a sufficient amount shall
4 have been provided for their payment and shall continue
5 to be held for that purpose, tolls for the use of such bridge
6 or bridges shall cease: *Provided, however,* That should
7 the state of West Virginia hereafter construct a new toll
8 bridge across the Ohio River between Parkersburg, West
9 Virginia, and Belpre, Ohio, then tolls may be charged
10 for the use of the existing Parkersburg-Belpre bridge in
11 the manner provided in section twenty-two of this article,
12 said tolls to commence on the day a new Parkersburg-
13 Belpre bridge, constructed by the state of West Virginia,
14 is opened to traffic and said tolls to cease upon the pay-
15 ment of the bonds issued for said new Parkersburg-
16 Belpre bridge and the interest thereon or upon the pro-
17 viding of a sufficient amount for the payment of said
18 bonds and interest. Thereafter, and as long as the cost of
19 maintaining, repairing and operating said bridge or
20 bridges shall be provided for through means other than
21 tolls, no tolls shall be charged for transit thereover and
22 such bridge or bridges shall be free: *Provided, however,*
23 That notwithstanding any other provision of law, if any
24 portion of the cost of construction of a toll bridge is
25 financed with the aid of federal funds under federal-aid
26 road legislation and the share of the cost of such bridge
27 borne by the state or its subdivisions shall have been re-
28 paid from tolls, or a fund sufficient for such repayment
29 shall have been provided or set aside for that purpose,
30 tolls for the use of such bridge shall cease and such bridge
31 shall thereafter be maintained and operated as a free
32 bridge.

CHAPTER 161

(House Bill No. 132—By Mr. Bowles)

AN ACT to amend and reenact section three, article seven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the effective date of social security coverage for new coverage groups.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 7. Social Security Agency.

Section

3. Federal-state agreement; interstate agreement.

Be it enacted by the Legislature of West Virginia:

That section three, article seven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Federal-State Agreement; Interstate Agreements.*—(a) The state agency, with the approval of the governor, is hereby authorized upon enactment of applicable federal law, to enter on behalf of the state into an agreement with the federal agency, consistent with the terms and provisions of this act, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing with respect to services specified in such agreement, which constitute "employment" as defined in section two of this act. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal agency shall agree upon, but, except as may be otherwise required by or under applicable federal law as to the services to be covered, such agreement shall provide in effect that:

21 (1) Benefits will be provided for employees whose
22 services are covered by the agreement, and their de-
23 pendents and survivors, on the same basis as though
24 such services constituted employment within the mean-
25 ing of title II of the social security act.

26 (2) The state will pay to the federal agency, at
27 such time or times as may be prescribed by the applicable
28 federal law or by regulation of the federal agency,
29 contributions with respect to wages as defined in sec-
30 tion two of this act, equal to the sum of the taxes
31 which would be imposed by sections one thousand four
32 hundred and one thousand four hundred ten of the
33 federal insurance contributions act if the services covered
34 by the agreement constituted employment within the
35 meaning of that act.

36 (3) Such agreement shall be effective with respect
37 to services in employment covered by the agreement
38 performed after a date specified therein but shall in
39 no event cover any such services performed prior to
40 January first, one thousand nine hundred fifty-one.

41 (4) All services which constitute employment as de-
42 fined in section two and are performed in the employ of
43 the state by employees of the state, shall be covered
44 by the agreement.

45 (5) All services which (a) constitute employment as
46 defined in section two, (b) are performed in the employ
47 of a political subdivision or in the employ of an instru-
48 mentality of either the state or a political subdivision,
49 and (c) are covered by a plan which is in conformity
50 with the terms of the agreement and has been approved
51 by the state agency under section five, shall be covered
52 by the agreement.

53 (b) The state agency is hereby authorized to enter
54 on behalf of the state into an agreement, consistent to
55 the extent practicable with the terms and provisions
56 of this act, with the appropriate agency or agencies
57 of any other state or states and with the federal agency,
58 whereby the benefits of the federal old-age and survivors
59 insurance system shall be extended to employees of any
60 instrumentality jointly created by this state and such
61 other state or states.

CHAPTER 162

(Senate Bill No. 326—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section three, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers of the state office building commission.

[Passed March 14, 1953; in effect from passage. Approved by the Governor.]

Article 6. State Office Building Commission.

Section

3. Powers of the commission.

Be it enacted by the Legislature of West Virginia:

That section three, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 3. *Powers of the Commission.*—The commission shall have power:
1. To sue and be sued, plead and be impleaded;
 2. To have a seal and alter the same at pleasure;
 3. To contract to acquire and to acquire, in the name of the commission or of the state, by purchase or otherwise, real property or rights or easements necessary or convenient for its corporate purposes;
 4. To acquire, hold and dispose of personal property for its corporate purposes;
 5. To make by-laws for the management and regulation of its affairs;
 6. With the consent of the attorney general of the state of West Virginia to use the facilities of his office, assistants and employees in all legal matters relating to or pertaining to the commission;
 7. To appoint officers, agents and employees, and fix their compensation;
 8. To make contracts, and to execute all instruments necessary or convenient;
 9. To renegotiate all contracts entered into by it when-

22 ever, due to a change in situation, it appears to the com-
23 mission that its interest will be best served;

24 10. To construct a building or buildings on real prop-
25 erty, which it may acquire, or which may be owned by
26 the state of West Virginia, in the city of Charleston, as
27 convenient as may be to the capitol building, together
28 with incidental approaches, structures and facilities, sub-
29 ject to such consent and approval of the city of Charles-
30 ton in any case as may be necessary;

31 11. To maintain, construct and operate the project;

32 12. To charge rentals for the use of any part of the
33 project, subject to and in accordance with such agree-
34 ments with bondholders as may be made as hereinafter
35 provided;

36 13. To issue negotiable bonds and to provide for the
37 rights of the holders thereof;

38 14. To enter on any lands and premises for the purpose
39 of making surveys, soundings and examinations;

40 15. To do all things necessary or convenient to carry
41 out the powers given in this article.

CHAPTER 163

(House Bill No. 374—By Mr. Bowles)

AN ACT to amend and reenact section three, article one, chap-
ter thirty-two of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to securities
not included under the act regulating and supervising
the sale of securities.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the
Governor.]

Article 1. Securities; Definitions; Registration; Unlawful Acts; Penalties; Liabilities.

Section

3. Securities not included.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter thirty-two of the code

of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Securities Not Included.*—Except as herein-
after expressly provided, the provisions of this chapter
shall not apply to any of the following classes of securities:

(a) Any security issued or guaranteed by the United States or any territory or insular possession thereof, or by the District of Columbia, or by any state or political subdivision or agency thereof;

(b) Any security issued by a national bank or by any federal land bank or by a corporation created or acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States, or any security issued by provisions of the federal laws: *Provided*, That such corporation is subject to supervision or regulation by the government of the United States;

(c) Any security issued or guaranteed either as to principal, interest or dividends by a corporation owning or operating a railroad engaged in interstate commerce and under supervision of the interstate commerce commission; any security issued or guaranteed either as to principal, interest or dividend by a corporation owning or operating any public service utility other than a railroad, provided the issuance of such security is supervised or regulated by a public commission, board or officer of the government of the United States or of any state, territory or insular possession of the United States, or of the District of Columbia or of the Dominion of Canada or any province thereof; and any equipment security based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock or equipment mortgaged, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, or equipment securities where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state, or of the Dominion of Canada, to secure the payment of such equipment securities;

(d) Any security issued by a person organized and

40 operated exclusively for educational, benevolent, fraternal,
41 charitable or reformatory purposes and not for pecuniary profit,
42 and no part of the net earnings of which inures to the benefit of any person,
43 private stockholder or individual;
44

45 (e) Any security which, at the time of the sale, is listed on the New York stock exchange, the American stock exchange or the Midwest stock exchange, pursuant to authorization by any such exchange, and additional amounts of any such securities when regularly approved for listing upon the issuance thereof and securities senior to the securities so listed: *Provided*, That the commissioner shall have power and authority at any time to withdraw such exemption for any security or group of securities so listed, pending an investigation and hearing on securities included in such order. A date for hearing shall be set by the commissioner not more than twenty days after such withdrawal order. The commissioner, by ruling, may grant this same exemption to securities listed on any other exchange following an application from such exchange and after an investigation and examination has been made by him. The expense of all hearings, investigations and examinations shall be paid by the exchange making application or receiving a hearing;
63

64 (f) Any security issued by a state bank, trust company, building and loan association or savings institution, incorporated under the laws of and subject to the examinations, supervision and control of any state or territory of the United States or any insular possession thereof;
68

69 (g) Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a person licensed and supervised by the insurance commissioner of this state;
72

73 (h) Any security other than common stock outstanding and in the hands of the public for a period of not less than three years upon which no default in payment of principal, interest or dividend exists and upon which no such default has occurred for a continuous immediately preceding period of three years: *Provided*, That the issuer of such securities has continued such payments of prin-
79

80 cipal, interest or dividends as provided at the time of
81 original issue: *Provided further*, That no plan or pro-
82 posal of recapitalization, reorganization, rearrangement
83 of capitalization, or other form of readjustment of issuer's
84 finances, has been made or a petition of voluntary or in-
85 voluntary bankruptcy has been filed in any court by or
86 for such issuer within the preceding period of three years;

87 (i) Any securities bought or sold upon customers' or-
88 ders: *Provided*, That such securities are bought or sold
89 on an exchange which, at the time of such transaction,
90 is registered as a national exchange by the securities and
91 exchange commission: *Provided further*, That no solic-
92 itation is made of the orders so executed.

93 (j) Any note, draft, bill of exchange or bankers accept-
94 ance which arises out of a current transaction or the pro-
95 ceeds of which have been or are to be used for a current
96 transaction, is not the subject of a public offering, has at
97 the time of issuance a definite maturity (after all days
98 of grace, if any) of not exceeding one year, is payable
99 in cash only, and is not convertible into and does not
100 carry an option or right to receive payment or any bonus
101 in any other security.

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CHAPTER 164

(House Bill No. 458—By Mr. Currence)

AN ACT to amend and reenact sections five through five-(fifty-six), article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries of assessors.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.

Section

5. Annual salary of assessors.

5-(1) to 5-(55). Salaries of assessors in the various counties of the state.

5-(56). Additional compensation; salaries paid out of county fund.

Be it enacted by the Legislature of West Virginia:

That sections five through five-(fifty-six), article two, chapter eleven of the code of West Virginia one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Annual Salary of Assessors.*—The annual
2 salary of the assessor in each county shall, on and after
3 January one, one thousand nine hundred fifty-seven, be
4 in the amounts set forth in sections five-(one) to five-
5 (fifty-five), inclusive, of this article.

Sec. 5-(1). *Barbour County.*—For the county of Barbour,
2 two thousand four hundred dollars.

Sec. 5-(2). *Berkeley County.*—For the county of Berke-
2 ley, two thousand eight hundred dollars.

Sec. 5-(3). *Boone County.*—For the county of Boone,
2 three thousand six hundred dollars.

Sec. 5-(4). *Braxton County.*—For the county of Braxton,
2 three thousand dollars.

Sec. 5-(5). *Brooke County.*—For the county of Brooke,
2 three thousand two hundred dollars.

Sec. 5-(6). *Cabell County.*—For the county of Cabell,
2 four thousand dollars.

Sec. 5-(7). *Calhoun County.*—For the county of Calhoun,
2 one thousand seven hundred dollars.

Sec. 5-(8). *Clay County.*—For the county of Clay, one
2 thousand seven hundred dollars.

Sec. 5-(9). *Doddridge County.*—For the county of Dod-
2 dridge, one thousand eight hundred dollars.

Sec. 5-(10). *Fayette County.*—For the county of Fayette,
2 not less than four thousand two hundred dollars nor more
3 than four thousand eight hundred dollars, to be fixed by
4 the county court.

Sec. 5-(11). *Gilmer County.*—For the county of Gilmer,
2 one thousand eight hundred dollars.

Sec. 5-(12). *Grant County.*—For the county of Grant,
2 one thousand eight hundred dollars.

2 Sec. 5-(13). *Greenbrier County*.—For the county of
2 Greenbrier, two thousand five hundred dollars.

2 Sec. 5-(14). *Hampshire County*.—For the county of
2 Hampshire, not less than one thousand eight hundred
3 nor more than two thousand dollars.

2 Sec. 5-(15). *Hancock County*.—For the county of Han-
2 cock, four thousand dollars.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy,
2 two thousand dollars.

2 Sec. 5-(17). *Harrison County*.—For the county of Har-
2 rison, five thousand dollars.

2 Sec. 5-(18). *Jackson County*.—For the county of Jack-
2 son, two thousand four hundred dollars.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jef-
2 ferson, three thousand dollars.

2 Sec. 5-(20). *Kanawha County*.—For the county of Ka-
2 nawha, six thousand dollars.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis,
2 two thousand six hundred dollars.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lin-
2 coln, three thousand two hundred dollars.

2 Sec. 5-(23). *Logan County*.—For the county of Logan,
2 four thousand dollars.

2 Sec. 5-(24). *Marion County*.—For the county of Marion,
2 four thousand two hundred dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Mar-
2 shall, three thousand dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason,
2 two thousand five hundred dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of Mc-
2 Dowell, three thousand nine hundred dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer,
2 four thousand eight hundred dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Min-
2 eral, three thousand two hundred dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo,
2 four thousand eight hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of
2 Monongalia, three thousand two hundred dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Monroe,
2 one thousand five hundred dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Morgan,
2 one thousand eight hundred dollars.

2 Sec. 5-(34). *Nicholas County*.—For the county of Nicho-
2 las, two thousand eight hundred dollars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio,
2 four thousand two hundred dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of Pen-
2 dleton, one thousand six hundred dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of Plea-
2 sants, one thousand eight hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of
2 Pocahontas, two thousand four hundred dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Preston,
2 two thousand eight hundred dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Put-
2 nam, three thousand dollars.

2 Sec. 5-(41). *Raleigh County*.—For the county of Raleigh,
2 four thousand eight hundred dollars.

2 Sec. 5-(42). *Randolph County*.—For the county of Ran-
2 dolph, three thousand eight hundred dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of Ritchie,
2 two thousand dollars.

2 Sec. 5-(44). *Roane County*.—For the county of Roane,
2 two thousand two hundred dollars.

2 Sec. 5-(45). *Summers County*.—For the county of Sum-
2 mers, two thousand two hundred dollars.

2 Sec. 5-(46). *Taylor County*.—For the county of Taylor,
2 two thousand eight hundred dollars.

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker,
2 two thousand four hundred dollars.

2 Sec. 5-(48). *Tyler County*.—For the county of Tyler,
2 two thousand four hundred dollars.

2 Sec. 5-(49). *Upshur County*.—For the county of Upshur,
2 two thousand two hundred dollars.

2 Sec. 5-(50). *Wayne County*.—For the county of Wayne,
2 three thousand six hundred dollars.

2 Sec. 5-(51). *Webster County*.—For the county of Web-
2 ster, two thousand dollars.

2 Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,
2 two thousand eight hundred dollars.

2 Sec. 5-(53). *Wirt County*.—For the county of Wirt, one
2 thousand eight hundred dollars.

2 Sec. 5-(54). *Wood County*.—For the county of Wood,
2 four thousand five hundred dollars.

2 Sec. 5-(55). *Wyoming County*.—For the county of Wy-
2 oming, four thousand five hundred dollars.

2 Sec. 5-(56). *Additional Compensation; Salaries Paid*
2 *Out of County Fund*.—In addition to the above salary
3 each assessor shall receive a commission of ten per cent
4 on all state school, road and municipal capitation taxes
5 collected by him. The salaries of assessors and their
6 deputies, assistants and employees shall be paid out of
7 the county fund at the time and in the manner now pro-
8 vided by law for paying other county officers.

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CHAPTER 165

(Com. Sub. for House Bill No. 215—Originating in the House Committee on
the Judiciary)

AN ACT to amend and reenact sections six-b and six-c, article
eight, chapter eleven of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
levies.

[Passed March 9, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 8. Levies.

Section

- 6-b. Maximum levies on each classification by the county courts; orders of levies.
- 6-c. Maximum levies on each classification by county boards of education; order of levy; exceeding levy for school bond issues.

Be it enacted by the Legislature of West Virginia:

That sections six-b and six-c, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 6-b. *Maximum Levies on Each Classification*

2 *by the County Courts; Orders of Levies.*—County courts
3 are hereby authorized to lay not in excess of the follow-
4 ing maximum levies, for the purposes specified and in
5 the following order:

6 (1) With respect to the county as a whole for the
7 payment of (a) interest and sinking fund requirements
8 for bonded indebtedness incurred prior to the adoption
9 of the tax limitation amendment; and (to the extent
10 not so required), (b) other legally incurred contractual
11 indebtedness, not bonded, if any, incurred prior to the
12 adoption of the tax limitation amendment, of the county
13 as follows: On class I property, twenty-five one-hun-
14 dredths of one cent; on class II property, one-half of
15 one cent; and on classes III and IV property, one cent.

16 (2) With respect to a magisterial or special taxing
17 district for which the county court is required to lay
18 the levy, for the payment of (a) interest and sinking
19 fund requirements for bonded indebtedness, incurred
20 prior to the adoption of the tax limitation amendment;
21 and (to the extent not so required), (b) other legally
22 incurred contractual indebtedness not bonded, if any,
23 incurred prior to the adoption of the tax limitation
24 amendment, as follows: On class I property, two and
25 fifteen one-hundredths cents; on class II property, four

26 and-three-tenths cents; and on classes III and IV property,
27 eight and six-tenths cents.

28 (3) For general county current expense as follows:
29 On class I property, eleven and nine-tenths cents; on
30 class II property, twenty-three and eight-tenths cents;
31 and on classes III and IV property, forty-seven and six-
32 tenths cents. But in a county where the total assessed
33 valuation of all classes of property is less than six million
34 dollars, the county court may, with the prior written
35 approval of the tax commissioner, exceed the rates of
36 levy for general county current expense by not more
37 than twenty-five per cent of the rates specified: *Provided,*
38 *however,* That if the rates of levy under paragraph (3)
39 of this section are not required in whole or in part for
40 the purpose for which they are allocated, the county
41 court may, with the prior written approval of the state
42 tax commissioner, surrender to the county board of
43 education such unused parts of the authorized rates of
44 levy as provided herein.

Sec. 6-c. *Maximum Levies on Each Classification by*
2 *County Boards of Education; Order of Levy; Exceeding*
3 *Levy for School Bond Issues.*—County boards of educa-
4 tion are hereby authorized to lay not in excess of the
5 following maximum levies, for the purposes specified
6 and in the following order:

7 (1) With respect to a magisterial, independent or
8 other school district existing in a county prior to May
9 twenty-second, one thousand nine hundred thirty-three,
10 or any special taxing district for which the board of
11 education is required to lay the levy, for the payment
12 of (a) interest and sinking fund requirements for bonded
13 indebtedness incurred prior to the adoption of the tax
14 limitation amendment; and (to the extent not so re-
15 quired), (b) other legally incurred contractual indebt-
16 edness not bonded, if any, incurred prior to the adoption
17 of the tax limitation amendment as follows: On class I
18 property, thirty-five one-hundredths of one cent; on
19 class II property, seven-tenths of one cent; and on
20 classes III and IV property, one and four-tenths cents.

21 (2) For either or both of (a) the permanent im-

22 provement fund, and (b) the payment of interest and
23 sinking fund requirements for bonded indebtedness in-
24 curred subsequent to the adoption of the tax limitation
25 amendment, as follows: On class I property, one and
26 five-tenths cents; on class II property, three cents; and
27 on classes III and IV property, six cents.

28 (3) For the general current expenses of schools as
29 follows: On class I property, twenty-one and one-tenth
30 cents; on class II property, forty-two and two-tenths
31 cents; and on classes III and IV property, eighty-four
32 and four-tenths cents. But if the tax commissioner has
33 approved the levy of an additional amount for the gen-
34 eral current expenses of the county as authorized by
35 section six-b, subsection three, the amount of the levy
36 authorized for boards of education by this subsection
37 shall be reduced by the tax commissioner to that extent.

38 If the rates of levy under (2) above are not required
39 in whole or in part for the purposes for which they are
40 allocated by this section, the county board of education
41 may, with the prior written approval of the state board
42 of school finance, created by section three, article nine-b,
43 chapter eighteen of the code, as amended, lay such rates
44 of levy or portion thereof not so required, for the general
45 current expenses of schools: *Provided, however,* That
46 if the rates of levy under paragraph (3) of this section
47 are not sufficient for the purposes for which they are
48 allocated, the county board of education may, with the
49 prior written approval of the state tax commissioner,
50 lay such additional rates of levy, or portion thereof, as
51 are surrendered by the county court under paragraph
52 (3), section six-b of this article.

53 *Provided further,* That a county board of education
54 shall be required to levy outside the levy rates herein-
55 above provided sufficient to pay the principal and in-
56 terest requirements on bonds hereafter issued by any
57 school district not exceeding in the aggregate three per
58 centum of the assessed value of all taxable property in
59 the county school district, to be ascertained by the last
60 assessment for state and county taxes, previous to the
61 incurring of such indebtedness, in the manner provided
62 by the "School Bond Amendment", as ratified.

CHAPTER 166

(Com. Sub. for Senate Bill No. 37—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section thirty-two, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hawkers and peddlers' license.

[Passed February 28, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 12. License Taxes.

Section

32. Hawkers and peddlers.

Be it enacted by the Legislature of West Virginia:

That section thirty-two, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 32. *Hawkers and Peddlers.*—(a) The annual license fee to act as a hawker or peddler, if the person licensed travels without a motor vehicle, shall be ten dollars; if he travels with a motor vehicle of not more than one-half ton capacity, fifteen dollars; if he travels with a motor vehicle of more than one-half ton capacity, but not exceeding one ton capacity, fifty dollars; if he travels with a motor vehicle of more than one ton capacity, but not exceeding two tons' capacity, one hundred dollars; and if he travels with a motor vehicle of more than two tons' capacity, one hundred fifty dollars, plus one hundred dollars for each additional ton or fraction thereof over two tons' capacity; and the person licensed shall pay at the same rate for each and every motor vehicle so used. Such person shall carry his license in some conspicuous place in his vehicle or about his pack; and in addition thereto he shall cause to be painted or stenciled in a conspicuous place on the left-hand side of his vehicle the number of such license and

20 the words "West Virginia Hawker and Peddler" and the
21 license year for which said license is issued, which said
22 information shall be in black letters on a white back-
23 ground, and the whole thereof shall be at least eight by
24 twenty inches in size. Such license shall be coextensive
25 with the state, shall not be subject to the restrictions of
26 section forty-four of this article, and shall not be assign-
27 able to any other person.

28 When used in this section, the term "sale" shall mean
29 and include both sales for money payment or for barter,
30 and offers to make any such sales and offers to render
31 any service or the rendering thereof.

32 Any person who shall carry goods, wares or merchan-
33 dise from place to place, either in person or by agent or
34 employee, and sell, for delivery at the same time, any
35 such goods, wares or merchandise to any purchaser, at
36 wholesale or retail, and any person who shall solicit for
37 the purpose of rendering any service, shall be deemed a
38 hawker or peddler under this section.

39 (b) The provision of this section shall not apply to
40 any person who sells any goods, wares or merchandise to
41 be delivered in the future; or to any of the following
42 who offer immediate delivery of the goods, wares or
43 merchandise being sold:

44 1. Any person or persons engaged within this state in
45 the business or calling of agriculture, horticulture or
46 grazing, who sells or sell individually or collectively, one
47 or more for the other or others, the products derived
48 from his or their business or calling aforesaid;

49 2. Any person engaged in the maintenance or operation
50 of a retail merchandise store to exchange goods, wares
51 or merchandise from such store for agricultural, horti-
52 cultural or grazing products or to resell any such prod-
53 ucts received in due course of such business; nor to any
54 other retail business concern, established and operating
55 continuously for one year or more within this state in
56 the sale of any product or products over regular routes;

57 3. Any wholesaler or jobber selling soft drinks or non-
58 intoxicating beer for which he is duly licensed under
59 other provisions of this chapter;

60 4. Any person who sells petroleum products, ice, wood,

61 meats, milk, ice cream, bread, cakes, pies, and other
62 bakery products, butter and eggs, manufactured, grown
63 or produced by any such person and not purchased by
64 him for resale;

65 5. Any sales by societies, groups or organizations acting
66 for charitable, religious or benevolent purposes;

67 6. Any agent or salesman selling manufactured prod-
68 ucts, except green groceries and canned or bottled fruit
69 products, produced by his employer, and who sells the
70 same to retail dealers for the purpose of resale;

71 7. Any firm, corporation, or individual having a stock
72 of goods, or merchandise, or manufacturing or processing
73 plant or plants kept or operating at a fixed situs in the
74 state of West Virginia, and declared for taxation in the
75 county where located, and using a vehicle, or vehicles
76 over a fixed route or routes, for the purpose of selling
77 or distributing, at wholesale, their, his or its said mer-
78 chandise, stock of goods or plant products.

79 *Provided, however,* That any person exempt from li-
80 cense as above provided, shall obtain from the clerk of
81 the county court of the county of his residence a license
82 receipt, without cost, showing that he is so exempt, which
83 shall be effective for the period as provided for annual
84 licenses in this article and shall be coextensive with the
85 entire state; but to obtain such license receipt he shall
86 make an affidavit and produce such other evidence as
87 to the facts entitling him to such exemption as the clerk,
88 in his discretion, may require, which shall be on a form
89 to be prescribed by the tax commissioner of this state.

CHAPTER 167

(Senate Bill No. 141—By Mr. Swearingen and Mr. Love)

AN ACT to amend and reenact section four, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to privilege tax on certain carrier corporations.

[Passed February 26, 1953; in effect July 1, 1953. Approved by the Governor.]

Article 12-a. Privilege Tax on Certain Carrier Corporations.**Section**

4. Gross income of motor vehicle carrier, railroad car corporation, express company, pipe line corporation, telephone and telegraph corporation.

Be it enacted by the Legislature of West Virginia:

That section four, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 4. *Gross Income of Motor Vehicle Carrier, Railroad Car Corporation, Express Company, Pipe Line Corporation, Telephone and Telegraph Corporation.*—
Every motor vehicle carrier operating on the public highways of this state and every railroad car corporation, express corporation or company, pipe line corporation, telephone and telegraph corporation doing business in the state shall pay to the state an annual privilege tax for each calendar year for the privilege of doing business in the state. This tax shall be equal to the gross income from all business beginning and ending within the state multiplied by the respective rates as follows: Motor vehicle carriers, railroad car corporations, express corporations, or companies, pipe line corporations; one and one-half per cent; telephone corporations, two and three-fourths per cent; and telegraph corporations, five per cent.
No municipal corporation of the state shall levy a license or privilege tax on motor vehicle carriers taxed under this section.

CHAPTER 168

(House Bill No. 129—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact sections one and six, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition and collection of an excise tax on gasoline.

[Passed March 7, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 14. Gasoline Tax.

Section

1. Definitions; gasoline, person, company, distributor, retail dealer, importer, sale, purchase and motor vehicles.
6. Importer's monthly statement; payment of tax.

Be it enacted by the Legislature of West Virginia:

That sections one and six, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Definitions; Gasoline, Person, Company, Distributor, Retail Dealer, Importer, Sale, Purchase and Motor Vehicles.*—When used in this article: The term “gasoline” shall include any substance or combination of substances which is capable of use as a motor fuel for any internal combustion engine, except fuel oil, kerosene, cleaner's solvent, and any other liquid petroleum product not commonly used as a motor fuel, when not used or sold for use as a motor fuel in an internal combustion engine.

The term “person” or the term “company” shall include any individual, firm, copartnership, joint adventure, association, corporation, trust and any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context, and when used in connection with the penalties imposed by this article, shall mean and include the officers, directors, trustees, or members of any firm, copartnership, joint adventure, association, corporation, trust or any other group acting as a unit.

The term “distributor” shall mean and include every person who refines, produces, manufactures, compounds, or blends gasoline in this state for use or for sale to jobbers or consumers, and every person who is now engaged, or who may hereafter engage, in his own name or in the name of his representative or agent in this state, in the

27 selling of gasoline for the purpose of resale or distribu-
28 tion; and persons operating tank wagons into this state
29 from places of business located outside this state and
30 selling gasoline in quantities as desired by purchasers in
31 this state without definite orders having been placed
32 prior to the delivery of the product, shall be deemed
33 distributors in this state.

34 The term "retail dealer" shall mean and include any
35 person not a distributor who sells gasoline in this state to
36 consumers only.

37 The term "importer" shall mean any person who pur-
38 chases or obtains gasoline outside this state and uses the
39 same within the state, and shall include any person who
40 operates a motor vehicle equipped with fuel tanks con-
41 taining more than twenty-five gallons of gasoline pur-
42 chased outside this state and used to operate the vehicle
43 upon the public highways and streets of this state.

44 The term "sale" shall include any exchange, gift, or
45 other disposition, and "purchase" shall include any ac-
46 quisition of ownership.

47 The term "motor vehicle" shall mean automobiles,
48 motor trucks and motorcycles, and shall include all other
49 vehicles, engines or machines which are operated or pro-
50 pelled by combustion of gasoline.

Sec. 6. *Importer's Monthly Statement; Payment of*
2 *Tax.*—Except as otherwise provided in this section, every
3 importer shall, within thirty days after the close of each
4 month, transmit to the tax commissioner a statement, on
5 such forms as the tax commissioner shall prescribe, of
6 all gallonage received by such importer during the month
7 to be covered, which statement shall show the name and
8 address of the person from whom each purchase was
9 made; the point from which shipped or delivered; the
10 point at which received; the date of each shipment or
11 purchase; and the quantity of each shipment or purchase;
12 and he shall at the same time pay to the tax commissioner
13 the amount of tax due for such month.

14 Every importer who brings into this state in the fuel
15 tanks of any motor vehicle more than twenty-five gal-
16 lons of gasoline, purchased outside this state and used to

17 operate the vehicle upon the public highways and streets
18 of this state, shall pay the gasoline tax on all such gaso-
19 line in excess of twenty-five gallons unless, under an ar-
20 rangement approved by the tax commissioner, he shall
21 purchase within this state gasoline equal to such excess.
22 Within thirty days after the close of each month he shall
23 file with the tax commissioner a report, on such forms
24 and under such rules and regulations as the commissioner
25 may prescribe, of all such gasoline imported by him and
26 so used within this state, and shall at the same time pay
27 to the tax commissioner the amount of tax due for such
28 month.

CHAPTER 169

(Senate Bill No. 59—By Mr. Love)

AN ACT to amend and reenact sections thirteen and nineteen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to gasoline tax.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 14. Gasoline Tax.

Section

13. Failure or refusal to make statement or to pay the tax; penalty.
19. Refund for gasoline exported or lost.

Be it enacted by the Legislature of West Virginia:

That sections thirteen and nineteen, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three, be amended and reenacted to read as follows:

Section 13. *Failure or Refusal to Make Statement or to*

2 *Pay the Tax; Penalty.*—If any distributor, retail dealer,
3 or importer fail, neglect or refuse to make any statement
4 required for any month or to pay the excise tax due for
5 any month within the time prescribed for the filing of
6 such statement or the payment of such tax, there shall
7 automatically accrue a penalty equal to one-tenth of one
8 cent on each gallon of gasoline on which the excise tax
9 is due and payable in that period, or on each gallon pur-
10 chased during that month if no excise tax is due, the
11 amount of which penalty shall in no case be less than
12 five dollars (or if no sales or purchases were made, a pen-
13 alty of five dollars) such penalty to be paid or collected
14 in the same manner as the tax imposed by this article
15 is required to be paid or collected, unless it is determined
16 by the tax commissioner that such failure to file the re-
17 turn or to pay the tax within the time prescribed, was
18 due to circumstances beyond the control of the distribu-
19 tor, retail dealer, or importer. In the event any dis-
20 tributor, retail dealer, or importer, fails or neglects to
21 include any quantity of gasoline in the measure of tax
22 for any month or to pay such tax at the time the return
23 is required to be filed, the tax commisioner shall assess
24 and collect the penalty of one-tenth of one cent on each
25 gallon of gasoline omitted from the measure of tax. These
26 provisions shall apply to unpaid excise tax and penalties
27 due prior to the first day of July, one thousand nine hun-
28 dred fifty-three, and thereafter.

29 The tax commissioner shall notify any distributor, re-
30 tail dealer, or importer, that fails, neglects or refuses to
31 make any statement required for any month within the
32 time prescribed for the filing of such statement or the
33 payment of such tax, of such failure and if the required
34 statement is not filed or payment of tax is not made
35 within ten days from the date of such notification, there
36 shall automatically accrue a penalty equal to one cent on
37 each gallon of gasoline on which the excise tax is due
38 and payable in that period or on each gallon purchased
39 during that month if no excise tax is due, the amount of
40 which penalty shall in no case be less than twenty-five
41 dollars (or if no sales or purchases were made, a penalty

42 of twenty-five dollars), such penalty to be paid or col-
43 lected in the same manner as the tax imposed by this
44 article is required to be paid or collected.

Sec. 19. *Refund for Gasoline Exported or Lost.*—

2 Any distributor who shall export gasoline from West
3 Virginia to any other state or nation, may be refunded a
4 sum equal to the amount of such excise tax paid on such
5 gallonage upon application made on proper forms to the
6 tax commissioner within thirty days after the close of
7 the month in which such gasoline was exported. Any
8 distributor who shall in the conduct of his wholesale gas-
9 oline business, sustain losses of gasoline by reason of
10 shrinkage or evaporation, which gasoline shall have been
11 included in the measure by which the excise tax imposed
12 by this article is determined, shall be refunded a sum
13 equal to the amount of such excise tax on the gallonage
14 lost, not to exceed one and one-half of one per cent of
15 the gallonage handled during that month which has been
16 previously included in the measure by which the excise
17 tax imposed by this article is determined: *Provided, how-*
18 *ever,* That the tax commissioner shall cause refund to be
19 made under authority of this section when application
20 for refund, as herein provided, is filed with the tax com-
21 missioner within thirty days following the close of the
22 month during which the gasoline was exported or lost,
23 on forms prescribed by the tax commissioner, of the
24 quantity of and full details concerning such gasoline ex-
25 ported or lost: *Provided further,* That the tax commis-
26 sioner may cause refund to be made on gasoline exported
27 to another state or nation when such gasoline has been
28 included in the measure of tax and the tax has been er-
29 roneously paid to the state of West Virginia, when an
30 application for refund of the excise tax is made within
31 thirty days following the discovery of such erroneous
32 payments and not more than two years after the date
33 of such erroneous payment.

34 Every distributor shall be entitled to a refund from
35 the state of West Virginia of the amount of gasoline tax
36 paid by him, on any gasoline lost or destroyed, while he
37 shall be the owner thereof, through fire, lightning, break-
38 age, or flood: *Provided, however,* That such distributor

39 shall notify the tax commissioner in writing of such loss
40 or destruction, and the quantity of gasoline lost or de-
41 stroyed, within ten days after the date of discovery of
42 such loss or destruction: *Provided further*, That within
43 thirty days after the discovery of such loss or destruc-
44 tion, such distributor shall file with the tax commissioner
45 an affidavit sworn to by him, setting forth in full the
46 circumstances and quantity of the loss or destruction,
47 and such other information with respect thereto as the
48 tax commissioner may require.

CHAPTER 170

(House Bill No. 382—Originating in the House Committee on Delinquent Lands)

AN ACT to amend and reenact section seven, article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the payment of newspaper publication costs in cases of deficits in delinquent land suits and increasing the operating fund from which payment is to be made.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Sale of Lands for School Fund.

Section

7. Operating fund for land department in auditor's office.

Be it enacted by the Legislature of West Virginia:

That section seven, article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 7. *Operating Fund for Land Department in Auditor's Office.*—The auditor shall set up a special operating fund for the land department in his office. He shall pay into such fund all redemption fees, all publication or other charges collected by him, if such charges were paid

6 by or were payable to him, the unclaimed surplus pro-
7 ceeds received by him from delinquent land suits, and all
8 payments made to him by sheriffs under the provisions
9 of section thirty-six of this article and by general re-
10 ceivers of the circuit court under the provisions of sec-
11 tions twenty-eight and twenty-nine of this article, except
12 such part thereof as represents state taxes and interest.
13 All payments so excepted shall be credited by the auditor
14 to the general school fund or other proper state fund.

15 The operating fund shall be used by the auditor in cases
16 of deficits in delinquent land suits to pay any balances
17 due to deputy commissioners for services rendered, and
18 any unpaid costs including those for publications which
19 have accrued or will accrue under the provisions of this
20 article, to pay fees due surveyors under the provisions of
21 the following section, and to pay for the operation and
22 maintenance of the land department in his office. The
23 surplus over and above the amount of one hundred thou-
24 sand dollars, remaining in the fund at the end of any fiscal
25 year, shall be paid by the auditor into the general school
26 fund.

CHAPTER 171

(House Bill No. 166—By Mr. Bowles and Mr. Seibert)

AN ACT to amend article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section, to be designated section thirty-nine-a, providing for the release of all taxes, interest and charges due on any land assessed by erroneous or invalid description, interest or estate, name of owner, or assessment district, provided the taxes levied thereon under such assessments have been paid and the identity of the land intended can be ascertained; to release all title of the state thereto; to provide that no error or invalidity in description, district, interest or estate, or name of owner in assessing land shall result in forfeiture for nonentry; and set forth the type of evidence by which the identity of such land may be ascertained.

[Passed February 20, 1953; in effect from passage. Approved by the Governor.]

Article 4. Sale of Lands for School Fund.

Section

- 39-a. Release of taxes, interest and charges on land assessed by erroneous description, etc.; misdescription, etc., not to result in forfeiture.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto a new section, to be designated thirty-nine-a, to read as follows:

Section 39-a. *Release of Taxes, Interest and Charges on Land Assessed by Erroneous Description, etc.; Misdescription, etc., Not to Result in Forfeiture.*—In view of the large number of lots, parcels and tracts of land in this state which are entered on the landbooks by descriptions, or statement of interest or estate, or name of owner, or in a taxing district, which are erroneous or deficient in various particulars, and the large number of lots, parcels and tracts of land in this state, and interests and estates therein, which appear on the landbooks by entries which have been or may be considered to be irregular, erroneous, invalid or void in various particulars because of the way in which the name of the owner, the area, the lot or tract number or reference, the local description, the statement of the interest or estate and other particulars are stated, or because the entries are in the wrong taxing district; and the uncertainty which exists as to whether the payment of taxes thereon prevents the land intended to be assessed from being forfeited for nonentry; and in view of the necessity for permitting the owners of such land to pay taxes thereon in safety and to relieve from and avoid double payment of taxes on the same land in such cases: It is the purpose and intent of the Legislature to, and it hereby does, release all taxes and charges that may be or become due or unpaid, or considered to be or become due or unpaid, on any such lot, parcel or tract of land in this state for each year that

28 the taxes charged thereon under such entry have been
29 or shall be paid, even though the entry be entirely dif-
30 ferent in description or otherwise from the land intended
31 or be completely deficient, provided the identity of the
32 land intended by such entry can be ascertained. All title
33 acquired by the state of West Virginia by forfeiture of
34 land because of any such entry for any such year is
35 hereby released and granted to the owner of such land
36 in all cases where the identity of the land intended by
37 such entry can be ascertained. No such entry heretofore
38 or hereafter made for any such year shall constitute, or
39 be considered to constitute, a failure of the owner of
40 such land to have the same entered on the landbooks
41 and to have himself charged with taxes thereon, or an
42 omission of the same from the landbooks, or shall result
43 in, or be considered to have resulted in, a forfeiture for
44 nonentry of the land intended by such entry, if the
45 identity of the land intended by such entry can be ascer-
46 tained. Such identity may be ascertained by any avail-
47 able evidence, parol or written, of record or not of
48 record, including but not limited to tracing back prior
49 years landbook entries and valuations to a transfer to
50 the present or a former owner, notations on the landbooks
51 and on other records in the office of the assessor for the
52 current and prior years, conveyances to and from the
53 present and former owners, and all pertinent evidence
54 not within the foregoing classes. The provisions of this
55 section are remedial and shall be liberally construed for
56 the relief of landowners.

CHAPTER 172

(House Bill No. 401—By Mr. Moore)

AN ACT to amend article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-one, relating to deeds by the deputy commissioner conveying coal, oil, gas, timber and other natural resources.

[Passed March 12, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 4. Sale of Lands for School Fund.

Section

41. Deeds of deputy commissioner conveying coal, oil, gas, timber and other natural resources.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, by adding thereto a new section, designated section forty-one, to read as follows:

Section 41. *Deeds of Deputy Commissioner Conveying Coal, Oil, Gas, Timber and Other Natural Resources.*—In any deed by the deputy commissioner in which said commissioner conveys or has heretofore conveyed coal, oil, gas, timber, or any natural resources, as certified to him by the auditor of the state to be sold for the benefit of the school fund, it shall not be necessary to recite the mining, drilling, cutting or other rights and privileges appurtenant to the same, which were a part of the deed of severance of said natural resource from the surface or other estate; and in cases where any such deeds may have heretofore been made and the rights and privileges were not recited in such deeds, the rights and privileges are hereby declared to have attached and passed by such deeds, and all such conveyances are hereby ratified and confirmed.

CHAPTER 173

(Senate Bill No. 134—By Mr. Martin)

AN ACT to amend chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article one-a, relating to trustees of security trusts and procedures and remedies incident thereto.

[Passed March 9, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1-a. Trustees of Security Trusts.**Section**

1. Security trust defined.
2. Nonresidents of state not to be named trustee.
3. Validity of sales and titles.
4. Injunctive powers of circuit courts.
5. Recovery of commissions, costs and expenses.
6. Residence address of trustee required.
7. Auditor attorney-in-fact for nonresident trustees.
8. Service of process or notice; how made.
9. Action by auditor.
10. Other manner of serving process or notice.
11. Appointment of resident trustee by court; rights and powers of trustee.
12. Notice of motion procedure of court's appointment of resident trustee.
13. Provisions severable and remedial.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article one-a, to read as follows:

Section 1. *Security Trust Defined.*—For the purposes
2 of this article, the term “security trust” shall include a
3 deed of trust, mortgage, bond or other instrument, en-
4 tered into after the effective date of this article under
5 which the title to real and personal property, or either
6 of them, wholly situate in and including no property
7 situate outside of the state of West Virginia, is con-
8 veyed, transferred, encumbered or pledged to secure the
9 payment of money or the performance of an obligation.

Sec. 2. *Nonresidents of State Not to Be Named Trustee.*
2 —No person not a resident of this state may be named
3 or act, in person or by agent or attorney, as the trustee
4 of a security trust, either individually or as one of several
5 trustees, the other or others of which are residents of this
6 state.

Sec. 3. *Validity of Sales and Titles.*—The non-residency
2 of a trustee shall not invalidate or cloud the title passing
3 under a security trust. Any conveyance made by a non-
4 resident trustee pursuant to foreclosure of a security trust

5 shall be as valid as though such trustee were a resident
6 of this state.

Sec. 4. *Injunctive Powers of Circuit Courts.*—The circuit court of the county in which the property is situate, or the judge thereof in vacation, shall have jurisdiction in equity, on the application of any party interested, to enjoin a sale, a conveyance pursuant to a sale, or proceedings preliminary to a sale under any security trust by a trustee not a resident of the state of West Virginia.

Sec. 5. *Recovery of Commissions, Costs and Expenses.*—In the event a nonresident trustee shall sell under a security trust, the grantor in the security trust may, within one year from the day of such sale, in the circuit court of the county where the sale was held or where the property was situate at the time of sale, recover from such trustee all commissions, costs and expenses of sale deducted by such trustee from the proceeds of such sale or received by the trustee on account of such sale, with interest at six per cent from the date of such sale.

Sec. 6. *Residence Address of Trustee Required.*—No security trust shall hereafter be received by any county clerk for recordation or filing which does not state the residence address of the trustee or trustees named therein.

Sec. 7. *Auditor Attorney-in-Fact for Nonresident Trustees.*—The naming in a security trust of a person not a resident of this state as a trustee, or as one of several trustees thereof, shall be deemed equivalent to an appointment by such nonresident of the state auditor as attorney-in-fact of such nonresident trustee upon whom may be served all process and notices in any suit, action, motion or proceeding in any court of record in this state, and such service shall have the same effect as process or notice duly served in person upon such person in this state.

Sec. 8. *Service of Process or Notice; How Made.*—Service of such process or notice shall be made by mailing or delivering to the office of said auditor three copies of such

4 process or notice, with a notation thereon of the residence
5 address of the trustee upon whom service is being had,
6 as stated in the security trust; if the address of the trustee
7 be not stated in the security trust, the notation shall state
8 the address of the beneficiary of such trust as given in the
9 security trust; and service thereof shall be complete upon
10 the receipt in said office of such notice or process bearing
11 such notation and accompanied by a fee of two dollars,
12 which shall be taxed as costs in the suit, action or pro-
13 ceeding. The auditor shall pay into the state treasury all
14 funds so coming into his hands, and shall keep one copy
15 of all such process and notices, with a record of the day
16 and hour of service thereof.

Sec. 9. *Action by Auditor.*—Forthwith upon such serv-
2 ice, said auditor shall send to such trustee the second copy
3 of such process or notice, by registered mail, return re-
4 ceipt requested, to the address stated in such notation.
5 The third copy of such process or notice, bearing the au-
6 ditor's acknowledgment of service on him, with his nota-
7 tion of the mailing of the second copy as above provided,
8 shall be transmitted by the auditor to the clerk of the
9 court issuing the process or to the person giving the
10 notice, as the case may be.

Sec. 10. *Other Manner of Serving Process or Notice.*—
2 The foregoing provisions for service of process and notices
3 are cumulative. Process and notices may also be served
4 upon any such nonresident trustee in any manner pro-
5 vided by law.

Sec. 11. *Appointment of Resident Trustee by Court;
2 Rights and Powers of Trustee.*—The circuit court, or the
3 judge thereof in vacation, of the county in which the
4 property is situate, may, on motion of any party inter-
5 ested, appoint a trustee or trustees in the place of any
6 nonresident trustee named in any security trust. Any
7 trustee or trustees so appointed, if he or they accept,
8 shall be vested with all the estates, rights and powers,
9 and charged with all the duties and responsibilities, of
10 the trustee or trustees named in the security trust.

Sec. 12. *Notice of Motion Procedure of Court's Appoint-*

2 *ment of Resident Trustee.*—Ten days' prior notice of the
3 motion under the preceding section shall be given to the
4 grantor of the security trust, his heirs, devisees or per-
5 sonal representatives, to the trustee or trustees named in
6 the security trust, and to the person appearing by such
7 security trust or by a recorded assignment thereof to be
8 the party secured or his personal representatives. If any
9 of the parties upon whom such notice is required to be
10 served be under disability, the notice shall be served on
11 his guardian or committee or, if he have none, the court
12 shall appoint a discreet and competent attorney at law
13 as guardian ad litem, upon whom notice may be served.

Sec. 13. *Provisions Severable and Remedial.*—The pro-
2 visions of this article are severable, and the unconstitu-
3 tionality of one portion shall not affect other portions. The
4 provisions of this article are remedial, and shall be lib-
5 erally construed to the relief of the owners of property in
6 this state.

CHAPTER 174

(Com. Sub. for House Bill No. 225—Originating in the House Committee on
the Judiciary)

AN ACT to amend and reenact sections three and five, article one; section six, article two; section seven, article three; sections seven, ten, ten-b and sixteen, article five; sections one, four and ten, article six; sections one, three and eight, article nine, and sections seven and eight, article ten; and to add section seventeen-b to article five, section twenty-two to article six, and section thirty to article seven, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unemployment compensation.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Article

1. Department of Employment Security.
2. The Director of Employment Security.

3. **Advisory Council.**
5. **Employer Coverage and Responsibility.**
6. **Employee Eligibility; Benefits.**
7. **Claim Procedure.**
9. **Employment Security Administration Funds.**
10. **General Provisions.**

Be it enacted by the Legislature of West Virginia:

That sections three and five, article one; section six, article two; section seven, article three; sections seven, ten, ten-b and sixteen, article five; sections one, four and ten, article six; sections one, three and eight, article nine, and sections seven and eight, article ten, be amended and reenacted, and that section seventeen-b be added to article five, that section twenty-two be added to article six, and that section thirty be added to article seven, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

Article 1. Department of Employment Security.

Section

3. **Definitions.**
5. **Federal-state cooperation.**

Section 3. *Definitions.*—As used in this chapter, unless the context clearly requires otherwise:

3 “Administration fund” means the employment security
4 administration fund, from which the administrative ex-
5 penses under this chapter shall be paid.

6 “Annual payroll” means the total amount of wages for
7 employment paid by an employer during a twelve month
8 period ending with June thirty of any calendar year.

9 “Average annual payroll” means the average of the last
10 three annual payrolls of an employer.

11 “Base period” means the first four out of the last five
12 completed calendar quarters immediately preceding the
13 first day of the individual’s benefit year.

14 “Base period employer” means any employer who in
15 the base period for any benefit year paid wages to an
16 individual who filed claim for unemployment compensa-
17 tion within such benefit year.

18 “Base period wages” means wages paid to an individual
19 during the base period by all his base period employers.

20 “Benefit year” with respect to an individual means the

21 one year period beginning with the day on which he filed
22 a valid claim for benefits, and thereafter the one year
23 period beginning with the day on which such individual
24 next files a valid claim for benefits after the termination
25 of his last preceding benefit year. An initial claim for
26 benefits filed in accordance with the provisions of this
27 chapter shall be deemed to be a valid claim within the
28 purposes of this definition if the individual has been paid
29 wages in his base period sufficient to make him eligible
30 for benefits under the provisions of this chapter.

31 "Benefits" means the money payable to an individual
32 with respect to his unemployment.

33 "Board" means board of review.

34 "Calendar quarter" means the period of three consecu-
35 tive calendar months ending on March thirty-one, June
36 thirty, September thirty, or December thirty-one, or the
37 equivalent thereof as the director may by regulation
38 prescribe.

39 "Computation date" means June thirty of the year im-
40 mediately preceding the January one on which an em-
41 ployer's contribution rate becomes effective.

42 "Director" means the employment security director.

43 "Employing unit" means an individual, or type of or-
44 ganization, including any partnership, association, trust,
45 estate, joint stock company, insurance company, corpora-
46 tion (domestic or foreign), or the receiver, trustee in
47 bankruptcy, trustee or successor thereof, or the legal rep-
48 resentative of a deceased person, which has on January
49 first, one thousand nine hundred thirty-five, or subsequent
50 thereto, had in its employ one or more individuals per-
51 forming service within this state.

52 "Employer" means an employing unit which for some
53 portion of a day, not necessarily simultaneously, in each
54 of twenty different calendar weeks, which weeks need
55 not be consecutive, within either the current calendar
56 year, or the preceding calendar year, has had in employ-
57 ment eight or more individuals irrespective of whether
58 the same individuals were or were not employed on each
59 of such days, or who or which is or becomes a liable em-
60 ployer under any federal unemployment tax act, or who

61 or which has acquired the organization, trade or business,
62 or substantially all the assets thereof, of an employing
63 unit which at the time of such acquisition was an em-
64 ployer subject to this act.

65 "Employment," subject to the other provisions of this
66 section, means:

67 (1) Service, including service in interstate commerce,
68 performed for wages or under any contract of hire, writ-
69 ten or oral, express or implied.

70 (2) The term "employment" shall include an individu-
71 al's entire service, performed within or both within and
72 without this state if: (a) The service is localized in this
73 state; or (b) the service is not localized in any state but
74 some of the service is performed in this state and (i) the
75 base of operations, or, if there is no base of operations,
76 then the place from which such service is directed or con-
77 trolled, is in this state; or (ii) the base of operations or
78 place from which such service is directed or controlled is
79 not in any state in which some part of the service is per-
80 formed but the individual's residence is in this state.

81 (3) Service not covered under paragraph two of this
82 subsection and performed entirely without this state,
83 with respect to no part of which contributions are re-
84 quired and paid under an unemployment compensation
85 law of any other state or of the federal government, shall
86 be deemed to be employment subject to this chapter if
87 the individual performing such services is a resident of
88 this state and the director approves the election of the
89 employing unit for whom such services are performed
90 that the entire service of such individual shall be deemed
91 to be employment subject to this chapter.

92 (4) Service shall be deemed to be localized within a
93 state, if: (a) The service is performed entirely within
94 such state; or (b) the service is performed both within
95 and without such state; or (c) the service is performed
96 both within or without such state, but the service per-
97 formed without such state is incidental to the individual's
98 service within this state. For example, is temporary or
99 transitory in nature or consists of isolated transactions.

100 (5) Services performed by an individual for wages

shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the director that: (a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and (b) such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and (c) such individual is customarily engaged in an independently established trade, occupation, profession or business.

(6) All service performed by an officer or member of the crew of an American vessel (as defined in section three hundred five of an act of Congress entitled "Social Security Act Amendment of 1946," approved August tenth, one thousand nine hundred forty-six) on or in connection with such vessel, provided that the operating office, from which the operations of such vessel operating on navigable waters within or within and without the United States is ordinarily and regularly supervised, managed, directed and controlled, is within this state.

The term "employment" shall not include:

(1) Services performed in the employ of this state or any political subdivision thereof, or any instrumentality of this state or its subdivisions.

(2) Service performed directly in the employ of another state, or its political subdivisions.

(3) Service performed in the employ of the United States or an instrumentality of the United States exempt under the Constitution of the United States from the payments imposed by this law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this law shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals,

141 and services: *Provided*, That if this state shall not be
142 certified for any year by the secretary of labor under
143 section one thousand six hundred three (c) of the Fed-
144 eral Internal Revenue Code, the payments required of
145 such instrumentalities with respect to such year shall be
146 refunded by the director from the fund in the same man-
147 ner and within the same period as is provided in section
148 nineteen of article five of this chapter with respect to
149 payments erroneously collected.

150 (4) Service performed after June thirty, one thousand
151 nine hundred thirty-nine, with respect to which unem-
152 ployment compensation is payable under the Railroad
153 Unemployment Insurance Act (52 Stat. 1094), and
154 service with respect to which unemployment benefits
155 are payable under an unemployment compensation sys-
156 tem for maritime employees established by an act of
157 Congress. The director may enter into agreements with
158 the proper agency established under such an act of
159 Congress to provide reciprocal treatment to individu-
160 als who, after acquiring potential rights to unemploy-
161 ment compensation under an act of Congress, or who
162 have, after acquiring potential rights to unemploy-
163 ment compensation under an act of Congress, acquired
164 rights to benefit under this chapter. Such agreements
165 shall become effective ten days after such publica-
166 tions as comply with the general rules of the depart-
167 ment.

168 (5) Agricultural labor.

169 (6) Domestic service in a private home.

170 (7) Service performed by an individual in the employ
171 of his son, daughter, or spouse.

172 (8) Service performed by a child under the age of
173 twenty-one years in the employ of his father or mother.

174 (9) Service performed in the employ of an employing
175 unit organized and operated exclusively for religious,
176 charitable, scientific, literary, or educational purposes or
177 for prevention of cruelty to children or animals, no part
178 of the net earnings of which inure to the benefit of any
179 private shareholder or individual.

180 (10) Service as an officer or member of a crew of an
181 American vessel performed on or in connection with such

182 vessel, if the operating office, from which the operations
183 of the vessel operating on navigable water within or
184 without the United States are ordinarily and regularly
185 supervised, managed, directed and controlled, is without
186 this state.

187 Notwithstanding the foregoing exclusions from the
188 definition of "employment," services, except agricultural
189 labor and domestic service in a private home, shall be
190 deemed to be in employment if with respect to such serv-
191 ices a tax is required to be paid under any federal law
192 imposing a tax against which credit may be taken for
193 contributions required to be paid into a state unemploy-
194 ment compensation fund.

195 "Employment office" means a free employment office
196 or branch thereof, operated by this state, or any free pub-
197 lic employment office maintained as a part of a state con-
198 trolled system of public employment offices in any other
199 state.

200 "Fund" means the unemployment compensation fund
201 established by this chapter.

202 "Payments" means the money required to be paid or
203 that may be voluntarily paid into the state unemployment
204 compensation fund as provided in article five of this
205 chapter.

206 "Separated from employment" means, for the purposes
207 of this chapter, the total severance whether by quitting,
208 discharge, or otherwise, of the employer-employee re-
209 lationship.

210 "State" includes, in addition to the states of the United
211 States, Alaska, Hawaii, and the District of Columbia.

212 "Total and partial unemployment":

213 (1) An individual shall be deemed totally unemployed
214 in any week in which such individual is separated from
215 employment for an employing unit and during which he
216 performs no services and with respect to which no wages
217 are payable to him.

218 (2) An individual who has not been separated from
219 employment shall be deemed to be partially unemployed
220 in any week in which due to lack of work he performs no
221 services and with respect to which no wages are payable

222 to him, or in any week in which due to lack of full-time
223 work wages payable to him are less than his weekly bene-
224 fit amount plus six dollars.

225 "Wages" means all remuneration for personal service,
226 including commissions and bonuses and the cash value of
227 all remuneration in any medium other than cash: *Pro-*
228 *vided*, That the term "wages" shall not include:

229 (1) That part of the remuneration which, after re-
230 muneration equal to three thousand dollars has been paid
231 to an individual by an employer with respect to employ-
232 ment during any calendar year, is paid after December
233 thirty-one, one thousand nine hundred thirty-nine, and
234 prior to January one, one thousand nine hundred forty-
235 seven, to such individual by such employer with respect
236 to employment during such calendar year; or that part
237 of the remuneration which, after remuneration equal to
238 three thousand dollars with respect to employment after
239 one thousand nine hundred thirty-eight has been paid to
240 an individual by an employer during any calendar year
241 after one thousand nine hundred forty-six, is paid to such
242 individual by such employer during such calendar year,
243 except that for the purposes of sections one, ten, eleven,
244 and thirteen of article six of this chapter, all remunera-
245 tion earned by an individual in employment shall be
246 credited to the individual and included in his computa-
247 tion of base period wages: *And Provided*, That the re-
248 muneration paid to an individual by an employer with
249 respect to employment in another state or other states
250 upon which contributions were required of and paid by
251 such employer under an unemployment compensation
252 law of such other state or states shall be included as a
253 part of the remuneration equal to three thousand dollars
254 herein referred to. In applying such limitation on the
255 amount of remuneration that is taxable an employer
256 shall be accorded the benefit of all or any portion of such
257 amount which may have been paid by its predecessor or
258 predecessors: *Provided, however*, That if the definition of
259 the term "wages" as contained in section 1607 (b) of the
260 Internal Revenue Code is amended to include remunera-
261 tion in excess of three thousand dollars paid to an indi-

vidual by an employer under the Federal Unemployment Tax Act during any calendar year, wages for the purposes of this definition shall include remuneration paid in a calendar year to an individual by an employer subject to this act or his predecessor with respect to employment during any calendar year up to an amount equal to the amount of remuneration taxable under the Federal Unemployment Tax Act;

(2) The amount of any payment made after December thirty-one, one thousand nine hundred fifty-two, (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of, an individual in its employ, or any of his dependents, under a plan or system established by an employer which makes provision for individuals in its employ generally (or for such individuals and their dependents), or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical or hospitalization expenses in connection with sickness or accident disability, or (D) death;

(3) Any payment made after December thirty-one, one thousand nine hundred fifty-two, by an employer to an individual in its employ (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) Any payment made after December thirty-one, one thousand nine hundred fifty-two, by an employer on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, to, or on behalf of, an individual in its employ after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(5) Any payment made after December thirty-one, one thousand nine hundred fifty-two, by an employer to, or on behalf of, an individual in its employ or his beneficiary (A) from or to a trust exempt from tax under section 165 (a) of the Federal Internal Revenue Code at the

time of such payment unless such payment is made to such individual as an employee of the trust as remuneration for services rendered by such individual and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a) (3), (4), (5), and (6) of the Federal Internal Revenue Code;

(6) The payment by an employer (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in its employ under section 1400 of the Federal Internal Revenue Code;

(7) Remuneration paid by an employer after December thirty-one, one thousand nine hundred fifty-two, in any medium other than cash to an individual in its employ for service not in the course of the employer's trade or business;

(8) Any payment (other than vacation or sick pay) made by an employer after December thirty-one, one thousand nine hundred fifty-two, to an individual in its employ after the month in which he attains the age of sixty-five, if he did not work for the employer in the period for which such payment is made;

(9) Dismissal payments made after December thirty-one, one thousand nine hundred fifty-two, which the employer is not legally required to make;

(10) Payments, not required under any contract of hire, made to an individual with respect to his period of training or service in the armed forces of the United States by an employer by which such individual was formerly employed.

Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages paid by his employing unit, if accounted for and reported to such employing unit.

The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director.

"Week" means a calendar week, ending at midnight

342 Saturday, or the equivalent thereof, as determined in
343 accordance with the regulations prescribed by the di-
344 rector.

345 "Weekly benefit rate" means the maximum amount of
346 benefit an eligible individual will receive for one week
347 of total unemployment.

348 "Year" means a calendar year or the equivalent there-
349 of, as determined by the director.

Sec. 5. *Federal-State Cooperation.*—The department
2 shall cooperate with the United States department of
3 labor, similar agencies of the several states, and such
4 other agencies as are concerned with the problem of em-
5 ployment security and public assistance and relief.

Article 2. The Director of Employment Security.

Section

6. Powers and duties.

Section 6. *Powers and Duties.*—The director shall be
2 the executive and administrative head of the department
3 and shall have the power and duty, to:

4 (1) Exercise general supervision of and make regula-
5 tions for the government of the department.

6 (2) Prescribe uniform rules pertaining to investiga-
7 tions, departmental hearings, and promulgate rules and
8 regulations.

9 (3) Supervise fiscal affairs and responsibilities of the
10 department.

11 (4) Prescribe the qualifications of, appoint, remove,
12 and fix the compensation of the officers and employees
13 of the department, subject to the provisions of section
14 ten, article four of this chapter, relating to the board of
15 review.

16 (5) Organize and administer the department so as to
17 comply with the requirements of this chapter and to sat-
18 isfy any conditions established in applicable federal leg-
19 islation.

20 (6) Make reports in such form and containing such
21 information as the United States department of labor
22 may from time to time require, and comply with such
23 provisions as the United States department of labor may
24 from time to time find necessary to assure the correct-
25 ness and verification of such reports.

26 (7) Make available to any agency of the United States
27 charged with the administration of public works or as-
28 sistance through public employment, upon its request,
29 the name, address, ordinary occupation and employment
30 status of each recipient of unemployment compensation,
31 and a statement of the recipient's rights to further com-
32 pensation under this chapter.

33 (8) Keep an accurate and complete record of all de-
34 partmental proceedings; record and file all bonds and
35 contracts and assume responsibility for the custody and
36 preservation of all papers and documents of the depart-
37 ment.

38 (9) Sign and execute in the name of the state, by "The
39 State Department of Employment Security", any con-
40 tract or agreement with the federal government, its agen-
41 cies, other states, their subdivisions, or private persons.

42 (10) Prescribe a salary scale to govern compensation
43 of appointees and employees of the department.

44 (11) Make the original determination of right in claims
45 for benefits.

46 (12) Make recommendations, and an annual report to
47 the governor concerning the condition, operation, and
48 functioning of the department.

49 (13) Invoke any legal, equitable or special remedy for
50 the enforcement of orders or the provisions of this chap-
51 ter.

52 (14) Exercise any other power necessary to standard-
53 ize administration, expedite departmental business, as-
54 sure the establishment of fair rules and regulations and
55 promote the efficiency of the service.

Article 3. Advisory Council.

Section

7. Honorarium and traveling expenses.

Section 7. *Honorarium and Traveling Expenses.*—Each
2 member of the council shall receive an honorarium
3 twenty-five dollars for each day actually served in at-
4 tendance at meetings of the council and such traveling
5 expenses as are incurred in the performance of his duties
6 under the provisions of this chapter.

7 Requisition for traveling expenses shall be accompa-
8 nied by a sworn and itemized statement which shall be

9 filed with the auditor and permanently preserved as a
10 public record.

11 Members shall not be compensated for more than thirty
12 days' service in any year.

Article 5. Employer Coverage and Responsibility.

Section

- 7. Separate accounts.
- 10. Experience ratings; decreased rates.
- 10-b. Transfer of business.
- 16. Collection of payments.
- 17-b. Comity in collection of past-due payments.

Section 7. *Separate Accounts*.—(1) The director shall
2 maintain a separate account for each employer, and shall
3 credit his account with all contributions heretofore and
4 hereafter paid by him. He shall also credit to all active
5 employers' accounts which have a credit balance on a com-
6 putation date in an amount equal to all interest credited
7 to the West Virginia unemployment trust fund depos-
8 ited with the secretary of the treasury of the United
9 States for all periods prior to the computation date of
10 June thirty, one thousand nine hundred fifty-three, and
11 thereafter for the period that has intervened since the
12 last preceding computation date. The proportionate share
13 to be credited to each employer's account which has a
14 credit balance on the computation date shall be at a ratio
15 of his credit balance to the total of the credit balances of
16 all employers: *Provided*, That any adjustment made in
17 an employer's account after the computation date shall
18 not be used in the computation of the credit balance of
19 an employer until the next following computation date:
20 *Provided further*, That nothing in this chapter shall be
21 construed to grant any employer or individual in his
22 service prior claims or rights to the amounts paid by him
23 into the fund, either on his own behalf or on behalf of
24 such individuals. The account of any employer which
25 has been inactive for a period of four consecutive calen-
26 dar years shall be terminated for all purposes.

27 (2) Benefits paid to an eligible individual for total un-
28 employment beginning after the effective date of this
29 act shall be charged to the account of the last employer
30 with whom he has had as much as three weeks of con-
31 tinuous employment: *Provided*, That no employer's ac-
32 count will be charged with benefits paid to any individual

33 who has been separated from non-covered employment
 34 in which he was employed as much as three weeks: *And*
 35 *provided further*, That benefits paid to an eligible in-
 36 dividual for partial unemployment beginning after the
 37 effective date of this act shall be charged to the account
 38 of the claimant's current employer.

Sec. 10. *Experience Ratings; Decreased Rates.*—On
 2 and after January one, one thousand nine hundred fifty-
 3 four, after the requirements of section nine have been
 4 complied with, an employer's payment shall remain two
 5 and seven-tenths per cent until:

6 (1) There have elapsed thirty-six consecutive months
 7 immediately preceding the computation date throughout
 8 which an employer's account was chargeable with bene-
 9 fits.

10 (2) His payments credited to his account for all past
 11 years exceed the benefits charged to his account by an
 12 amount equal to at least the per cent of his average
 13 annual pay roll as shown in column B of table I. His
 14 rate shall be the amount appearing in column C of table
 15 I on line with the percentage in column B.

16 The director shall determine an employer's compliance
 17 with these requirements.

TABLE I

Col. A	Col. B	Col. C
Rate	Per Cent of Average	
Class	Annual Pay Roll by Which	Employer's
	Credits Exceed Charges	Rate
(1)	5.5	2.5
(2)	6.5	2.3
(3)	7.0	2.1
(4)	7.5	1.9
(5)	8.0	1.7
(6)	8.5	1.5
(7)	9.0	1.3
(8)	9.5	1.1
(9)	10.0	0.9
(10)	10.5	0.7
(11)	11.0	0.5
(12)	11.5	0.3
(13)	12 and over	0

18 After the director is satisfied that an employer has
 19 complied with these requirements he shall decrease the
 20 employer's rate to the next lower rate if the fund, in-

21 cluding the trust fund, clearing account, and benefit ac-
22 count, is as much as eighty million dollars on the compu-
23 tation date, and shall decrease the employer's rate one
24 additional step if the fund is as much as ninety million
25 dollars on the computation date, and shall decrease the
26 employer's rate one additional step for each five million
27 dollars that the fund is above ninety million dollars up to
28 and including one hundred fifteen million dollars on the
29 computation date: *Provided*, That an employer's rate
30 shall not be reduced below 0.3 per cent until the credits
31 to his account for all past years exceed the benefits
32 charged to his account by an amount equal to at least
33 twelve per cent of his average annual pay roll: *Provided*
34 *further*, That all required contributions paid on or before
35 July thirty-one immediately following the computation
36 date shall be used in determining the amount in the trust
37 fund and clearing account as of the computation date.

2 Sec. 10-b. *Transfer of Business*.—If a subject em-
3 ployer shall transfer his entire organization, trade or bus-
4 iness, or substantially all the assets thereof, to another
5 employer, the director shall combine the contribution
6 records and the benefit experience records of the trans-
7 ferring and acquiring employers. The acquiring em-
8 ployer's contribution rate for the remainder of the cal-
9 endar year shall not be affected by the transfer but such
10 rate shall apply to the whole of his business, including
11 the portion acquired by the transfer, through the follow-
12 ing December thirty-first. If a subject employer shall
13 make such transfer to an employing unit which is not an
14 employer on the date of the transfer, such subject em-
15 ployer's rate shall continue as the rate of the acquiring
16 employing unit until the next effective rate date. If an
17 employing unit acquires simultaneously the entire or-
18 ganization, trade or business, or substantially all the as-
19 sets thereof, of two or more covered employers, the
20 successor shall be assigned as a contribution rate the then
21 current rate of the transferring employer which had, in
22 the calendar quarter immediately preceding the date of
23 the transfer, the higher or highest pay roll. If a subject
24 employer shall transfer his entire organization, trade or
business, or substantially all the assets thereof, to two

25 or more employers or employing units apportionment of
26 the contribution records and benefit experience records
27 of the transferring employer shall be made between the
28 acquiring units in accordance with the ratio that the
29 total assets acquired by each transferee bears to the total
30 assets transferred by the transferring employer as of the
31 date of the transfers. The current contribution rate of the
32 transferring employer shall in such case continue as the
33 rate of each transferee who or which is an employing unit
34 until the next effective rate date; the current contribu-
35 tion rate of each transferee who or which is an employer
36 shall continue as his or its rate until the next effective
37 rate date. For the succeeding calendar year the rate of
38 each transferee shall be determined as provided in sec-
39 tion ten of this article. As to any transfers which occur
40 prior to July thirty-first of the current calendar year such
41 rate shall remain effective for the balance of that calen-
42 dar year: *Provided, however,* That if the transfers occur
43 subsequent to July thirty-first such rate shall remain ef-
44 fective for the balance of that calendar year and the rate
45 for the succeeding calendar year shall, notwithstanding
46 anything to the contrary provided in section seven of
47 article five of this chapter, be recomputed on the basis
48 of the combined experience of the transferring employers
49 as of July thirty-first of the year in which the transfers
50 occur. In case the transferring employer is delinquent
51 in the payment of contributions or interest thereon the
52 acquiring employer shall not be entitled to any benefit
53 of the contribution record of the transferring employer
54 unless payment of such delinquent contributions and in-
55 terest thereon is assumed by the acquiring employer. The
56 director shall upon joint request of the transferor and
57 transferee furnish the transferee a statement of the
58 amount of any contribution and interest due and unpaid
59 by the transferor. A statement so furnished shall be
60 controlling for the purposes of the foregoing proviso.

Sec. 16. *Collection of Payments.*—(1) The director
2 in the name of the state shall commence a civil action
3 against an employer who, after due notice, defaults in
4 any payment or interest thereon. If judgment is against
5 the employer he shall pay the costs of the action. Civil

6 actions under this section shall be given preference on
7 the calendar of the court over all other civil actions ex-
8 cept petitions for judicial review under article seven of
9 this chapter and cases arising under the workmen's com-
10 pensation law.

11 (2) A payment and interest thereon due and unpaid
12 under this chapter shall be a debt due the state in favor
13 of the director. It shall be a personal obligation of the
14 employer and shall, in addition thereto, be a lien, en-
15 forceable by suit in equity, upon all the property of the
16 employer: *Provided, however,* That no such lien shall be
17 enforceable as against a purchaser (including lien cred-
18 itor) of real estate or personal property for a valuable
19 consideration, without notice, unless docketed as pro-
20 vided in chapter ninety-nine of the acts of the Legisla-
21 ture, regular session, one thousand nine hundred forty-
22 three.

23 (3) In addition to all other civil remedies prescribed
24 herein the director may in the name of the state distrain
25 upon any personal property, including intangibles, of any
26 employer delinquent for any payment and interest
27 thereon. If the director has good reason to believe that
28 such property or a substantial portion thereof is about
29 to be removed from the county in which it is situated he
30 may likewise distrain in the name of the state before
31 such delinquency occurs. For such purpose the director
32 may require the services of a sheriff of any county in the
33 state in levying such distress in the county in which such
34 sheriff is an officer and in which such personal property
35 is situated. A sheriff so collecting any payments and
36 interest thereon shall be entitled to such compensation
37 as is provided by law for his services in the levy
38 and enforcement of executions.

39 (4) In case a business subject to the payments and in-
40 terest thereon imposed under this chapter shall be oper-
41 ated in connection with a receivership or insolvency pro-
42 ceeding in any state court in this state, the court under
43 whose direction such business is operated shall, by the
44 entry of a proper order or decree in the cause, make pro-
45 vision, so far as the assets in administration will permit,

46 for the regular payment of such payments as the same
47 become due.

48 (5) The secretary of state of this state shall withhold
49 the issuance of any certificate of dissolution or with-
50 drawal in the case of any corporation organized under
51 the laws of this state, or organized under the laws of an-
52 other state and admitted to do business in this state,
53 until notified by the director that all payments and in-
54 terest thereon against any such corporation which is an
55 employer under this chapter have been paid or that pro-
56 vision satisfactory to the director has been made for pay-
57 ment.

58 (6) In any case where an employer defaults in pay-
59 ments, or interest thereon, for as many as two calendar
60 quarters, which quarters need not be consecutive, and
61 remains delinquent after due notice, and the director
62 has been unable to collect such payments by any of the
63 other civil remedies prescribed herein, the director may
64 bring action in the circuit court of Kanawha county to
65 enjoin such employer from continuing to carry on the
66 business in which such liability was incurred: *Provided,*
67 *however,* That the director may as an alternative to this
68 action require such delinquent employer to file a bond
69 in the form prescribed by the director with satisfactory
70 surety in an amount not less than fifty per cent more
71 than the tax due.

Section 17-b. *Comity in Collection of Past-Due Pay-*
2 *ments.*—The courts of this state shall recognize and en-
3 force liabilities for unemployment contributions imposed
4 by other states which extend a like comity to this state.
5 The director in the name of this state is hereby em-
6 powered to sue in the courts of any other jurisdiction
7 which extends such comity, to collect unemployment
8 contributions and interest due this state. The officials of
9 other states which by statute or otherwise extend a like
10 comity to this state may sue in the courts of this state,
11 to collect for such contributions and interest and penal-
12 ties if any, due such state; in any such case the director
13 of employment security of this state may through his
14 legal assistant or assistants institute and conduct such
15 suit for such other state.

Article 6. Employee Eligibility; Benefits.**Section**

1. Eligibility qualifications.
4. Disqualification for benefits.
10. Benefit rate; total unemployment.
22. Payment of benefits upon decease of claimant.

Section 1. *Eligibility Qualifications.*—An unemployed individual shall be eligible to receive benefits only if the director finds that:

(1) He has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the director.

(2) He has made a claim for benefits in accordance with the provisions of article seven of this chapter.

(3) He is able to work and is available for full time work for which he is fitted by prior training or experience.

(4) He has been totally unemployed during his benefit year for a waiting period of one week prior to the week for which he claims benefits for total unemployment.

(5) He has within his base period earned wages for employment equal to not less than five hundred dollars.

Sec. 4. *Disqualification for Benefits.*—Upon the determination of the facts by the director, an individual shall be disqualified for benefits:

(1) For the week in which he left his most recent work voluntarily without good cause involving fault on the part of the employer and the six weeks immediately following such week. Such disqualification shall carry a reduction in the maximum benefit amount equal to six times the individual's weekly benefit rate. However, if the claimant returns to work in covered employment during his benefit year the maximum benefit amount shall be increased by the amount of the decrease imposed under the disqualification.

(2) For the week in which he was discharged by his last employing unit for misconduct and the six weeks immediately following such week. Such disqualification shall carry a reduction in the maximum benefit amount equal to six times the individual's weekly benefit rate. However, if the claimant returns to work in covered em-

20 ployment during his benefit year the maximum benefit
21 amount shall be increased by the amount of the decrease
22 imposed under the disqualification.

23 (3) For the week in which he failed without good
24 cause to apply for available suitable work, accept suitable
25 work when offered, or return to his customary self-
26 employment when directed to do so by the director, and
27 for the four weeks which immediately follow and for such
28 an additional period as any offer of suitable work shall
29 continue open for his acceptance, and his maximum ben-
30 efit amount shall be reduced by an amount equal to his
31 weekly benefit rate times the number of weeks of dis-
32 qualification. However, if the claimant returns to work
33 in covered employment during his benefit year the max-
34 imum benefit amount shall be increased by the amount
35 of the decrease imposed under the disqualification.

36 (4) For a week in which his total or partial unemploy-
37 ment is due to a stoppage of work which exists because
38 of a labor dispute at the factory, establishment, or other
39 premises at which he was last employed, unless the di-
40 rector is satisfied that he was not (one) participating,
41 financing, or directly interested in such dispute, and (two)
42 did not belong to a grade or class of workers who were
43 participating, financing, or directly interested in the labor
44 dispute which resulted in the stoppage of work. No dis-
45 qualification under this subsection shall be imposed if
46 the employees are required to accept wages, hours or
47 conditions of employment substantially less favorable
48 than those prevailing for similar work in the locality, or
49 if employees are denied the right of collective bargaining
50 under generally prevailing conditions, or if an employer
51 shuts down his plant or operation or dismisses his em-
52 ployees in order to force wage reduction, changes in hours
53 or working conditions.

54 (5) For a week with respect to which he is receiving
55 or has received:

56 (a) Wages in lieu of notice or payments under any
57 form of a separation wage plan.

58 (b) Compensation for temporary total disability under
59 the workmen's compensation law of any state or under
60 a similar law of the United States.

61 (c) Remuneration in the form of a primary insurance
62 benefit under Title II of the Social Security Act, as
63 amended, or similar payments under any act of Congress,
64 from and after receipt by him of his first payment for such
65 benefits.

66 (d) Unemployment compensation benefits under the
67 laws of the United States or any other state.

68 (6) For the week in which an individual is not em-
69 ployed because of pregnancy, or has voluntarily quit em-
70 ployment to marry or to perform any marital, parental
71 or family duty, or to attend to his or her personal busi-
72 ness or affairs, and until the individual returns to covered
73 employment and has been employed in covered employ-
74 ment at least thirty working days.

75 (7) For each week in which an individual is unem-
76 ployed because, having voluntarily left employment to
77 attend a school, college, university, or other educational
78 institution, he is attending such school, college, univer-
79 sity, or other educational institution, or is awaiting en-
80 trance thereto or is awaiting the starting of a new term
81 or session thereof, and until the individual returns to
82 covered employment.

83 (8) For each week in which he is unemployed because
84 of his request, or that of his duly authorized agent, for
85 a vacation period at a specified time that would leave the
86 employer no other alternative but to suspend operations.

87 (9) For each week in which he is receiving or has re-
88 ceived remuneration in the form of an annuity, pension,
89 or other retirement pay, from an employer or from any
90 trust or fund contributed to by an employer. But if such
91 remuneration for any week is less than the benefits which
92 would otherwise be due him for such week under this
93 chapter, he shall be entitled to receive for such week,
94 if otherwise eligible, benefits reduced by the amount of
95 such remuneration: *Provided*, That if such amount of
96 benefits is not a multiple of one dollar, it shall be com-
97 puted to the next higher multiple of one dollar: *Provided*
98 *further*, That there shall be no disqualification if in the
99 individual's base period there are no wages which were
100 paid by the employer paying such remuneration, or by
101 a fund into which the employer has paid during said base

102 period. Claimant may be required to certify as to whether
103 or not he is receiving or has received remuneration in
104 the form of an annuity, pension, or other retirement pay
105 from an employer or from a trust fund contributed to by
106 an employer.

107 (10) For each week in which he knowingly made a
108 false statement or representation knowing it to be false
109 or knowingly failed to disclose a material fact in order
110 to obtain or increase a benefit under this act. For each
111 such week of disqualification he shall be disqualified an
112 additional five weeks and his maximum benefit amount
113 shall be reduced by an amount equal to five times his
114 weekly benefit rate. Such five weeks disqualification
115 periods are to run consecutively beginning with the first
116 week in which it is determined a fraudulent claim was
117 filed: *Provided*, That an individual shall not be disquali-
118 fied under this subsection for a period of more than fifty-
119 two consecutive weeks: *Provided further*, That disqualifi-
120 cation under this subsection shall not preclude prosecu-
121 tion under article ten, section seven.

122 (11) For the purposes of this section an employer's ac-
123 count shall not be charged under any of the following
124 conditions: (1) When benefits are paid without any dis-
125 qualification to an individual who has left his most re-
126 cent work for good cause not involving fault on the part
127 of the employer. (2) When benefits are paid for unem-
128 ployment immediately after the expiration of a period of
129 disqualification for (a) leaving work voluntarily with-
130 out good cause involving fault on the part of the em-
131 ployer, (b) discharge for misconduct, (c) failing without
132 good cause to apply for available suitable work, accept
133 suitable work when offered, or return to his customary
134 self-employment when directed to do so by the director.

Sec. 10. *Benefit Rate; Total Unemployment.*—Each
2 eligible individual who is totally unemployed in any week
3 shall be paid benefits with respect to that week at the
4 weekly rate appearing in column (C) in table A in this
5 paragraph, on the line on which in column (A) there is
6 indicated the employee's wage class, except as otherwise
7 provided under the term "total and partial unemploy-

8 ment" in section three, article one of this chapter. The
 9 employee's wage class shall be determined by his base
 10 period wages as shown in column (B) in table A. The
 11 right of an employee to receive benefits shall not be pre-
 12 judiced nor the amount thereof be diminished by reason
 13 of failure by an employer to pay either the wages earned
 14 by the employee or the contribution due on such wages.
 15 An individual who is totally unemployed but earns in
 16 excess of six dollars as a result of odd-job or subsidiary
 17 work in any benefit week shall be paid benefits for such
 18 week in accordance with the provisions of this chapter
 19 pertaining to benefits for partial unemployment. The pro-
 20 visions of this section shall apply to all benefit weeks
 21 occurring in benefit years beginning after the effective
 22 date of this act; for benefit weeks occurring in benefit
 23 years prior thereto the provisions then in effect shall
 24 apply.

TABLE A

Wage Class (Col. A)	Wages in Base Period (Col. B)	Weekly Benefit Rate (Col. C)	Maximum Benefit	
			in Benefit Year for Total and/or Partial Unempl. (Col. D)	
	Under \$ 500.00	Ineligible	Amount	
1	\$ 500.00- 599.99	\$10.00	\$240.00	
2	600.00- 699.99	11.00	264.00	
3	700.00- 799.99	12.00	288.00	
4	800.00- 899.99	13.00	312.00	
5	900.00- 999.99	14.00	336.00	
6	1000.00- 1149.99	15.00	360.00	
7	1150.00- 1299.99	16.00	384.00	
8	1300.00- 1449.99	17.00	408.00	
9	1450.00- 1599.99	18.00	432.00	
10	1600.00- 1749.99	19.00	456.00	
11	1750.00- 1899.99	20.00	480.00	
12	1900.00- 2049.99	21.00	504.00	
13	2050.00- 2199.99	22.00	528.00	
14	2200.00- 2349.99	23.00	552.00	
15	2350.00- 2499.99	24.00	576.00	
16	2500.00- 2599.99	25.00	600.00	
17	2600.00- 2699.99	26.00	624.00	
18	2700.00- 2799.99	27.00	648.00	
19	2800.00- 2899.99	28.00	672.00	
20	2900.00- 2999.99	29.00	696.00	
21	3000.00 and over	30.00	720.00	

Sec. 22. *Payment of Benefits Upon Decease of Claimant.*—Accrued benefits due and unpaid on claims filed prior to decease of a claimant may, in the discretion of the director, be paid, without letters of administration, to the surviving spouse, children, or parents of the deceased, in the order of priority enumerated.

Article 7. Claim Procedure.

Section

30. Appeals from administrative decisions relative to chargeability of benefits.

Section 30. *Appeals from Administrative Decisions Relative to Chargeability of Benefits.*—Appeals shall lie to the board of review, in the manner as provided in this article relating to appeal from an examiner's decision, and under such rules, regulations, and procedure as may be prescribed by the board, from an administrative decision of the director relating to chargeability of benefits. Appeals shall lie from a final decision of the board of review in such case to the circuit court of Kanawha county and thence to the supreme court of appeals of West Virginia within the times and in the manner as provided in this article.

Article 9. Employment Security Administration Funds.

Section

1. Administration fund.
3. Contents of fund.
8. Reimbursement of fund.

Section 1. *Administration Fund.*—There is hereby created in the state treasury a special fund to be known as the employment security administration fund. All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by this state for the purposes described in section seven of this article shall be expended solely for the purposes and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this chapter.

Sec. 3. *Contents of Fund.*—The fund shall consist of:

- (1) Moneys appropriated by the state.
- (2) Moneys received from the United States or any agency thereof, for the administration of this act.
- (3) Moneys received from any other source.

Sec. 8. *Reimbursement of Fund.*—If any moneys received after June thirty, one thousand nine hundred forty-one, pursuant to title three of the social security act, or any unencumbered balances in the employment security administration fund as of that date, or any moneys granted after that date to this state pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the provisions of the Wagner-Peyser Act, are found by the secretary of labor, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the secretary of labor for the proper administration of this law, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this state to the employment security administration fund for expenditure as provided by the unemployment compensation law. Upon receipt of notice of such a finding by the secretary of labor, the director shall promptly report the amount required for such replacement to the governor and the governor shall, at the earliest opportunity, submit to the Legislature a request for the appropriation of such amount. This article shall not be construed to relieve this state of its obligation with respect to funds received prior to July one, one thousand nine hundred forty-one, pursuant to the provisions of title three of the Social Security Act.

Article 10. General Provisions.

Section

7. False representation.
8. Misrepresentation.

Section 7. *False Representation.*—A person who makes a false statement or representation knowing it to be false or who knowingly fails to disclose a material fact in order to obtain or increase a benefit, either for himself or another, under this chapter, or under an employment security law of any other state or of the federal government for either of which jurisdictions this state is acting as an

8 agent, shall be guilty of a misdemeanor and upon con-
9 viction punished by a fine of not less than twenty dollars
10 nor more than fifty dollars, or by imprisonment for not
11 longer than thirty days, or both. Each false statement or
12 representation, or failure to disclose a material fact, shall
13 constitute a separate offense.

Sec. 8. *Misrepresentation.*—A person who, by reason of
2 non-disclosure or misrepresentation, either by himself or
3 another (irrespective of whether such non-disclosure or
4 misrepresentation was known or fraudulent) has received
5 a sum as a benefit under this chapter, shall either have
6 such sum deducted from a future benefit payable to him
7 or shall repay to the director the amount which he has
8 received. Collection shall be made in the same manner as
9 collection of past due payment: *Provided, however, That*
10 such collection or deduction of benefits shall be barred
11 after the expiration of five years, except for known or
12 fraudulent non-disclosure or misrepresentation which
13 shall be barred after the expiration of ten years, from the
14 date of the filing of the claim in connection with which
15 such non-disclosure or misrepresentation occurred.

CHAPTER 175

(Senate Bill No. 298—By Mr. Love)

AN ACT to amend and reenact section five, article two, chapter
twenty-one-a of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to unem-
ployment compensation.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the
Governor.]

Article 2. The Director of Employment Security.

Section

5. Compensation.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Compensation.*—The director shall receive
2 a yearly salary of eight thousand dollars and the neces-
3 sary traveling expenses incident to the performance of
4 his duties. Requisition for traveling expenses shall be
5 accompanied by a sworn itemized statement which shall
6 be filed with the auditor and preserved as a public
7 record.

CHAPTER 176

(Senate Bill No. 56—By Mr. Allen)

AN ACT to amend and reenact section five, chapter one hundred ninety-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, providing for an extension of the limitation of time for filing applications for veterans' bonus.

[Passed February 27, 1953; in effect from passage. Approved by the Governor.]

Section

5. Limitation on time for filing application.

Be it enacted by the Legislature of West Virginia:

That section five, chapter one hundred ninety-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 5. *Limitation on Time for Filing Application.*—
2 No bonus shall be paid to any person otherwise entitled
3 thereto unless application therefor shall be filed with the
4 department on or before the thirtieth day of June, one
5 thousand nine hundred fifty-three, except that a person

6 otherwise entitled thereto may apply for and be paid
7 the bonus, if his failure to apply for the same was due
8 to his being a prisoner of war in Korea, or to other sim-
9 ilar circumstances and events which, in the opinion of
10 the director of the West Virginia department of veterans
11 affairs, were beyond the control of the said veteran.

CHAPTER 177

(Senate Bill No. 209—By Mr. Martin)

AN ACT to amend and reenact section twenty-seven, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, making adjustments in the weight specifications of certain commodities and adding commodities to the table of weights, not now included.

[Passed March 12, 1953; in effect from passage. Approved by the Governor.]

Article 1. Weights and Measures.

Section

27. Bushel and its subdivisions.

Be it enacted by the Legislature of West Virginia:

That section twenty-seven, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 27. *Bushel and Its Subdivisions.*—A bushel, half
2 bushel, peck, half peck, quarter peck, quart and pint of
3 the respective articles hereinafter mentioned, except
4 when sold in baskets or containers as provided in sec-
5 tions thirty-two and thirty-three of this article, shall be
6 the amount of weight, avoirdupois, as shown by the fol-
7 lowing table:

	COMMODITY	BU.	½ BU.	PECK		½ PECK		¼ PECK		QUART		PINT	
		lb.	lb.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.
8	Apples (green) _____	44	22	11	—	5	8	2	12	1	6	—	11
9	Apples (dried) _____	24	12	6	—	3	—	1	8	—	12	—	6
10	Apple Seed _____	40	20	10	—	5	—	2	8	1	4	—	10
11	Alfalfa Seed _____	60	30	15	—	7	8	3	12	1	14	—	15
12	Beans (dried, shelled) _____	60	30	15	—	7	8	3	12	1	14	—	15
13	Beans, Castor _____	46	23	11	8	5	12	2	14	1	7	—	11½
14	Beans (unshelled) _____	38	19	9	8	4	12	2	6	1	3	—	9½
15	Beans (stringed) _____	24	12	6	—	3	—	1	8	—	12	—	6
16	Beans (limas) _____	56	28	14	—	7	—	3	8	1	12	—	14
17	Beans, Soy _____	58	29	14	8	7	4	3	10	1	13	—	14½
18	Beans, Scarlet Pole _____	50	25	12	8	6	4	3	2	1	9	—	12½
19	Beets _____	56	28	14	—	7	—	3	8	1	12	—	14
20	Blackberries _____	48	24	12	—	6	—	3	—	1	8	—	12
21	Blueberries _____	42	21	10	8	5	4	2	10	1	5	—	10½
22	Blue Grass Seed _____	14	7	3	8	1	12	—	14	—	7	—	3½
23	Blue Grass Seed, Eng. _____	22	11	5	8	2	12	1	6	—	11	—	5½
24	Broom Corn Seed _____	57	28½	14	4	7	2	3	9	1	12½	—	14¼
25	Buckwheat _____	48	24	12	—	6	—	3	—	1	8	—	12
26	Barley _____	48	24	12	—	6	—	3	—	1	8	—	12
27	Bran _____	20	10	5	—	2	8	1	4	—	10	—	5
28	Cabbage _____	50	25	12	8	6	4	3	2	1	9	—	12½
29	Canary Seed _____	60	30	15	—	7	8	3	12	1	14	—	15

	COMMODITY	BU.	½ BU.	PECK		½ PECK		¼ PECK		QUART		PINT	
		lb.	lb.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.
31	Carrots	50	25	12	8	6	4	3	2	1	9	---	12½
32	Cement	100	50	25	---	12	8	6	4	3	2	1	9
33	Charcoal	20	10	5	---	2	8	1	4	---	10	---	5
34	Cherries (with stems)	56	28	14	---	7	---	3	8	1	12	---	14
35	Cherries (without stems)	64	32	16	---	8	---	4	---	2	---	1	---
36	Chestnuts	50	25	12	8	6	4	3	2	1	9	---	12½
37	Clover Seed	60	30	15	---	7	8	3	12	1	14	---	15
38	Coal	80	40	20	---	10	---	5	---	2	8	1	4
39	Coke	40	20	10	---	5	---	2	8	1	4	---	10
40	Corn (cracked)	50	25	12	8	6	4	3	2	1	9	---	12½
41	Corn (ear dry)	68	34	17	---	8	8	4	4	2	2	1	1
42	Corn (ear green)	72	36	18	---	9	---	4	8	2	4	1	2
43	Corn (shelled)	56	28	14	---	7	---	3	8	1	12	---	14
44	Corn Sweet	50	25	12	8	6	4	3	2	1	9	---	12½
45	Corn Meal	48	24	12	---	6	---	3	---	1	8	---	12
46	Corn Meal (bolted)	46	23	11	8	5	12	2	14	1	7	---	11½
47	Cotton Seed	32	16	8	---	4	---	2	---	1	---	---	8
48	Cotton Seed (S. I.)	44	22	11	---	5	8	2	10	1	6	---	11
49	Cranberries	36	18	9	---	4	8	2	4	1	2	---	9
50	Cucumbers (green)	50	25	12	8	6	4	3	2	1	9	---	12½
51	Currants	40	20	10	---	5	---	2	8	1	4	---	10
52	Flax Seed	56	28	14	---	7	---	3	8	1	12	---	14

	COMMODITY	BU.	½ BU.	PECK		½ PECK		¼ PECK		QUART		PINT	
		lb.	lb.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.
53	Gooseberries	40	20	10	—	5	—	2	8	1	4	—	10
54	Grapes (with stems)	40	20	10	—	5	—	2	8	1	4	—	10
55	Grapes	60	30	15	—	7	8	3	12	1	14	—	15
56	Hair (washed)	4	2	1	—	—	8	—	4	—	2	—	1
57	Hair (unwashed)	8	4	2	—	1	—	—	8	—	4	—	2
58	Hemp Seed	44	22	11	—	5	8	2	12	1	6	—	11
59	Herds Grass	45	22½	11	4	5	10	2	13	1	6½	—	11¼
60	Hickory Nuts	50	25	12	8	6	4	3	2	1	9	—	12½
61	Hominy	60	30	15	—	7	8	3	12	1	14	—	15
62	Horse Radish	50	25	12	8	6	4	3	2	1	9	—	12½
63	Huckleberries	52	26	13	—	6	8	3	4	1	10	—	13
64	Hungarian Grass	50	25	12	8	6	4	3	2	1	9	—	12½
65	Kaffir Corn	56	28	14	—	7	—	3	8	1	12	—	14
66	Kale	15	7½	3	12	1	14	—	15	—	7½	—	3¾
67	Lime (unslacked)	70	35	17	8	8	12	4	6	2	3	1	1½
68	Lime (slacked)	40	20	10	—	5	—	2	8	1	4	—	10
69	Malt	34	17	8	8	4	4	2	2	1	1	—	8½
70	Millet	50	25	12	8	6	4	3	2	1	9	—	12½
71	Millet (Japan)	35	17½	8	12	4	6	2	3	1	1½	—	8¾
72	Oats	32	16	8	—	4	—	2	—	1	—	—	8
73	Onions	55	27½	13	12	6	14	3	7	1	11½	—	13¾
74	Onions (bottom sets)	32	16	8	—	4	—	2	—	1	—	—	8

COMMODITY	BU.	½ BU.	PECK		½ PECK		¼ PECK		QUART		PINT	
	lb.	lb.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.
75 Onions (top sets) _____	28	14	7	—	3	8	1	12	—	14	—	7
76 Orchard Grass _____	14	7	3	8	1	12	—	14	—	7	—	3½
77 Osage Orange Seed _____	33	16½	8	4	4	2	2	1	1	½	—	8¼
78 Parsnips _____	42	21	10	8	5	4	2	10	1	5	—	10½
79 Peaches _____	44	22	11	—	5	8	2	12	1	6	—	11
80 Peaches (dried) _____	33	16½	8	4	4	2	2	1	1	½	—	8¼
81 Peanuts _____	23	11½	5	12	2	14	1	7	—	11½	—	5¾
82 Pears _____	50	25	12	8	6	4	3	2	1	9	—	12½
83 Peas (dry) _____	60	30	15	—	7	8	3	12	1	14	—	15
84 Peas (green, shelled) _____	50	25	12	8	6	4	3	2	1	9	—	12½
85 Peas (green, unshelled) _____	30	15	7	8	3	12	1	14	—	15	—	7½
86 Peas (wrinkled) _____	56	28	14	—	7	—	3	8	1	12	—	14
87 Plums _____	60	30	15	—	7	8	3	12	1	14	—	15
88 Potatoes (Irish) _____	60	30	15	—	7	8	3	12	1	14	—	15
89 Potatoes (sweet) _____	50	25	12	8	6	4	3	2	1	9	—	12½
90 Quinces _____	48	24	12	—	6	—	3	—	1	8	—	12
91 Rape Seed _____	50	25	12	8	6	4	3	2	1	9	—	12½
92 Raspberries _____	42	21	10	8	5	4	2	10	1	5	—	10½
93 Red Top Grass Seed _____	14	7	3	8	1	12	—	14	—	7	—	3½
94 Rice Corn (shelled) _____	56	28	14	—	7	—	3	8	1	12	—	14
95 Rice Corn (unshelled) _____	45	22½	11	4	5	10	2	13	1	6½	—	11¼
96 Rutabagas _____	50	25	12	8	6	4	3	2	1	9	—	12½

	COMMODITY	BU.	½ BU.	PECK		½ PECK		¼ PECK		QUART		PINT	
		lb.	lb.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.	lb.	oz.
97	Rye _____	56	28	14	—	7	—	3	8	1	12	—	14
98	Rye Meal _____	50	25	12	8	6	4	3	2	1	9	—	12½
99	Salt (coarse) _____	70	35	17	8	8	12	4	6	2	3	1	1½
100	Salt (fine) _____	50	25	12	8	6	4	3	2	1	9	—	12½
101	Sand _____	130	65	32	8	16	4	8	2	4	1	2	½
102	Shorts _____	20	10	5	—	2	8	1	4	—	10	—	5
103	Sorghum Seed _____	57	28½	14	4	7	2	3	9	1	12½	—	14¼
104	Spelt or Speltz _____	40	20	10	—	5	—	2	8	1	4	—	10
105	Spinach _____	15	7½	3	12	1	14	—	15	—	7½	—	3¾
106	Strawberries _____	42	21	10	8	5	4	2	10	1	5	—	10½
107	Timothy Seed _____	45	22½	11	4	5	10	2	13	1	6½	—	1¾
108	Tomatoes _____	56	28	14	—	7	—	3	8	1	12	—	14
109	Turnips _____	55	27½	13	12	6	14	3	7	1	11½	—	13¾
110	Walnuts _____	50	25	12	8	6	4	3	2	1	9	—	12½
111	Wheat _____	60	30	15	—	7	8	3	12	1	14	—	15

CHAPTER 178

(Senate Bill No. 89—By Mr. Love)

AN ACT to amend and reenact sections twenty-six, twenty-nine and thirty-six, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the size and capacity of bottles and containers used for the retail sale of milk and cream, the weight of a barrel of flour and fixing of offenses and penalties under the weights and measures law.

[Passed February 28, 1953; in effect ninety days from passage. Approved by the Governor.]

Article 1. Weights and Measures.

Section

- 26. Bottles and containers for milk and cream.
- 29. Barrel of flour.
- 36. Offenses; penalties.

Be it enacted by the Legislature of West Virginia:

That sections twenty-six, twenty-nine and thirty-six, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

- Section 26. *Bottles and Containers for Milk and Cream.*—Bottles and containers used for the retail sale of milk or cream shall be of the capacity of one gallon, one-half gallon, three pints, one quart, one pint, one-half pint, and one gill, when filled within one-fourth of an inch of the cap seat or stopple. The following variations on individual bottles, containers, or jars may be allowed, but the average contents of not less than twenty-five bottles, containers, or jars selected at random from at least four times the number tested must not be in error more than one quarter of these tolerances: Ten drams above and ten drams below on the gallon; six drams above and six drams below on the half gallon; five drams above and five drams below on the three pints; four drams above and four drams below on the quart; three drams above and

16 three drams below on the pint; two drams above and two
17 drams below on the gill. Bottles, containers, or jars used
18 for the sale of milk or cream shall have clearly blown,
19 or otherwise permanently marked, in the side of the bot-
20 tle, container or jar, the capacity of the bottle and the
21 word "sealed"; and in the side or bottom of the bottle,
22 container or jar, the name, initial, or trade-mark, which
23 designating number shall be different for each manufac-
24 turer and may be used in identifying the bottles. The
25 designating number shall be furnished by the state com-
26 missioner of weights and measures upon application by
27 the manufacturer, and upon the filing by the manufactur-
28 er of a bond in the sum of one thousand dollars, with
29 sureties to be approved by the attorney general, condi-
30 tioned upon his conformance with the requirements of
31 this section. A record of the bonds furnished, and the
32 designating numbers and to whom furnished, shall be
33 kept in the office of the commissioner of weights and
34 measures.

35 Any manufacturer who sells or offers to sell milk or
36 cream bottles, containers or jars, to be used in this state,
37 that do not comply as to size and markings with the pro-
38 visions of this section shall suffer a penalty of five hun-
39 dred dollars, to be recovered by the attorney general in
40 an action against the offender's bondsman to be brought
41 in the name of the state of West Virginia. Any dealer
42 who uses, for the purpose of selling milk or cream jars,
43 bottles or containers that do not comply with the require-
44 ments of this section as to marking and capacity shall be
45 deemed guilty of using a false and insufficient measure.

46 Sealers of weights and measures are not required to
47 seal bottles, jars, or containers for milk or cream marked
48 as in this section provided, but they shall have the power
49 to, and shall from time to time, make tests on individual
50 bottles, containers or jars, used by various dealers in the
51 territory over which they have jurisdiction in order to
52 ascertain if the above provisions are being complied with,
53 and they shall immediately report violations found to the
54 state commissioner of weights and measures.

Sec. 29. *Barrel of Flour.*—One barrel of flour shall con-

2 tain two hundred pounds; one-half barrel, one hundred
3 pounds; one-quarter barrel, fifty pounds; and one-eighth
4 barrel, twenty-five pounds, net weight.

Sec. 36. *Offenses; Penalties.*—Any person who, by him-
2 self or by his servant or agent, or as the servant or agent
3 of another person, shall knowingly offer or expose for
4 sale, sell, use in the buying or selling of any commodity
5 or thing or for hire or reward, or retain in his possession,
6 a false weight or measure, or weighing or measuring de-
7 vice which has not been sealed by a sealer or deputy seal-
8 er of weights and measures, or shall dispose of any meas-
9 ure or weighing or measuring device contrary to law,
10 or remove any tag placed thereon by a sealer or deputy
11 sealer of weights and measures, shall be guilty of a mis-
12 demeanor, and, upon a first conviction, shall be fined not
13 less than ten nor more than one hundred dollars, or im-
14 prisoned for not more than sixty days, or both fined and
15 imprisoned; and upon a second or subsequent conviction,
16 he shall be fined not less than ten nor more than five hun-
17 dred dollars, or imprisoned in the county jail for not more
18 than sixty days, or both fined and imprisoned.

19 Any person who, by himself or by his servant or agent,
20 or as the servant or agent of another person, who shall
21 sell or offer or expose for sale less than the quantity he
22 represents, or shall take or attempt to take more than the
23 quantity he represents, when, as the buyer, he furnishes
24 the weights, measures, or weighing device by means of
25 which the amount of commodity is determined; or who
26 shall keep for the purpose of sale, offer or expose for sale,
27 or sell any commodity in a manner contrary to law; or
28 who shall sell or offer for sale, or use or have in his pos-
29 session for the purpose of selling or using, any device or
30 instrument to be used to or calculated to falsify any
31 weights or measures; or who shall violate any provision
32 of this article for which a specific penalty has not been
33 provided, shall be guilty of a misdemeanor, and, upon a
34 first conviction, shall be fined not less than ten nor more
35 than one hundred dollars, or imprisoned for not more
36 than sixty days, or both fined and imprisoned for not
37 more than sixty days; and upon a second or subsequent

38 conviction, he shall be fined not less than ten nor more
39 than five hundred dollars, or imprisoned in the county
40 jail for not more than sixty days, or both fined and im-
41 prisoned.

CHAPTER 179

(House Bill No. 272—By Mr. Speaker, Mr. Flannery)

AN ACT to amend chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections one, three, six, eight-f, ten and fifteen, article four thereof, and section three, article five thereof, all relating to workmen's compensation.

[Passed March 11, 1953; in effect July 1, 1953. Approved by the Governor.]

Article

4. Disability and Death Benefits.
5. Review.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections one, three, six, eight-f, ten, and fifteen, article four thereof, and section three, article five thereof, to read as follows:

Article 4. Disability and Death Benefits.

Section

1. To whom compensation fund disbursed; silicosis and other occupational diseases included in "injury" and "personal injury"; definition of silicosis and other occupational diseases.
3. Disbursements for medicine, hospital treatment, artificial limbs and other appliances; contract by employer with hospital prohibited.
6. Classification of disability benefits.
- 8-f. Occupational diseases medical board; reports and distribution thereof; findings required of board; objection to findings; procedure thereon.
10. Classification of death benefits; "dependent" defined.
15. Application for benefits; report of injuries by employer.

Section 1. To Whom Compensation Fund Disbursed;

2 *Silicosis and Other Occupational Diseases Included in*
3 *"Injury" and "Personal Injury"; Definition of Silicosis*
4 *and Other Occupational Diseases.*—Subject to the pro-
5 visions and limitations elsewhere in this chapter set forth,
6 the commissioner shall disburse the workmen's compen-
7 sation fund to the employees of such employers as are
8 not delinquent in the payment of premiums for the
9 quarter in which the injury occurs, and in case of catas-
10 trophe, in addition to the employees next above described,
11 to the employees of employers who have elected, under
12 section nine, article two of this chapter, to make pay-
13 ments into the surplus fund as provided in that section,
14 and which employees shall have received personal in-
15 juries in the course of and resulting from their employ-
16 ment in this state, or in temporary employment without
17 the state as provided in section one, article two of this
18 chapter, or to the dependents, if any, of such employees
19 in case death has ensued, according to the provisions
20 hereinafter made; and also for the expenses of the ad-
21 ministration of this chapter, as provided in section two,
22 article one of this chapter.

23 For the purposes of this chapter the terms "injury" and
24 "personal injury" shall be extended to include silicosis
25 and any other occupational disease as hereinafter de-
26 fined, and the commissioner shall likewise disburse the
27 workmen's compensation fund to the employees of such
28 employers as are not delinquent in the payment of premi-
29 ums for the last quarter in which such employees have
30 been exposed to the hazard of silicon dioxide dust or to
31 any other occupational hazard, and have contracted
32 silicosis or other occupational disease, or have suffered
33 a perceptible aggravation of an existing silicosis, in this
34 state in the course of and resulting from their employ-
35 ment, or to the dependents, if any, of such employees,
36 in case death has ensued, according to the provisions
37 hereinafter made: *Provided, however,* That compensation
38 shall not be payable for the disease of silicosis, or death
39 resulting therefrom, unless in the state of West Virginia
40 the employee has been exposed to the hazard of silicon
41 dioxide dust over a continuous period of not less than
42 two years during the ten years immediately preceding

43 the date of his last exposure to such hazards. An appli-
44 cation for benefits on account of silicosis shall set forth
45 the name of the employer or employers and the time
46 worked for each, and the commissioner may allocate to
47 and divide any charges on account of such claim among
48 the employers by whom the claimant was employed for
49 as much as sixty days during the period of two years
50 immediately preceding the filing of the application. The
51 allocation shall be based upon the time and degree of
52 exposure with each employer.

53 For the purpose of this chapter silicosis is defined as
54 an insidious fibrotic disease of the lung or lungs due to
55 the prolonged inhalation and accumulation, sustained in
56 the course of and resulting from employment, of minute
57 particles of dust containing silicon dioxide (SiO_2) over
58 such a period of time and in such amounts as result in
59 the substitution of fibrous tissues for normal lung tissues,
60 whether or not accompanied by tuberculosis of the lungs.

61 Whenever the expression "injurious exposure to sil-
62 icon dioxide dust", or "injurious exposure to silicon di-
63 oxide dust in harmful quantities", or "exposure to the
64 hazard of silicon dioxide dust", or any similar language
65 shall appear in this chapter, such expression shall be
66 construed to mean the exposure of an employee in the
67 course of his employment to a working condition in
68 which the air contains such a concentration of silicon
69 dioxide dust that the breathing of such air by a person
70 over a long period of time would be likely to cause him
71 to contract the disease of silicosis.

72 For the purpose of this chapter, occupational disease
73 means a disease incurred in the course of and resulting
74 from employment. No ordinary disease of life to which
75 the general public is exposed outside of the employment
76 shall be compensable except when it follows as an inci-
77 dent of occupational disease as defined in this chapter.
78 Except in the case of silicosis, a disease shall be deemed
79 to have been incurred in the course of or to have resulted
80 from the employment only if it is apparent to the rational
81 mind, upon consideration of all the circumstances (1)
82 that there is a direct causal connection between the con-
83 ditions under which work is performed and the occupa-

84 tional disease, (2) that it can be seen to have followed
85 as a natural incident of the work as a result of the ex-
86 posure occasioned by the nature of the employment, (3)
87 that it can be fairly traced to the employment as the
88 proximate cause, (4) that it does not come from a hazard
89 to which workmen would have been equally exposed
90 outside of the employment, (5) that it is incidental to the
91 character of the business and not independent of the
92 relation of employer and employee, and (6) that it must
93 appear to have had its origin in a risk connected with
94 the employment and to have flowed from that source as
95 a natural consequence, though it need not have been
96 foreseen or expected before its contraction.

97 Except in the case of silicosis, no award shall be made
98 under the provisions of this chapter for any occupational
99 disease contracted prior to the first day of July, one
100 thousand nine hundred forty-nine. An employee shall
101 be deemed to have contracted an occupational disease
102 within the meaning of this paragraph if the disease or
103 condition has developed to such an extent that it can be
104 diagnosed as an occupational disease.

Sec. 3. *Disbursements for Medicine, Hospital Treatment,*
2 *Artificial Limbs and Other Appliances; Contract by Em-*
3 *ployer with Hospital Prohibited.*—Except in case of sili-
4 cosis, the commissioner shall disburse and pay from the
5 fund for such personal injuries to such employees as
6 may be entitled thereto hereunder as follows:

7 (a) Such sums for medicine, medical, surgical, dental
8 and hospital treatment, crutches, artificial limbs and such
9 other and additional approved mechanical appliances and
10 devices as may be reasonably required, but in no case
11 to exceed the sum of sixteen hundred dollars: *Provided,*
12 *however,* That in exceptional cases where the treatment
13 required, in the opinion of competent medical authority,
14 is such as to necessitate an expenditure in excess of such
15 amount, the commissioner may, with the approval of the
16 employer, pay out of any available funds, such addi-
17 tional sum as may be necessary, not to exceed an addi-
18 tional sum of eight hundred dollars, but such additional
19 sum shall not be charged to the account of the employer.

20 (b) Payment for such medicine, medical, surgical, den-

21 tal and hospital treatment, crutches, artificial limbs and
22 such other and additional approved mechanical appli-
23 ances and devices authorized under subdivision (a)
24 hereof may be made to the injured employee, or to the
25 person or persons who have furnished such service, or
26 who have advanced payment for same, as the commis-
27 sioner may deem proper, but no such payments or dis-
28 bursements shall be made or awarded by him unless
29 duly verified statements on forms prescribed by the com-
30 missioner shall be filed with the commissioner within
31 six months after the cessation of such treatment or the
32 delivery of such appliances: *Provided, however,* That
33 no payment hereunder shall be made unless such verified
34 statement shows no other or additional charge for such
35 treatment, appliance or device has been or will be made
36 against any person, firm or corporation. Failure on the
37 part of the doctor or hospital to submit to the commis-
38 sioner within such six months' period bills for services
39 rendered to an injured employee shall preclude collection
40 thereof from the injured employee.

41 (c) No employer shall enter into any contracts with
42 any hospital, its physicians, officers, agents or employees,
43 to render medical, dental or hospital service or to give
44 medical or surgical attention therein to any employee
45 for injury compensable within the purview of this chap-
46 ter, and no employer shall permit or require any em-
47 ployee to contribute, directly or indirectly, to any fund
48 for the payment of such medical, surgical, dental or hos-
49 pital service within such hospital for such compensable
50 injury. Any employer violating this section shall be
51 liable in damages to his or its employees and shall not
52 avail himself of any of the common law defenses men-
53 tioned in section eight, article two of this chapter, and
54 any employer or hospital or agent or employee thereof
55 violating the provisions of this section shall be guilty
56 of a misdemeanor and upon conviction thereof shall be
57 sentenced to pay a fine not exceeding one thousand dol-
58 lars or to undergo imprisonment not exceeding one year,
59 or both.

Sec. 6. *Classification of Disability Benefits.*—Where

2 compensation is due an employee under the provisions
3 of this chapter for a personal injury other than silicosis,
4 such compensation shall be as provided in the following
5 schedule:

6 (a) If the injury causes temporary total disability, the
7 employee shall receive during the continuance thereof
8 sixty-six and two thirds per cent of his average weekly
9 earnings, not to exceed a maximum of thirty dollars a
10 week nor to be less than a minimum of eighteen dollars
11 a week.

12 (b) Subdivision (a) shall be limited as follows: Ag-
13 gregate award for a single injury causing temporary dis-
14 ability shall be for a period not exceeding two hundred
15 eight weeks.

16 (c) If the injury causes permanent disability, the per-
17 centage of disability to total disability shall be deter-
18 mined and the award computed and allowed as follows:

19 For permanent disability of from one per cent to
20 eighty-four per cent, inclusive, sixty-six and two-thirds
21 per cent of the average weekly earnings for a period to
22 be computed on the basis of four weeks' compensation
23 for each per cent of disability determined.

24 For a disability of eighty-five to one hundred per cent,
25 sixty-six and two-thirds per cent of the average weekly
26 earnings during the remainder of life.

27 (d) If the injury results in the total loss by severance
28 of any of the members named in this subdivision, the per-
29 centage of disability shall be determined in accordance
30 with the following table, and award made as provided
31 in subdivision (c) of this section:

32 The loss of a great toe shall be considered a ten per
33 cent disability.

34 The loss of a great toe (one phalanx) shall be con-
35 sidered a five per cent disability.

36 The loss of other toes shall be considered a four per
37 cent disability.

38 The loss of other toes (one phalanx) shall be con-
39 sidered a two per cent disability.

40 The loss of all toes shall be considered a twenty-five
41 per cent disability.

42 The loss of fore part of foot shall be considered a thirty
43 per cent disability.

44 The loss of foot shall be considered a thirty-five per
45 cent disability.

46 The loss of leg shall be considered a forty-five per cent
47 disability.

48 The loss of thigh shall be considered a fifty per cent
49 disability.

50 The loss of thigh at hip joint shall be considered a
51 sixty per cent disability.

52 The loss of little or fourth finger (one phalanx) shall
53 be considered a three per cent disability.

54 The loss of little or fourth finger shall be considered
55 a five per cent disability.

56 The loss of ring or third finger (one phalanx) shall be
57 considered a three per cent disability.

58 The loss of ring or third finger shall be considered a
59 five per cent disability.

60 The loss of middle or second finger (one phalanx) shall
61 be considered a three per cent disability.

62 The loss of middle or second finger shall be considered
63 a seven per cent disability.

64 The loss of index or first finger (one phalanx) shall be
65 considered a six per cent disability.

66 The loss of index or first finger shall be considered a
67 ten per cent disability.

68 The loss of thumb (one phalanx) shall be considered
69 a twelve per cent disability.

70 The loss of thumb shall be considered a twenty per
71 cent disability.

72 The loss of thumb and index finger shall be considered
73 a thirty-two per cent disability.

74 The loss of index and middle finger shall be considered
75 a twenty per cent disability.

76 The loss of middle and ring finger shall be considered a
77 fifteen per cent disability.

78 The loss of ring and little finger shall be considered a
79 ten per cent disability.

80 The loss of thumb, index, and middle finger shall be
81 considered a forty per cent disability.

82 The loss of index, middle and ring finger shall be con-
83 sidered a thirty per cent disability.

84 The loss of middle, ring and little finger shall be con-
85 sidered a twenty per cent disability.

86 The loss of four fingers shall be considered a thirty-two
87 per cent disability.

88 The loss of hand shall be considered a fifty per cent
89 disability.

90 The loss of forearm shall be considered a fifty-five per
91 cent disability.

92 The loss of arm shall be considered a sixty per cent
93 disability.

94 The total and irrecoverable loss of the sight of one eye
95 shall be considered a thirty-three per cent disability, and
96 the injured employee shall be entitled to compensation
97 for a period of one hundred and thirty-two weeks.

98 For the partial loss of vision in one, or both eyes, the
99 percentage of disability shall be determined by the com-
100 missioner, using as a basis the total loss of one eye.

101 (e) Should a claimant to whom has been made a perma-
102 nent partial award of from one per cent to eighty-four per
103 cent, both inclusive, die from sickness or noncompensable
104 injury, the unpaid balance of such award shall be paid to
105 claimant's dependents as defined in this chapter, if any;
106 such payment to be in the same installments that would
107 have been paid to claimant if living: *Provided, however,*
108 That no payment shall be made to any widow of such
109 claimant after her remarriage, and that this liability shall
110 not accrue to the estate of such claimant and shall not be
111 subject to any debts of, or charges against, such estate.

112 (f) The award for permanent disabilities intermediate
113 to those fixed by the foregoing schedule and permanent
114 disability of from one per cent to eighty-four per cent
115 shall be in the same proportion and shall be computed
116 and allowed by the commissioner.

117 (g) The percentage of all permanent disabilities other
118 than those enumerated in subdivisions (c), (d), (e) and
119 (f) of this section shall be determined by the commission-
120 er, and award made in accordance with the provisions of
121 subdivision (c).

122 (h) Compensation payable under any subdivision of
123 this section shall be limited as follows: Not to exceed a
124 maximum of thirty dollars a week, nor to be less than
125 a minimum of eighteen dollars a week.

126 (i) Where an injury results in temporary total disability
127 for which compensation is awarded under subdivision (a)
128 of this section and such injury is later determined perma-
129 nent partial disability under subdivision (c), the amount
130 of compensation so paid shall be considered as payment of
131 the compensation payable for such injury in accordance
132 with the schedule in subdivision (c). Compensation, either
133 total temporary or permanent partial, under this section
134 shall be payable only to the injured employee and the
135 right thereto shall not vest in his or her estate, except that
136 any unpaid compensation which would have been paid or
137 payable to the employee up to the time of his death, if he
138 had lived, shall be paid to the dependents of such injured
139 employee if there be such dependents at the time of death.

140 (j) The following permanent disabilities shall be con-
141 clusively presumed to be total in character:

142 Loss of both eyes or the sight thereof.

143 Loss of both hands or the use thereof.

144 Loss of both feet or the use thereof.

145 Loss of one hand and one foot or the use thereof.

146 In all other cases permanent disability shall be de-
147 termined by the commissioner in accordance with the
148 facts in the case, and award made in accordance with the
149 provisions of subdivision (c).

Sec. 8-f. *Occupational Diseases Medical Board; Reports
2 and Distribution Thereof; Findings Required of Board;
3 Objection to Findings; Procedure Thereon.*—The occupa-
4 tional diseases medical board, as soon as practicable, after
5 it has completed its investigation, shall make its written
6 report, to the commissioner, of its findings and conclu-
7 sions on every medical question in controversy, and the
8 commissioner shall send one copy thereof to the employee
9 or claimant and one copy to the employer, and the board
10 shall also return to and file with the commissioner all the
11 evidence, as well as all statements under oath, if any, of
12 the persons who appeared before it or before any exam-

13 iner appointed by it on behalf of the employee or claim-
14 ant, or employer, and also all medical reports and X-ray
15 examinations produced by or on behalf of the employee
16 or claimant, or the employer.

17 The findings and conclusions of the board shall set
18 forth, among other things, the following:

19 (a) Does the claimant suffer from a disease or infec-
20 tion? If so, what?

21 (b) When was such disease or infection, if any, con-
22 tracted and approximately how long has claimant suf-
23 fered therefrom?

24 (c) Is such disease or infection, if any, incidental to
25 the industrial process, trade or occupation in which claim-
26 ant has been last employed?

27 (d) Was such disease or infection, if any, incurred in
28 the course of and did it result from the claimant's regular
29 employment in such industrial process, trade or occupa-
30 tion?

31 (e) Is such disease, if any, disabling to the claimant?

32 (f) If so, to what degree is claimant disabled by such
33 occupational disease?

34 (g) Any other matter deemed pertinent by the board.

35 If the claim be for death benefits under the provisions
36 of this chapter, the medical board shall find on each of
37 the above questions as of a date immediately preceding
38 the employee's death, and in addition shall find the cause
39 of death.

40 If either party objects to the whole or any part of such
41 findings and conclusions of the board, he shall file with
42 the commissioner, within fifteen days of the mailing of
43 such copy to him, unless for good cause shown the com-
44 missioner extends such time, his objections thereto in
45 writing, specifying the particular statements of the
46 board's findings and conclusions to which he objects.
47 After the time has expired for the filing of objections to
48 the findings and conclusions of the board, the commis-
49 sioner shall proceed to act as provided in this chapter.
50 If after the time has expired for the filing of objections
51 to the findings and conclusions of the board no objections
52 have been filed, the report of a majority of the board of

53 its findings and conclusions on any medical question shall
54 be taken to be plenary and conclusive evidence of the
55 findings and conclusions therein stated. If objection has
56 been filed to the findings and conclusions of the board,
57 notice thereof shall be given to the board, and the mem-
58 bers thereof who joined in such findings and conclusions,
59 and any examiner who filed a report in the case, shall
60 appear at the time fixed by the commissioner for the
61 hearing to submit to examination and cross-examination
62 in respect to such findings and conclusions. At such hear-
63 ing evidence to support or controvert the findings and
64 conclusions of the board shall be heard.

Sec. 10. *Classification of Death Benefits; "Dependent"*

2 *Defined.*—In case a personal injury other than silicosis
3 or other occupational disease, suffered by an employee in
4 the course of and resulting from his employment, causes
5 death within the period of six years and disability is con-
6 tinuous from date of such injury until date of death, or
7 if death results from determined third stage silicosis or
8 from any other occupational disease within six years from
9 the date of the last exposure to the hazard of silicon diox-
10 ide dust or to the other particular occupational hazard in-
11 volved, as the case may be, the benefits shall be in the
12 amounts and to the persons as follows:

13 (a) If there be no dependents, the disbursements shall
14 be limited to the expense provided for in sections three
15 and four of this article.

16 (b) If the deceased employee leaves a dependent wid-
17 ow or invalid widower, the payment shall be sixty dol-
18 lars a month until death or remarriage of such widow or
19 widower, and in addition fifteen dollars a month for each
20 child under eighteen years of age, to be paid until such
21 child reaches such age, or, if an invalid child, twenty dol-
22 lars a month, to continue as long as such child remains
23 an invalid: *Provided, however,* That if such widow or
24 invalid widower shall remarry within ten years from the
25 date of the death of such employee, such widow or wid-
26 ower shall be paid at the time of remarriage twenty per
27 cent of the amount that would be due for the period re-
28 maining between the date of such remarriage and the end

29 of ten years from the date of death of such employee, and
30 such widow or widower shall be advised in writing by,
31 the commissioner of his or her rights under this proviso
32 at the time of making the original award: *Provided*
33 *further*, That if upon investigation and hearing, as pro-
34 vided in article five of this chapter, it shall be ascertained
35 that such widow or widower is living with a man or wom-
36 an, as the case may be, as man and wife and not married,
37 or that the widow is living a life of prostitution, the com-
38 missioner shall stop the payments of the benefits herein
39 provided to such widow or widower.

40 If the deceased employee be a widow or widower and
41 leaves a child or children under the age of eighteen years,
42 the payments shall be twenty dollars a month to each
43 child until he or she reaches the age of eighteen years.

44 In all awards of compensation to children, unless other-
45 wise provided herein, the award shall be until they reach
46 the age of eighteen years or until their death prior
47 thereto.

48 (c) If the deceased employee leaves no dependent
49 widow or widower and leaves a wholly dependent father
50 or mother, he or she shall be paid the sum of fifty dollars
51 a month, payments to continue until death, and if there
52 be no widow or widower and both the father and mother
53 are wholly dependent, then a joint award shall be made
54 to the father and mother in the sum of fifty dollars a
55 month until death. Upon the death of either the father
56 or mother in any case in which a joint award has been
57 made to them, the full award of fifty dollars a month shall
58 be paid to the survivor until his or her death.

59 (d) If the deceased employee leaves no dependent
60 widow or widower or wholly dependent father or mother
61 but there are other wholly dependent persons, as defined
62 in paragraph (f) of this section, the payment shall be
63 fifty dollars a month, to continue for six years after the
64 death of the deceased, except as otherwise provided
65 herein.

66 (e) If the deceased employee leaves no dependent
67 widow or widower, child under eighteen years of age, or
68 wholly dependent person, but there are partially depend-

ent persons at the time of death, the payment shall be twenty dollars a month, to continue for such portion of the period of six years after the death, as the commissioner may determine, but no such partially dependent person shall receive compensation payments as a result of the death of more than one employee.

Compensation under subdivisions (b), (c), (d) and (e) hereof shall, except as may be specifically provided to the contrary therein, cease upon the death of the dependent, and the right thereto shall not vest in his or her estate.

(f) Dependent, as used in this chapter, shall mean a widow, invalid widower, child under eighteen years of age, invalid child or a posthumous child, who, at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee; also the following persons who are and continue to be residents of the United States or its territorial possessions: Stepchild under eighteen years of age, child under eighteen years of age legally adopted prior to the injury causing death, father, mother, grandfather or grandmother, who, at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee; an invalid brother or sister wholly dependent for his or her support upon the earnings of the employee at the time of the injury causing death.

Sec. 15. *Application for Benefits; Report of Injuries by Employer.*—To entitle any employee or dependent of a deceased employee to compensation under this chapter, other than for silicosis, the application therefor must be made on the form or forms prescribed by the commissioner and filed in the office of the commissioner within one year from and after the injury or death, as the case may be, and all proofs of dependency in fatal cases must likewise be filed with the commissioner within one year from and after the death. In case the employee is mentally or physically incapable of filing such application, it may be filed by his attorney or by a member of his family. It shall be the duty of every employer to report

14 to the commissioner every injury sustained by any per-
15 son in his employ. Such report shall be on forms pre-
16 scribed by the commissioner and shall be made within
17 sixty days from the date the employer first receives
18 knowledge of such injury.

19 To entitle any employee to compensation for silicosis
20 under the provisions hereof, the application therefor must
21 be made on the form or forms prescribed by the commis-
22 sioner and filed in the office of the commissioner within
23 two years from and after the last day of the last continu-
24 ous period of sixty days or more during which the em-
25 ployee was exposed to the hazard of silicon dioxide dust
26 or to the other particular occupational hazard involved,
27 as the case may be, or, in the case of death, the application
28 shall be filed as aforesaid by the dependent of such em-
29 ployee within one year from and after such employee's
30 death.

Article 5. Review.

Section

3. Appeal to board; procedure.

2 Sec. 3. *Appeal to Board; Procedure.*—Any employer,
2 employee, claimant, or dependent, who shall feel ag-
3 grievied at any final action of the commissioner taken
4 after a hearing held in accordance with the provisions
5 of section one of this article, and any claimant or em-
6 ployer who shall feel aggrieved at any action of the
7 commissioner in refusing to reopen a claim under the
8 provisions of sections one-b and one-d of this article,
9 shall have the right to appeal to the board created in
10 section two of this article for a review of such action.
11 The aggrieved party shall file a written notice of appeal
12 with the compensation commissioner, directed to such
13 board, within thirty days after receipt of notice of the
14 action complained of, or in any event, regardless of
15 notice, within sixty days after the date of the action
16 complained of, and the commissioner shall notify the
17 other party immediately upon the filing of a notice of
18 appeal. The commissioner shall forthwith make up a
19 transcript of the proceedings before him and certify and
20 transmit the same to the board. In such certificate, he

21 shall incorporate a brief recital of the proceedings there-
22 in had and recite each order entered and the date there-
23 of. The board shall review the action of the commis-
24 sioner complained of at its next meeting after the filing
25 of notice of appeal, provided such notice of appeal shall
26 have been filed thirty days before such meeting of the
27 board, unless such review be postponed by agreement
28 of parties or by the board for good cause. The board shall
29 set a time and place for the hearing of arguments on
30 each claim and shall notify the interested parties thereof,
31 and briefs may be filed by the interested parties in ac-
32 cordance with the rules of procedure prescribed by the
33 board. And thereupon, after a review of the case, the
34 board shall sustain the finding of the commissioner or
35 enter such order or make such award as the commis-
36 sioner should have made, stating in writing its reasons
37 therefor, and shall thereupon certify the same to the
38 commissioner, who shall proceed in accordance there-
39 with. Or, instead of affirming or reversing the com-
40 missioner as aforesaid, the board may, upon motion of
41 either party or upon its own motion, for good cause
42 shown, to be set forth in the order of the board, remand
43 the case to the commissioner for the taking of such new,
44 additional or further evidence as in the opinion of the
45 board may be necessary for a full and complete de-
46 velopment of the facts of the case. In the event the
47 board shall remand the case to the commissioner for
48 the taking of further evidence therein, the commissioner
49 shall proceed to take such new, additional or further
50 evidence in accordance with any instructions given by
51 the board, and shall take the same within thirty days
52 after receipt of the order remanding the case, giving
53 to the interested parties at least ten days' written notice
54 of such supplemental hearing, unless the taking of
55 evidence shall be postponed by agreement of parties, or
56 by the commissioner for good cause. After the com-
57 pletion of such supplemental hearing, the commissioner
58 shall, within sixty days, render his decision affirming,
59 reversing or modifying his former action, which decision
60 shall be appealable to, and proceeded with by the ap-
61 peal board in like manner as in the first instance. The

62 board may remand any case as often as in its opinion is
63 necessary for a full development and just decision of the
64 case. The board may take evidence or consider ex parte
65 statements furnished in support of any motion to remand
66 the case to the commissioner. All evidence taken by or
67 filed with the board shall become a part of the record.
68 All appeals from the action of the commissioner shall be
69 decided by the board at the same session at which they
70 are heard, unless good cause for delay thereof be shown
71 and entered of record. In all proceedings before the
72 board, either party may be represented by counsel.

CHAPTER 180

(House Bill No. 74—By Mr. McLaughlin, by request)

AN ACT authorizing the municipality of Gassaway, Braxton county, to sell certain public lands.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

1. Municipality of Gassaway empowered to sell certain land.

WHEREAS, A certain tract of real estate hereinafter described was dedicated to the municipality of Gassaway, Braxton county, for use as a public park, by the Gassaway development company, a corporation, in 1904; and

WHEREAS, Said tract has never been used as a public park, and is not so used today; and

WHEREAS, The municipality of Gassaway has received a reasonable offer for said tract; and

WHEREAS, The council of the municipality desire to accept the offer, but are advised that, among other problems presented in clearing the title, the state has an interest in said tract which only the Legislature can release by suitable act; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Municipality of Gassaway Empowered to Sell Certain Land.*—The state of West Virginia hereby grants to the municipality of Gassaway permission to sell the "tract of land known and marked as 'Public Park' on the map or plat of the town of Gassaway, West Virginia, which map or plat is of record in the office of the county court of Braxton county, West Virginia, bounded as follows: On the north by Linden and Birch streets, on the south by Park street, on the east by a street or alley, and on the west by Kanawha street."

CHAPTER 181

(House Bill No. 264—By Mr. Baker)

AN ACT to amend and reenact section four, chapter one hundred forty, acts of the Legislature, regular session, one thousand nine hundred forty-nine, fixing the salary of the judge of the domestic relations court of Cabell county.

[Passed March 11, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary of judge.

Be it enacted by the Legislature of West Virginia:

That section four, chapter one hundred forty, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

Section 4. *Salary of Judge.*—The judge of the domestic relations court of Cabell county shall receive for his services nine thousand six hundred dollars, annually, payable monthly in installments beginning on the first day of January, one thousand nine hundred fifty-five, which amount shall be provided for and paid by the county court, out of the treasury of said county, which provision as to salary shall not repeal the existing provision until the

9 said first day of January, one thousand nine hundred
10 fifty-five.

11 All acts or parts of acts inconsistent or in conflict with
12 this act are hereby repealed.

CHAPTER 182

(House Bill No. 265—By Mr. Baker)

AN ACT to amend and reenact section twenty-four, chapter one hundred thirty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-nine, fixing the salary of the judge of the common pleas court of Cabell county.

[Passed March 11, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

24. Salary of judge.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, chapter one hundred thirty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

Section 24. *Salary of Judge.*—The judge of the common
2 pleas court of Cabell county shall receive for his services
3 nine thousand six hundred dollars annually, payable
4 monthly in installments beginning on the first day of
5 January, one thousand nine hundred fifty-five, which
6 amount shall be provided for and paid by the county court,
7 out of the treasury of said county, which provision as to
8 salary shall not repeal the existing provision until the said
9 first day of January, one thousand nine hundred fifty-five.
10 All acts or parts of acts inconsistent or in conflict with
11 this act are hereby repealed.

CHAPTER 183

(House Bill No. 163—By Mr. Holderby and Mr. Tucker)

AN ACT authorizing the county court of Cabell county to convey to the city of Huntington, of Cabell and Wayne counties, West Virginia, an undivided one-half interest in and to a tract of land comprising seven and four-tenths acres on Sixteenth street, in the city of Huntington, for hospital and health purposes.

[Passed February 12, 1953; in effect from passage. Approved by the Governor.]

Section

1. County court of Cabell county authorized to convey one-half interest in tract of land to be used for hospital and health purposes.
2. Real estate to be held by city of Huntington for purpose of construction and maintenance of a general hospital.

Be it enacted by the Legislature of West Virginia:

Section 1. *County Court of Cabell County Authorized to Convey One-Half Interest in Tract of Land to Be Used for Hospital and Health Purposes.*—The county court of Cabell county and the city of Huntington having jointly undertaken the construction of a general hospital as authorized by chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five, as amended by chapter one hundred sixty-six, acts of the Legislature, regular session, one thousand nine hundred forty-seven, the voters of each of the said bodies having voted bonds in the amount of one million five hundred thousand dollars for the construction and equipping of said hospital, and the parcel of land hereinafter described having been selected as a site for the said hospital, and section thirteen of said chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five, having provided that the title to all property constituting or belonging to the hospital shall be vested jointly in the county court and the city of Huntington, the county court of Cabell county be and it is hereby authorized to convey to the city of Huntington, in Cabell and Wayne counties, for a nominal con-

23 sideration, an undivided one-half interest in and to all,
24 or such part as the county court may deem advisable and
25 proper, of that certain tract or parcel of land situate in
26 the city of Huntington, Cabell county, West Virginia,
27 which was conveyed unto the county court of Cabell
28 county by Emma H. Darnall, unmarried, and others, by
29 deed dated the twenty-eighth day of June, one thousand
30 nine hundred forty-three, and recorded in the office of
31 the clerk of the county court of Cabell county, West Vir-
32 ginia, in Deed Book No. 333, page 102, which tract is par-
33 ticularly described as follows:

34 All that certain lot, tract, piece or parcel of ground,
35 with the improvements and buildings thereon situate and
36 appurtenances thereunto belonging or in anywise apper-
37 taining, situate, lying and being in the City of Huntington,
38 Cabell County, West Virginia, and more particularly
39 bounded and described as follows, to-wit:

40 BEGINNING at the point of intersection of the east
41 line of Sixteenth Street with the south line of a 10 foot
42 alley lying south of and parallel to Thirteenth Avenue,
43 as said point of intersection is shown and fixed on a map
44 of the Holderby Addition, a copy of which map is of record
45 in the Cabell County Court Clerk's Office in Map Book
46 No. 2, as Map No. 17; thence with said alley line N. 78
47 deg. E. 519.35 feet to a point in the west line of the 10 foot
48 alley which lies west of and parallel to Elm Street; thence
49 with said alley line S. 12 deg. E. 373.81 feet; thence con-
50 tinuing with said alley line which is now the south line
51 of said alley N. 78 deg. E. 116.33 feet to a point in the west
52 line of said Elm Street; thence with said line S. 12 deg. E.
53 30 feet; thence crossing the south end of Elm Street and
54 with the south line of the 10 foot alley south of and par-
55 allel to Fourteenth Avenue N. 78 deg. E. 571.55 feet to a
56 point in the west line of Seventeenth Street; thence with
57 said line S. 3 deg. 25' E. 219.66 feet; thence leaving said
58 line of Seventeenth Street and with the north line of Lot
59 No. 158 as shown on a map of The Uplands, of record in
60 said Clerk's Office, S. 79 deg. 18' W. 169.55 feet to the north-
61 west corner of said lot, it being the northeast corner of the
62 property of the W. Va. Paving and Pressed Brick Com-
63 pany; thence with the north line of said property S. 79

64 deg. 33' W. 941.02 feet to a corner fence post in the said
65 east line of Sixteenth Street; thence with said line N. 5
66 deg. 25' W. 314.52 feet; thence N. 8 deg. 55' W. 280 feet to
67 the point of BEGINNING, and containing approximately
68 7.4 acres.

Sec. 2. *Real Estate to Be Held by City of Huntington
2 for Purpose of Construction and Maintenance of a General
3 Hospital.*—The deed of conveyance conveying said one-
4 half interest shall provide that said interest in said real
5 estate shall be held by the city of Huntington for the
6 purpose of the construction, operation and maintenance
7 thereon of a general hospital and other public buildings
8 as provided and authorized by the provisions of chapter
9 one hundred fifty-seven, acts of the Legislature, regular
10 session, one thousand nine hundred forty-five, as amended
11 by chapter one hundred sixty-six, acts of the Legislature,
12 regular session, one thousand nine hundred forty-seven,
13 and may contain such further provisions, exceptions, res-
14 ervations and reversions as the county court of Cabell
15 county may deem necessary and proper.

CHAPTER 184

(House Bill No. 521—By Mr. Welton)

AN ACT authorizing the sheriff of Grant county to appoint
a deputy sheriff and prescribing the duties and tenure
of such deputy.

[Passed March 13, 1953; in effect from passage. Approved by the Governor.]

Section

1. Appointment of deputy sheriff for Grant county.

Be it enacted by the Legislature of West Virginia:

Section 1. *Appointment of Deputy Sheriff for Grant
2 County.*—The sheriff of Grant county is hereby au-
3 thorized to appoint one deputy sheriff. Such deputy shall
4 be appointed to serve not to exceed sixty days in any
5 one fiscal year. The county court shall by order, made

6 and duly entered of record, fix the compensation of such
7 deputy and the periods during the year which he shall
8 serve and be on duty to perform his duties.

9 The deputy so appointed shall take the same oath of
10 office required of the sheriff, and, may during his specified
11 term in office, perform and discharge any of the official
12 duties of his principal, and any default or misfeasance in
13 office of the deputy shall constitute a breach of the con-
14 ditions of the official bond of his principal.

15 The general law respecting deputy sheriffs insofar as
16 the same is not inconsistent or in conflict with the pro-
17 visions of this act shall apply in all respects to any deputy
18 sheriff that may be appointed under authority of this act.

CHAPTER 185

(House Bill No. 291—By Mr. Herron)

AN ACT to transfer surplus funds from the Hancock county de-
partment of public assistance to a fund for a proposed
children's shelter in Hancock county.

[Passed March 7, 1953; in effect from passage. Approved by the Governor.]

Section .

1. Board of trustees of Hancock county children's shelter.
 2. Same; appointment; meetings; officers.
 3. Transfer of funds.
 4. Disbursements; inconsistent acts repealed.
-

WHEREAS, There exists in the funds of the Hancock county
department of public assistance the surplus of eighteen thou-
sand dollars; and

WHEREAS, The county court of Hancock county is setting
aside funds for the purpose of establishing a children's shelter
in said county; therefore,

Be it enacted by the Legislature of West Virginia:

- Section 1. *Board of Trustees of Hancock County Chil-*
2 *dren's Shelter.*—There is hereby created a board of trus-
3 *tees of the children's shelter of Hancock county, herein-*

4 after called the board, which shall have the power to
5 supply, maintain, equip and manage the shelter herein-
6 before mentioned; and the board shall have all other
7 powers necessary, incident or proper thereto.

Sec. 2. *Same; Appointment; Meetings; Officers.*—The
2 board shall be composed of six members to be appointed
3 by the county court of Hancock county. The first six
4 members so appointed shall serve until the first day of
5 July, one thousand nine hundred fifty-four; and annually
6 the six members shall be so appointed to serve for the
7 term of one year from the first day of July, one thousand
8 nine hundred fifty-four and thereafter until their succes-
9 sors are appointed. Vacancies in the appointive member-
10 ship shall be filled by like appointment for the unexpired
11 terms. The members of the board shall receive no com-
12 pensation for their services. The board shall hold such
13 meetings and make such by-laws, not inconsistent with
14 the laws of this state as it shall be determined. Three mem-
15 bers of the board shall constitute a quorum. Annually at
16 the first meeting of the board following the first day of
17 July, the president of the county court shall serve as presi-
18 dent and the board shall choose a secretary from among its
19 own members, who shall serve until their successors are
20 chosen; vacancies shall be filled by the board. The sheriff of
21 Hancock county shall be ex officio treasurer of the board;
22 he shall keep all moneys received for its use in a separate
23 fund to be known as the "shelter fund"; he shall be liable
24 on his official bond to the board for such moneys and shall
25 annually account therefor to it in like manner as he ac-
26 counts for other public moneys.

Sec. 3. *Transfer of Funds.*—The surplus funds in the
2 amount of eighteen thousand dollars now in the Hancock
3 county department of public assistance and any and all
4 additional surplus funds existing between the date of
5 the enactment of this bill and the end of the fiscal year,
6 June thirtieth, one thousand nine hundred fifty-five, shall
7 be transferred to the "shelter fund" in said county for the
8 purpose of establishing and maintaining said children's
9 shelter in said county.

Sec. 4. *Disbursements; Inconsistent Acts Repealed.*—

2 Disbursements shall be made from said shelter fund by
3 said sheriff only upon order of the board signed by its
4 president and counter-signed by its secretary.

5 All acts and parts of acts inconsistent herewith are here-
6 by repealed.

CHAPTER 186

(House Bill No. 33—By Mr. Maxwell)

AN ACT to amend and reenact sections one and two, chapter one hundred five, acts of the Legislature, regular session, one thousand nine hundred twenty-seven, empowering the judge of the circuit court of the fifteenth judicial circuit to employ a competent stenographer, defining duties, and providing for the manner of payment.

[Passed February 16, 1953; in effect from passage. Approved by the Governor.]

Section

1. Stenographer for fifteenth circuit.
2. Stenographer's salary.

Be it enacted by the Legislature of West Virginia:

That sections one and two, chapter one hundred five, acts of the Legislature, regular session, one thousand nine hundred twenty-seven, be amended and reenacted to read as follows:

Section 1. *Stenographer for Fifteenth Circuit.*—The circuit court of the fifteenth judicial circuit, or the judge thereof in vacation, is hereby empowered and authorized to employ and appoint a competent stenographer to aid said judge in the performance of all his official duties. Said appointment and employment of such stenographer may be made by the judge of said court by an order entered of record in said court, and said stenographer so appointed shall hold office during the pleasure of the court.

Sec. 2. *Stenographer's Salary.*—The compensation of said stenographer shall be fixed by said judge at such sum as he shall from time to time deem proper, and an

- 4 amount not to exceed one hundred dollars per month, but
 - 5 subject to approval by the county court of Harrison coun-
 - 6 ty, shall be paid by said county court in addition to the
 - 7 amount paid out of the state treasury under the authority
 - 8 of section six, article seven, chapter six of the code of
 - 9 West Virginia, as amended.
-

CHAPTER 187

(House Bill No. 395—By Mr. Brotherton)

AN ACT to amend and reenact section four, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the salary of the judge of the domestic relations court of Kanawha county.

[Passed March 7, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary.

Be it enacted by the Legislature of West Virginia:

That section four, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 4. *Salary.*—The judge of the domestic relations
2 court of Kanawha county, West Virginia, shall from and
3 after the first day of January, one thousand nine hundred
4 fifty-seven, receive for his services a salary in the amount
5 of ten thousand dollars per annum, to be paid in monthly
6 installments out of the county treasury of Kanawha
7 county, out of funds of said treasury, in the manner
8 provided by statute. The salary of said judge shall con-
9 tinue as provided in section four, chapter one hundred
10 seventy-two, acts of the Legislature, regular session, one
11 thousand nine hundred forty-seven, until the first day of
12 January, one thousand nine hundred fifty-seven.

CHAPTER 188

(House Bill No. 396—By Mr. Brotherton)

AN ACT to amend and reenact section eight, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, as last amended and reenacted by section eight, chapter two hundred seven, acts of the Legislature, regular session, one thousand nine hundred fifty-one, relating to the domestic relations court of Kanawha county.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

8. Terms of court; maturity of causes; procedure; appointment of probation staff, medical, clerical, and secretarial assistants and fixing salaries.

Be it enacted by the Legislature of West Virginia:

That section eight, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, as last amended and reenacted by section eight, chapter two hundred seven, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 8. *Terms of Court; Maturity of Causes; Procedure; Appointment of Probation Staff, Medical, Clerical, and Secretarial Assistants and Fixing Salaries.*—For the purpose of maturing, docketing, hearing and determining all matters, suits, petitions and other proceedings properly determinable in the domestic relations court of Kanawha county there shall be regularly continued and held four terms of court each year beginning on the second Monday in February, May, August and November. Special terms of said court may be called and held whenever, in the discretion of the judge of the court, public interest requires such special terms. The judge of the court shall have like jurisdiction and authority, in vacation of the court, to make and enter such proper orders in any matter, suit, action, petition or proceeding pending in the court as the judges

16 of the circuit courts have under the laws of the state. All
17 matters arising under the jurisdiction of the court, other
18 than suits for divorce, separation, annulment of marriages
19 and affirmation of marriages, may be heard and deter-
20 mined either in term time or in vacation: *Provided, how-*
21 *ever,* That proper notice of any such proceedings be given
22 as provided by law for the particular case.

23 The mode of procedure in cases instituted in this court
24 shall be the same as that prescribed for the circuit court
25 in similar causes. The court is authorized and empowered
26 to appoint such additional officers, divorce commissioners,
27 commissioners in chancery, special commissioners, jury
28 commissioners, and probation officers, and such medical,
29 clerical and secretarial assistance as shall enable the court
30 to discharge all the duties required of it under the pro-
31 vision of this act, and the general laws of the state. The
32 judge may appoint a chief probation officer, assistant pro-
33 bation officers, and necessary medical, clerical, secretarial
34 and other necessary assistants to be paid by the county
35 court. Such appointments shall be made by the judge and
36 the appointees shall serve during the will and pleasure of
37 the judge.

38 The chief probation officer shall receive as compensation
39 for his or her services an annual salary of not less than
40 four thousand dollars nor more than six thousand dollars
41 to be determined by the judge. Assistant probation officers
42 and medical assistants shall receive as compensation an
43 annual salary of not less than three thousand nor more
44 than forty-eight hundred dollars to be determined by the
45 judge. Clerical and secretarial assistants shall receive as
46 compensation for his or her services an annual salary of
47 not less than twenty-seven hundred dollars nor more than
48 thirty-six hundred dollars to be determined by the judge.
49 In addition to the annual salary herein provided for the
50 chief probation officer and each assistant probation officer
51 and medical assistants, they shall be reimbursed by the
52 county court by reason of his or her necessary expenses
53 actually incurred in the performance of official duties, in-
54 cluding an allowance of seven cents a mile for his or her
55 automobile driven in the performance of official duties.
56 The appointment of the chief probation officer, assistant

57 probation officers, medical and secretarial assistants, when
58 made by the judge, shall be entered on the law order book
59 of the court. A copy of the order of appointment shall be
60 transmitted to the clerk of the county court. Thereupon,
61 the county court shall make provision for payment and
62 shall pay the salaries of the chief probation officer, as-
63 sistant probation officers, medical, clerical and secretarial
64 assistants as shown by the order of appointment. The
65 annual salaries provided for in said order of appointment
66 shall be paid in equal monthly installments. Expenses
67 and mileage accounts of the chief probation officer, as-
68 sistant probation officers, and medical assistants shall be
69 itemized and verified and presented to and paid by the
70 county court, if such accounts are approved by the judge.
71 The county court shall provide such office space, equip-
72 ment and supplies for the probation staff, clerical, secre-
73 tarial and medical assistants as the judge shall deem
74 necessary and adequate.

75 The judge shall maintain a political balance between
76 the two major political parties of Kanawha county in his
77 appointments of divorce commissioners, commissioners in
78 chancery and special commissioners, so that at no time
79 will the number of either divorce commissioners or com-
80 missioners in chancery or of special commissioners of one
81 political affiliation exceed by more than one the number
82 of such commissioners affiliated with the other major poli-
83 tical party of the county. The court shall make provision
84 for reference of such divorce and other matters as may
85 be proper from time to time to said commissioners in
86 rotation so as to effect insofar as practicable, an equitable
87 distribution of work between and among them. The judge
88 of the court shall have power to make and promulgate
89 such rules for the transaction of the business of the court
90 as may be necessary: *Provided*, That all such rules shall
91 be in conformity with the laws of the state of West Vir-
92 ginia and with any rules promulgated by the supreme
93 court of appeals of this state.

CHAPTER 189

(House Bill No. 402—By Mr. Brotherton)

AN ACT to amend and reenact section thirty-seven, chapter twenty-five, acts of the Legislature, regular session, one thousand nine hundred seven, as amended, relating to the intermediate court of Kanawha county.

[Passed March 14, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

37. Probation staff; chief probation officer; assistant probation officers; clerical and secretarial assistants.

Be it enacted by the Legislature of West Virginia:

That section thirty-seven, chapter twenty-five, acts of the Legislature, regular session, one thousand nine hundred seven, as amended, be amended and reenacted to read as follows:

Section 37. *Probation Staff; Chief Probation Officer; Assistant Probation Officers; Clerical and Secretarial Assistants.*—The court is authorized and empowered to appoint such probation officers, assistant probation officers, clerical and secretarial assistants as shall enable the court to discharge all the duties required of it under the provision of this act and the general laws of the state. The judge may appoint a chief probation officer, assistant probation officers, and necessary clerical and secretarial assistants, and other necessary assistants to be paid by the county court. Such appointments shall be made by the judge and the appointees shall serve during the pleasure of the judge.

The chief probation officer shall receive as compensation for his or her services an annual salary of not less than four thousand dollars nor more than fifty-four hundred dollars, to be determined by the judge. Assistant probation officers shall receive as compensation an annual salary of not less than thirty-four hundred dollars nor more than forty-eight hundred dollars, to be determined by the judge. Clerical and secretarial assistants shall re-

22 ceive as compensation for his or her services an annual
23 salary of not less than eighteen hundred nor more than
24 thirty-four hundred dollars, to be determined by the judge.
25 In addition to the annual salary herein provided for the
26 chief probation officer and each assistant probation officer,
27 they shall be reimbursed by the county court by reason
28 of his or her necessary expenses actually incurred in the
29 performance of official duties, including an allowance of
30 seven cents a mile for his or her automobile driven in the
31 performance of official duties. The appointment of the
32 chief probation officer, assistant probation officers, clerical
33 and secretarial assistants, when made by the judge, shall
34 be entered by the order of the court. A copy of the order
35 of appointment shall be transmitted to the clerk of the
36 county court. Thereupon the county court shall make
37 provision for payment and shall pay the salaries of the
38 chief probation officer, the assistant probation officers,
39 clerical and secretarial assistants, as shown by the order
40 of appointment. The annual salaries provided for in said
41 order of appointment shall be paid in equal monthly in-
42 stallments. Expense and mileage accounts of the chief of
43 probation officers and assistant probation officers shall
44 be itemized and verified and presented to and paid by the
45 county court, if such accounts are approved by the judge.
46 The county court shall provide such office space, equip-
47 ment and supplies for the probation staff, clerical and
48 secretarial assistants as the judge shall deem necessary and
49 adequate: *Provided*, That the appointing judge shall first
50 obtain the approval of the county court of the expenses
51 to be incurred and the salaries to be paid the chief prob-
52 ation officer, assistant probation officers, clerical and sec-
53 retarial assistants, which approval shall be discretionary
54 with the county court and shall be required before any
55 appointment made hereunder becomes effective.

CHAPTER 190

(Senate Bill No. 345—By Mr. Amos)

AN ACT to authorize the county court of Kanawha county to

allocate moneys out of general revenue for the hospital care of persons unable to pay therefor.

[Passed March 13, 1953; in effect from passage. Approved by the Governor.]

Section

1. County court of Kanawha county authorized to allocate funds for hospital care of persons in said county who are unable to pay for such care; administration of fund.

Be it enacted by the Legislature of West Virginia:

- Section 1. *County Court of Kanawha County Authorized to Allocate Funds for Hospital Care of Persons In Said County Who Are Unable to Pay for Such Care; Administration of Fund.*—The county court of Kanawha county is hereby authorized to allocate from its general fund such amount of money as it shall find in its discretion to be necessary and proper for the hospital care of persons in said county who are unable to pay for such care.
- Said money so allocated may, if the said court so directs, be administered by the Kanawha-Charleston Health Department.

CHAPTER 191

(House Bill No. 380—By Mr. Moore)

AN ACT authorizing the county court of Marshall county to expend a sum not to exceed five thousand dollars per year in support of the 4-H program of the Marshall county fair organization from regular county levies.

[Passed February 28, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

1. Support of 4-H program, Marshall county.

Be it enacted by the Legislature of West Virginia:

Section 1. *Support of 4-H Program, Marshall County.*—

2 The county court of Marshall county is hereby author-
3 ized to spend a sum of money not to exceed five thousand
4 dollars per year in support of the 4-H program of the
5 Marshall county fair organization from the moneys col-
6 lected by the Marshall county court from regular county
7 levies.

CHAPTER 192

(Senate Bill No. 316—By Mr. Jones)

AN ACT to authorize and empower the county court of Mason county to set up a courthouse and jail building fund from surpluses thus far accumulated by the said county court and now retained in general county fund, and in county courthouse and jail building fund authorized by chapter two hundred ten, acts of the Legislature, regular session, one thousand nine hundred fifty-one, and also from surpluses which may accumulate in the general county fund for five years beginning with the fiscal year one thousand nine hundred fifty-three—one thousand nine hundred fifty-four, and to transfer from the general county fund any money therein thus far accumulated, or that money hereafter accumulated for five years beginning with the fiscal year one thousand nine hundred fifty-three—one thousand nine hundred fifty-four, over and above the normal operation of said county and to hold and accumulate said money until the fiscal year one thousand nine hundred fifty-seven—one thousand nine hundred fifty-eight, which said money so set up in said special fund may be used for enlarging, remodeling, and improving the present courthouse and jail or for the construction of a new courthouse and jail on the present or another site and as well to purchase additional land from individuals, associations, or corporations, incident to the improvement of said courthouse and jail facilities.

[Passed March 13, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

1. Mason county courthouse and jail building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Mason County Courthouse and Jail Building

2 *Fund.*—The county court of Mason county is hereby au-
3 thorized and empowered to transfer from its general
4 county fund and from the county courthouse and jail
5 building fund authorized by chapter two hundred ten, acts
6 of the Legislature, regular session, one thousand nine hun-
7 dred fifty-one, all money or moneys therein and hereto-
8 fore accumulated and held in said fund for building pur-
9 poses, into a special courthouse and jail building fund
10 account; and is further authorized and empowered from
11 year to year until the fiscal year one thousand nine hun-
12 dred fifty-seven—one thousand nine hundred fifty-eight,
13 to transfer from its general county fund into said special
14 county fund all surpluses that may accumulate in said
15 general fund, and it is further authorized and empow-
16 ered to hold and accumulate said surpluses until the
17 fiscal year one thousand nine hundred fifty-seven—one
18 thousand nine hundred fifty-eight, and that said money
19 or money so accumulated in said special fund may be
20 expended for the enlarging, remodeling and improving
21 of the present courthouse and jail, or for the construc-
22 tion of a new one on the present courthouse site or on
23 other presently owned county sites, and that a portion
24 of said funds may be used for the purpose of acquiring
25 additional real estate, either by purchase or through
26 eminent domain, incident to presently owned county
27 sites that may be needed for the purpose of enlarging the
28 same sufficient to accommodate the construction of new
29 courthouse and jail facilities.

CHAPTER 193

(House Bill No. 57—By Mr. Callaway)

AN ACT to amend and reenact chapter two hundred eleven, acts of the Legislature, regular session, one thousand nine hundred fifty-one, fixing terms of the criminal court of McDowell county.

[Passed February 16, 1953; in effect from passage. Approved by the Governor.]

Section

11. Terms of McDowell county criminal court.

Be it enacted by the Legislature of West Virginia:

That chapter two hundred eleven, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 11. Terms of McDowell County Criminal Court.

- 2 —There shall be four terms of said court held in each year,
3 commencing on the Tuesday following the second Monday
4 in the months of January, April and July and the first
5 Tuesday following the first Monday in the month of Oc-
6 tober. Adjourned and special terms of said court may be
7 called and held as provided for adjourned and special
8 terms of the circuit court.

CHAPTER 194

(Senate Bill No. 151—By Mr. Ballard)

AN ACT to amend and reenact section four, chapter eighteen, acts of the Legislature of West Virginia, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred seventy-four, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the salary of the judge of the criminal court of Mercer county, West Virginia.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary of the judge of the criminal court of Mercer county.

Be it enacted by the Legislature of West Virginia:

That section four, chapter eighteen, acts of the Legislature of West Virginia, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred seventy-four, acts of the Legislature, regular session,

one thousand nine hundred forty-seven, be amended and re-enacted to read as follows:

Section 4. *Salary of the Judge of the Criminal Court of Mercer County.*—On and after January first, one thousand nine hundred fifty-five, the judge of said court shall for his services receive seven thousand seven hundred dollars per annum, payable out of the county treasury of said county, as provided by chapter fourteen, section one, acts of the extraordinary session of the Legislature of West Virginia, one thousand nine hundred four.

CHAPTER 195

(Senate Bill No. 332—By Mr. Ballard)

AN ACT to authorize the county court of Mercer county to use unexpended funds and surpluses in the general fund of said county for the purpose of acquiring land in cooperation with municipalities of said county for the disposal of garbage for residents outside of said municipalities.

[Passed March 13, 1953; in effect from passage. Approved by the Governor.]

Section

1. Mercer county court authorized to acquire land for disposal of garbage.

Be it enacted by the Legislature of West Virginia:

Section 1. *Mercer County Court Authorized to Acquire Land for Disposal of Garbage.*—The county court of Mercer county is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surpluses in the general county fund for the purpose of purchasing, in cooperation with municipalities of said county, land for the disposal of garbage by residents outside of said municipalities, and for the purpose of improving, maintaining and operating such garbage disposal facility: *Provided, however,* That such sum shall not exceed two thousand dollars annually.

CHAPTER 196

(House Bill No. 486—By Mr. Moreland)

AN ACT to authorize and empower the judge of the circuit court of the seventeenth judicial circuit to employ a competent stenographer, defining duties, and providing for the manner of payment.

[Passed March 12, 1953; in effect from passage. Approved by the Governor.]

Section

1. Stenographer for seventeenth circuit.
2. Stenographer's salary.

Be it enacted by the Legislature of West Virginia:

Section 1. *Stenographer for Seventeenth Circuit.*—The circuit court of the seventeenth judicial circuit, or the judge thereof in vacation, is hereby empowered and authorized to employ and appoint a competent stenographer to aid said judge in the performance of all his official duties. Said appointment and employment of such stenographer may be made by the judge of said court by an order entered of record in said court, and said stenographer so appointed shall hold office during the pleasure of the court.

Sec. 2. *Stenographer's Salary.*—The compensation of said stenographer shall be fixed by said judge at such sum as he shall from time to time deem proper, and an amount not to exceed one hundred twenty-five dollars per month, but subject to approval by the county court of Monongalia county, shall be paid by said county court in addition to the amount paid out of the state treasury under the authority of section six, article seven, chapter six of the code of West Virginia, as amended.

CHAPTER 197

(House Bill No. 365—By Mr. Hubbard and Mr. Seibert)

AN ACT to amend and reenact section nine, chapter one hun-

dred seventy-nine, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the salary of the intermediate court of Ohio county.

[Passed March 5, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

9. The salary of the intermediate court.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter one hundred seventy-nine, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

Section 9. *The Salary of the Intermediate Court.*—The
2 said judge shall, from and after January first, one thou-
3 sand nine hundred fifty-five, for his services receive eight
4 thousand five hundred dollars per annum, to be paid out
5 of the county treasury of said county of Ohio.

CHAPTER 198

(Senate Bill No. 183—By Mr. Nuckols)

AN ACT to amend and reenact chapter one hundred seventy-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-five, fixing the salary of the judge of the criminal court of Raleigh county.

[Passed March 6, 1953; in effect July 1, 1953. Approved by the Governor.]

Section

9. Salary of the judge of the criminal court of Raleigh county.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred seventy-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 9. *Salary of the Judge of the Criminal Court*

2 of *Raleigh County*.—The judge of the criminal court of
3 Raleigh county shall receive for his services seven thou-
4 sand two hundred dollars per annum, to be paid out of
5 the county treasury of said county of Raleigh in the same
6 manner and at the same time as the salaries of the other
7 county officers are paid; and he shall not practice law
8 in any of the courts of this state during his continuance
9 in said office.

10 All acts or parts of acts inconsistent or in conflict with
11 this act are hereby repealed.

—C—

CHAPTER 199

(House Bill No. 341—By Mr. Ridenour)

AN ACT to authorize the county court of Taylor county to use unexpended funds and surplus in the general fund of said county for the purpose of creating a special building fund for building an addition to, alteration or repair of, the court house, and to expend for such purposes the fund created.

[Passed March 7, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

1. Taylor county court authorized to create a special building fund.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Taylor County Court Authorized to Create a Special Building Fund*.—The county court of Taylor county is hereby authorized and empowered from year to year to use any unexpended funds of said county, and any surpluses in the general county fund, for the purpose of creating a special building fund for building an addition to, alterations or repairs of, the court house and said county court is authorized to expend for such purposes the fund so created: *Provided, however,* That the sum transferred from unexpended funds and surpluses in the

11 general county fund to the special building fund shall
12 not exceed twenty thousand dollars in any one year:
13 *And provided further*, That any unexpended funds in
14 said county and any surpluses in the general county fund
15 transferred to the special building fund shall not exceed
16 one hundred fifty thousand dollars.

Sec. 2. *Retransfer of Funds.*—In cases of emergency,
2 the county court of Taylor county, by unanimous vote
3 thereof, shall be empowered to retransfer funds from the
4 special building fund herein created to the general fund.

CHAPTER 200

(House Bill No. 279—By Mr. Underwood)

AN ACT to amend and reenact section eight, chapter twenty-two, acts of the Legislature, regular session, one thousand nine hundred seven, as amended and reenacted by section eight, chapter one hundred forty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, creating the board of trustees of county school and public library for Tyler county, West Virginia.

[Passed February 27, 1953; in effect ninety days from passage. Approved by the Governor.]

Section

8. Payments by board of education into Tyler county library fund.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two, acts of the Legislature, regular session, one thousand nine hundred seven, as amended and reenacted by section eight, chapter one hundred forty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 8. *Payments by Board of Education into Tyler County Library Fund.*—The board of education of Tyler

3 county shall from time to time pay into said library fund
4 sufficient additional amounts as may be necessary to pay
5 the cost and expense of maintaining and continuing said
6 library, but not less than eighteen hundred dollars per
7 annum.

RESOLUTIONS

(Only resolutions of general interest adopted by the Legislature and the two Houses thereof during the session are included in this volume. Resolutions dealing with organization of the Legislature and other routine business, upon which action has been completed, will be found in the Journals of the Session.)

HOUSE CONCURRENT RESOLUTION NO. 4.

(By Mr. Johnston)

[Adopted February 5, 1953.]

Creating an interim committee to conduct a study of the organization, activities and practices of the State Road Commission.

WHEREAS, An adequate system of modern highways, both primary and secondary, are essential to the prosperity of all segments of the population of West Virginia; and

WHEREAS, Cognizant of the importance of good roads in the development of the industrial, agricultural and cultural well-being of our citizens, the Legislature has on three different occasions submitted constitutional amendments providing for the issuance and sale of bonds for the construction of both primary and secondary roads and highways, all of which constitutional amendments were ratified by the voters of the State; and

WHEREAS, Notwithstanding the funds that have been provided for highways, members of the Legislature are confronted with complaints from taxpayers that roads and highways are inadequate, and that the development and expansion of our road system has fallen far short of the needs of our citizens and that present roads and highways are rapidly deteriorating because of inadequate maintenance; and

WHEREAS, An obligation rests upon the Legislature to provide funds for road construction and maintenance, and to obtain value received for each dollar expended; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a special interim legislative committee, consisting of five members of the Senate, to be appointed by the President thereof, and five members of the House of Delegates, to be appointed by the Speaker thereof, of which committee the President of the Senate and the Speaker of the House shall be ex officio members and co-chairmen; is hereby created for the purpose of making a thorough study, survey and investigation of all phases of road construction and maintenance, the administration and expenditure of all road funds, and such practices, policies and activities of the State Road Commission as it shall deem appropriate, and to make findings and recommendations to the Legislature.

Not more than three members of the committee from each House shall be appointed from the same political party.

The committee is hereby authorized to study and consider personnel, finances, purchases, construction practices and procedure and all other phases and problems involving or pertaining to the State Road Commission.

The committee shall make such reports to the members of the Legislature by mail from time to time as it shall deem advisable, and shall on or before January 15, 1954, make an interim report by mail to the members of the Legislature embracing its findings and recommendations to that time. Not later than the third week after convening of the regular session of the Legislature in the year one thousand nine hundred fifty-five, the committee shall make a final report to the Legislature, and shall include in such report such findings and recommendations as it shall deem pertinent and shall include in such report drafts of any proposed legislation which it shall deem necessary to carry the recommendations of the committee into effect.

In order to make possible the procurement of the necessary information to carry out the intent and spirit of this resolution, the committee is hereby empowered to call upon any department or agency of state government for such services, information and assistance as it may deem appropriate, to summon witnesses and take testimony, and, to cause the production of

such papers, documents, records and the like as the committee may deem expedient. Any member of the committee may administer oaths or affirmations to witnesses appearing before the committee or any subcommittee thereof.

To carry out the provisions of this resolution, the committee is hereby authorized and empowered to punish for contempt and to issue subpoenae to be signed by one of the co-chairmen and shall be served by any person authorized by law to serve and execute legal process. Service of such process shall be made without charge.

The members of the special committee shall serve without compensation except that all legitimate expenses for travel and maintenance in connection with meetings of the committee incurred by the members thereof shall be paid from funds appropriated for use of this committee.

The committee is authorized to employ such legal, engineering, accounting, investigating and advisory assistance and other personnel as it may deem advisable and also to employ such clerical and stenographic personnel as may be necessary in the proper performance of its duties, and to fix reasonable compensation and expenses of such persons and firms as may be employed within the amount made available by the appropriation herein provided.

Upon the approval of the co-chairmen or the committee, the Clerk of the House of Delegates is authorized to draw his requisition upon the Auditor, payable from the Joint Expenses appropriation made for the committee. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the co-chairmen of said committee, or by some person authorized by the committee to approve such expenses and expenditure.

The sum of one hundred fifty thousand dollars (\$150,000.00) shall be appropriated and set apart in the Joint Expenses appropriated for the Legislature for the expenses of this committee.

After the submission of the final report of the committee to the Legislature at the one thousand nine hundred fifty-five

regular session, any unexpended funds shall revert to the State Fund General Revenue.

HOUSE CONCURRENT RESOLUTION NO. 9

(By Mr. Speaker, Mr. Flannery)

[Adopted February 13, 1953.]

Creating an interim committee of the Legislature to make an investigation, survey and study of matters affecting the valuation and assessment of the properties of public service corporations in West Virginia for tax purposes.

WHEREAS, Approximately 25% of all property in the State is owned by public service corporations or persons engaged in public service business, and the taxes derived from direct levies thereon constitute an important source of revenue to the State and its subdivisions of government; and

WHEREAS, The nature and value of said properties to be assessed each year not only require study throughout the year but involve skill, knowledge and experience in the fields of accounting, engineering and appraisal methods, and it is common knowledge that the members of the Board of Public Works, on account of the heavy responsibilities of their respective departments, are in a position to give only a small part of their time to the discharge of the duties imposed upon them by Chapter 11, Article 6 of the Code of West Virginia; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That an interim committee be created to make an investigation, survey and study concerning the advisability of the establishment of a state agency for the valuation and assesment of the properties of public service corporations in West Virginia, in the place and stead of the Board of Public Works of West Virginia, as provided in Chapter 11, Article 6 of the Code.

That prior to the convening of the next regular session of the Legislature, the committee make and issue a report to the Governor and to the Legislature concerning its study, together with

such recommendations and proposed legislation as may in its opinion best serve the interests of all the people in the State.

That the membership of the committee be composed of the President of the Senate, as co-chairman, and two members of the Senate to be appointed by him, one of whom shall be a member of the minority party; and the Speaker of the House of Delegates, as co-chairman, and two members of the House of Delegates to be appointed by him, one of whom shall be a member of the minority party.

That in connection with such study, the Governor be authorized to appoint an advisory committee of not more than four representative citizens of the State, including as ex officio member the State Tax Commissioner, and three members from the public utilities industries, to consult and advise with the interim committee concerning the best solution of the problem.

That the committee be authorized to meet in Charleston, or elsewhere, as it may determine.

That in order to make possible the procurement of the necessary information to carry out the intent and spirit of this resolution, the committee be empowered to call upon any of the departments of the state government, to summon witnesses, and to take testimony and to cause the production of such papers, documents, records and the like as the committee may deem pertinent.

That the committee be empowered to employ such advisory, clerical and stenographic assistance as may be necessary in the proper execution of its duties.

Upon the approval of the co-chairmen of the committee, the Clerk of the House of Delegates is authorized to draw his requisition upon the Auditor, payable from the Joint Expenses appropriation made for the committee. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the co-chairman of said committee, or by some person authorized by the committee to approve such expenses and expenditure.

The members of the interim committee shall serve without

compensation except that all legitimate expenses for travel and maintenance in connection with meetings of the committee incurred by the members thereof shall be paid from funds appropriated for use of this committee.

HOUSE CONCURRENT RESOLUTION NO. 13

(By Mr. Ambler)

[Adopted March 12, 1953.]

Authorizing and directing the Superintendent of Buildings and Grounds of the State Capitol, to use funds in his control to discard the plaque on the monument at the northwest corner of the capitol grounds, erected by the Union Soldiers and Sailors Memorial Commission in 1930, bearing the legend "The Act of Congress admitting West Virginia as a separate state was approved by President Lincoln June 20, 1863".

WHEREAS, said plaque is erroneous; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Superintendent of Buildings and Grounds of the State Capitol, Charleston, West Virginia, be directed to substitute for said erroneous plaque, a bronze plaque of similar size, character, and design, bearing the following legend:

"The Act of Congress admitting West Virginia to conditional statehood was approved by President Lincoln on December 31, 1862. The condition having been complied with, on April 20, 1863, he proclaimed West Virginia a state in the Union fully effective sixty days later, June 20, 1863."

HOUSE JOINT RESOLUTION NO. 3

(By Mr. Dawson and Mr. Curtis)

[Adopted February 19, 1953.]

Proposing an amendment to the Constitution of the State of West Virginia, amending section fourteen, article three thereof, relating to jury service by females.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred fifty-four, which proposed amendment is as follows:

That section fourteen, article three of the Constitution be amended to read as follows:

Sec. 14. Trials of crimes, and misdemeanors, unless herein otherwise provided, shall be by a jury of twelve persons, public, without unreasonable delay, and in the county wherein the alleged offense was committed, unless upon petition of the accused, and for good cause, it is removed to some other county. In all such trials, the accused shall be fully and plainly informed of the character and cause of the accusation, and shall be confronted with the witnesses against him, and shall have the assistance of counsel, and a reasonable time to prepare for his defense; and there shall be awarded to him compulsory process for obtaining witnesses in his favor.

HOUSE RESOLUTION NO. 16

(By Mr. McCormick, of Putnam)

[Adopted March 4, 1953.]

Providing that the State Road Commission immediately take up for consideration the building and construction of a bridge across the Kanawha River between Red House and Winfield.

WHEREAS, There is now or will be, under the provisions of Senate Bill No. 149 a plan to qualify for federal funds under federal aid legislation for the construction of toll bridges; and

WHEREAS, State bonds shall be retired from the tolls on such bridge; and

WHEREAS, Plans for a bridge across the Kanawha River between Red House and Winfield have been approved by the

Federal Works Administration with an appropriation equal to approximately fifty per cent of the total cost of constructing said bridge; and

WHEREAS, Such bridge has long been promised and long since past due, and that there is no longer any excuse for not constructing said bridge; therefore, be it

Resolved by the House of Delegates:

That this body go on record as sponsoring a bridge at a location between Red House and Winfield, Putnam County, and further requesting that it be made one of the first projects of the State Road Commission of West Virginia.

HOUSE RESOLUTION NO. 21

(Originating in the Committee on Finance)

[Adopted March 12, 1953.]

Requesting the Board of Governors of West Virginia University and the State Board of Education to make a study of tuition fees charged students and of charges for dormitories and board.

Resolved by the House of Delegates:

1. That the Board of Governors of West Virginia University and the State Board of Education study the tuition fees charged (1) to out-of-state students and revise them upward to bring them more in line with the actual cost; (2) to state students to revise them upward in proportion to the increased cost of operating the university.

2. That the Board of Governors of West Virginia University and the State Board of Education review the charges made for dormitories and board, and revise these upward where it is found that the fees are not sufficient to include depreciation and repair on equipment, furnishings or buildings and do not include administrators or any other overhead expense.

HOUSE RESOLUTION NO. 22

(By Mr. Watts and Mr. Hubbard)

[Adopted March 12, 1953.]

Creating a special interim subcommittee of the House of Delegates Committee on Humane Institutions, and defining its powers and duties.

WHEREAS, The House of Delegates Committee on Humane Institutions is the inspection agency of the House for many state institutions; and

WHEREAS, Said committee is now confined to biennial inspections, during the regular sessions of the Legislature, which inspections are sufficient to give only the barest report of the progress of the institutions; and

WHEREAS, Inasmuch as the Legislature determines the basic programs for all of the state humane institutions, a more intimate knowledge of the institutions is desirable; therefore, be it

Resolved by the House of Delegates:

That the Speaker shall appoint three members of the Committee on Humane Institutions as a special interim subcommittee thereof, and authorize said subcommittee to inspect any or all of the state institutions in the months of July, August and September of the years one thousand nine hundred fifty-three and one thousand nine hundred fifty-four, and to make report of its findings to the House of Delegates not later than February one, one thousand nine hundred fifty-five; and, be it

Further Resolved, That the members of the aforesaid interim subcommittee be paid not more than fifteen dollars per day to defray their expenses in making such inspections and in the necessary travel therefor.

SENATE CONCURRENT RESOLUTION NO. 9

(By Mr. Wylie)

[Adopted March 7, 1953.]

Creating an Interim Committee to conduct a study of alcoholism and alcoholic and drug addicts.

WHEREAS, Alcoholism and drug addiction are recognized as a public health problem affecting the general welfare and economy of the State; and

WHEREAS, The only recognition ever given this subject by law in this State was an act, passed in one thousand nine hundred fifty-one, authorizing the commitment of alcoholics and drug addicts to the various mental hospitals in the State; and

WHEREAS, Other progressive states in the union have recognized alcoholism and drug addiction as a disease, both mental and physical, and are attacking this illness by various and sundry methods and means; and

WHEREAS, Before anything constructive can be done for these unfortunate people, it is necessary to make a thorough study of the problem and scientific methods of treating it; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a special committee, consisting of five members of the Senate, to be appointed by the President thereof, and five members of the House of Delegates, to be appointed by the Speaker thereof, of which committee the President of the Senate and the Speaker of the House shall be ex officio members and co-chairmen, is hereby created for the purpose of making a thorough study and survey of the problem of alcoholism, alcoholic and drug addicts as a basis for enactment of constructive legislation on the subject.

The committee shall consist of not more than three members of one political party from each house, exclusive of ex officio members.

The committee is hereby authorized to hire an expert or experts in the field of alcoholism and drug addiction, and any further personnel necessary for the conduct of this survey. The committee is further authorized, along with its experts, to investigate the manner in which other states are handling these problems and, if necessary, travel to such states to personally inspect the work being done. The committee is further authorized, after a careful study of these problems, to deter-

mine what method or methods would best serve in attacking alcoholism and drug addiction in West Virginia, this study to include a survey of the causes of and cures of alcoholism and what type of clinics, farms or institutions should be established for the treatment of alcoholics and drug addicts. The committee may make interim reports from time to time as it may deem desirable. However, it shall make a report of its findings and recommendations to the Governor on or before December first, one thousand nine hundred fifty-four, and to the Legislature on the first day of the one thousand nine hundred fifty-five session.

The members of the special committee shall serve without compensation, except that all legitimate expenses for travel and maintenance in connection with the meetings of the committee incurred by the members thereof shall be paid from funds appropriated for use of the committee.

Requisitions for the payment of all legitimate expenses incurred by the committee shall be drawn upon the State Auditor by the Clerks of the Senate and House of Delegates. Such requisitions shall be signed by the President of the Senate and the Speaker of the House of Delegates as ex officio members and co-chairmen of the committee.

The expense of this study shall be paid from the fund or funds appropriated by the Legislature to be used by the Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 13

(By Mr. Bean, Mr. President)

[Adopted March 14, 1953.]

Requesting the Joint Committee on Government and Finance to study certain tax problems.

Resolved by the Senate, the House of Delegates concurring therein:

That upon the unanimous recommendation of the Committee of Conference on the Budget Bill, the Joint Committee on Government and Finance is hereby requested to make during

the next two years a thorough study of the entire tax structure of the State. It is also recommended that the committee give further careful consideration to the problem of property assessments with a view to bringing about a greater degree of equalization of assessments within each county and as between counties.

SENATE JOINT RESOLUTION NO. 4

(By Mr. Bean, Mr. President)

[Adopted March 11, 1953.]

Proposing an amendment to the Constitution of the State, amending sections eighteen, twenty-two and thirty-three of article six thereof.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred fifty-four, which proposed amendment is as follows:

That sections eighteen, twenty-two and thirty-three, article six of the Constitution, be amended to read as follows:

Section 18. *Time of Assembly of Legislature.*—The Legislature shall assemble annually at the seat of government, and not oftener, unless convened by the Governor. Regular sessions of the Legislature shall commence on the second Wednesday of January of each year. Notwithstanding any other provisions of the Constitution, the board of public works shall, on and after the effective date hereof, submit to the Legislature an annual budget prepared as otherwise required by the Constitution.

Section 22. *Length of Legislative Sessions.*—The regular session of the Legislature held in the year one thousand nine hundred fifty-five and every second year thereafter shall not exceed sixty days, and the regular session held in the year one thousand nine hundred fifty-six and every second year there-

after shall not exceed thirty days. During any thirty day session the Legislature shall consider no other business than the annual budget bill, except such as may be stated in a proclamation issued by the Governor at least ten days prior to the convening of the session, or such business as may be stated by the Legislature on its own motion in a concurrent resolution adopted by a two-thirds vote of the members elected to each house. All regular sessions may be extended by the concurrence of two-thirds of the members elected to each house.

Section 33. *Compensation of Members.*—Each member of the Legislature shall receive for his services the sum of one thousand five hundred dollars a year, and expenses for one round trip in connection with any session, at the rate of ten cents a mile traveled in going to and returning from the seat of government by the most direct route: *Provided*, That if party caucuses are held in advance of the date of the assembly of the Legislature in odd-numbered years for the purpose of selecting candidates for officers of the two houses, expenses for travel at the rate herein fixed shall be allowed each member for one round trip in connection with attending such caucus. The Speaker of the House of Delegates and the President of the Senate shall each receive an additional compensation of five dollars a day for each day served as presiding officer. No other allowance or emolument than that by this section provided shall directly or indirectly be made or paid to the members of either house for postage, stationery, newspapers, or any other purpose whatever. Notwithstanding any other provision of the Constitution, the compensation herein provided for shall be paid to each member of the Legislature on and after the adoption of this amendment.

DISPOSITION OF BILLS ENACTED

The following table shows the disposition of House and Senate Bills passed at the regular session of the 1953 Legislature. The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

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33	186	173	154	365	197
34	51	175	33	366	143
35	125	176	85	367	135
37	48	177	75	368	136
39	49	179	35	373	101
42	53	185	63	374	163
52	37	188	159	380	191
67	193	189	153	382	170
59	2	200	55	386	144
65	145	201	158	387	110
66	157	203	39	388	121
67	67	204	120	389	83
68	69	205	38	395	187
74	180	208	57	396	188
76	34	215	165	399	115
78	131	222	43	401	172
83	71	223	130	402	189
85	95	224	77	403	32
88	151	225	174	418	104
96	118	228	146	421	109
97	52	233	152	425	87
110	8	236	155	431	64
112	12	237	147	441	128
120	13	256	133	442	56
121	14	264	181	444	41
129	168	265	182	447	61
130	97	272	179	458	164
132	161	273	82	459	42
138	149	279	200	460	40
149	89	280	5	462	113
152	123	283	17	463	148
153	100	286	117	468	25
160	22	291	185	486	196
162	80	300	36	487	18
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166	171	341	199	511	11
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14	98	134	173	248	126
15	3	137	15	254	127
16	4	141	167	267	23
17	6	148	47	274	108
19	1	149	160	275	102
21	141	151	194	277	105
22	58	159	76	281	150
24	60	162	9	289	111
28	73	164	74	290	106
29	62	165	86	298	175
36	91	182	134	302	156
37	166	183	198	306	107
38	142	187	24	311	114
42	92	188	28	315	129
56	176	189	20	316	192
59	169	190	26	324	79
61	29	192	59	326	162
63	132	199	27	332	195
67	99	209	177	335	78
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ACTS

FIRST EXTRAORDINARY SESSION

(June 4, 1953)

OF THE

FIFTY-FIRST

LEGISLATURE



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APPROPRIATIONS

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*This Act makes appropriations for the fiscal years 1954 and 1955. The extraordinary session of the Legislature was called to pass a Budget Bill as a result of the Supreme Court of Appeals holding the Budget Bill passed by the 1953 regular session of the Legislature (Chapter 10) unconstitutional. State ex rel Trent et al v. Sims.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1953

FIRST EXTRAORDINARY SESSION

CHAPTER 1

(House Bill No. 1—By Mr. Speaker, Mr. Flannery)

AN ACT making an appropriation of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

[Passed June 4, 1953; in effect from passage.]

Title

1. General Provisions.
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section

1. General policy.
2. Definitions.
3. Classification of appropriations.
4. Method of expenditure.
5. Limitations on expenditures.
6. Maximum expenditures.

Be it enacted by the Legislature of West Virginia:

Section 1. *General Policy.*—The purpose of this act is to appropriate money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal years one thousand nine hundred fifty-four and one thousand nine hundred fifty-five. To give effect to this purpose, the board of public

7 works shall supervise the fiscal policy, control the assump-
8 tion of obligations, and regulate the expenditures of the
9 agencies of the state, to the end that same may as nearly
10 as practicable conform to the budget document submitted
11 to the Legislature, Regular Session, 1953: *Provided, how-*
12 *ever,* That notwithstanding any provision of this section or
13 any other statute to the contrary, expenditures of educational
14 institutions under the West Virginia University board of gov-
15 ernors and under the West Virginia board of education shall
16 be determined and regulated by such boards, except that no
17 salary shall be increased in an amount which would exceed
18 ten per cent of the amount approved by the board of public
19 works in the budget document, without prior approval of
20 the board of public works.

Sec. 2. *Definitions.*—For the purpose of this act:

2 “Board” shall mean the board of public works;
3 “Spending Unit” shall mean the department, agency, or
4 institution to which an appropriation is made;
5 The “fiscal year one thousand nine hundred fifty-four”
6 shall mean the period from July first, one thousand nine
7 hundred fifty-three through June thirtieth, one thousand
8 nine hundred fifty-four and the “fiscal year one thousand
9 nine hundred fifty-five” shall mean the period from July
10 first, one thousand nine hundred fifty-four through June
11 thirtieth, one thousand nine hundred fifty-five.
12 “From collections” shall mean that part of the total ap-
13 propriation which must be collected by the spending unit
14 to be available for expenditure. If the authorized amount
15 of collections is not collected, the total appropriation for
16 the spending unit shall be reduced automatically by the
17 amount of the deficiency in the collection. If the amount
18 collected exceeds the amount designated “from collections”
19 the excess shall be set aside in a special surplus fund and
20 may be expended for the purpose of the spending unit as
21 provided by chapter 39, acts of the legislature, regular
22 session, one thousand nine hundred thirty-nine.

Sec. 3. *Classification of Appropriations.*—An appropria-
2 tion for:

3 “Personal services” shall be expended only for the pay-
4 ment of salaries, wages, fees, and other compensation for
5 skill, work, or employment;

- 6 Unless otherwise specified, appropriations for Personal
7 Services shall include salaries of heads of spending units.
8 "Current expenses" shall be expended only for operating
9 costs other than personal services or capital outlay;
10 "Repairs and alterations" shall include all expenditures
11 for materials, supplies and labor used in repairing and
12 altering buildings, grounds and equipment;
13 "Equipment" shall be expended only for things which
14 have an appreciable and calculable period of usefulness in
15 excess of one year;
16 "Buildings" shall include construction and alteration of
17 structures and the improvements of lands, sewer and water
18 improvements, and shall include shelter, support, storage,
19 protection, or the improvement of a natural condition;
20 "Lands" shall be expended only for the purchase of
21 lands or interest in lands.
22 Building and/or lands appropriations are not transfer-
23 able to other items of appropriation.
24 Unclassified appropriations shall be expended only
25 where the distribution of expenditures for different pur-
26 poses cannot well be determined in advance or it is neces-
27 sary or desirable to permit the spending unit freedom to
28 spend an appropriation for more than one of the above
29 purposes.

Sec. 4. *Method of Expenditure.*—Money appropriated by
2 this act, unless otherwise specifically directed, shall be
3 appropriated and expended according to the provisions of
4 article three, chapter twelve of the code of West Virginia,
5 one thousand nine hundred thirty-one, or according to any
6 law detailing a procedure specifically limiting that article.

Sec. 5. *Limitations on Expenditures.*—The expenditure
2 of money appropriated by this act shall be limited to the
3 specific amount appropriated to each item. There shall be
4 no transfer of amounts between items of the appropriation
5 of the spending unit without prior authorization by the
6 board of public works, as provided by chapter 5, article 5,
7 code of West Virginia.

Sec. 6. *Maximum Expenditures.*—No authority or re-
2 quirement of law shall be interpreted as requiring or per-

3 mitting an expenditure in excess of the appropriations set
4 out in this act.

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16. Appropriations to pay costs of publication of delinquent corporations.
17. Appropriations for local governments.
18. Printing costs.
19. Total appropriation.
20. General school fund.

Section 1. *Appropriations from General Revenue.*—From 2 the state fund, general revenue, there is hereby appropriated conditionally upon the fulfillment of the provisions 3 set forth in chapter 39, acts of the legislature, regular session, one thousand nine hundred thirty-nine, the following 4 amounts, as itemized, for expenditure during the fiscal 5 years one thousand nine hundred fifty-four and one thousand 6 sand nine hundred fifty-five.

LEGISLATIVE

1—Senate

Acct. No. 101

		Fiscal Years	
		1953-54	1954-55
1 Salaries of Members.....	\$	16,000.00	\$ 16,000.00
2 To pay Clerk of the Senate			
3 for compiling and publishing			
4 the West Virginia Blue Book,			
5 the distribution of which			
6 shall be made by the Clerk			
7 of the Senate and shall include			
8 seventy-five copies for			
9 each member of the Legislature			
10 and two copies to each			
11 classified and approved High			
12 and Junior High School and			
13 one to each elementary			
14 school within the state, including			
15 all expenses incurred			
16 in the employment of contributors			
17	\$	10,000.00	\$ 10,000.00

18	To pay cost of printing 1953 and			
19	1954 editions of Blue Book....	\$	41,500.00	\$ 41,500.00
20				
		<i>Fiscal Year</i>	<i>1952-1953</i>	
21	Mileage of Members.....	\$		831.80
22	Compensation and per diem of			
23	officers and attaches.	\$		70,000.00
24	Current Expenses and Contin-			
25	gent Fund	\$		95,000.00
26	Joint Committee on Govern-			
27	ment and Finance and other			
28	Committees	\$		75,000.00
29	To establish bill drafting serv-			
30	ice and expenses connected			
31	therewith	\$		6,000.00
32	H. C. R. No. 4, interim commit-			
33	tee study of state road system	\$		75,000.00
34	H. C. R. No. 9, interim commit-			
35	tee study of utility assess-			
36	ments	\$		15,000.00
37	The above appropriations for			
38	the fiscal year 1952-53 are to			
39	remain in full force and effect			
40	until the convening of the			
41	regular session of the Legis-			
42	lature, 1955.			
43	The Clerk of the Senate is			
44	authorized to draw his war-			
45	rants upon the Auditor, pay-			
46	able out of the contingent			
47	fund of the Senate, for any			
48	bills for supplies and serv-			
49	ices that may have been in-			
50	curred by the Senate and			
51	not included in the appropria-			
52	tion bill, and for bills for sup-			
53	plies and services incurred			
54	after adjournment, and for			
55	the necessary operation of his			
56	offices, the requisition for			
57	same to be accompanied by			
58	bills to be filed with the			

59 Auditor, including the mileage
 60 of members and other costs of
 61 the first extraordinary session
 62 of 1953 not otherwise provided
 63 for.

2—House of Delegates

Acct. No. 102

1	Salaries of Members_____	\$ 50,000.00	\$ 50,000.00
2		<i>Fiscal Year</i>	1952-1953
3	S. C. R. No. 2 per diem of mem-		
4	bers _____	\$	3,000.00
5	Mileage of members _____	\$	2,468.80
6	Compensation and per diem of		
7	officers and attaches_____	\$	103,200.00
8	Contingent Fund _____	\$	95,000.00 ✓
9	Contingent Fund:		
10	Legislative Drafting Office_____	\$	5,000.00
11	Current Expenses HR 8-11_____	\$	36,508.53
12	Joint Committee on Govern-		
13	ment and Finance and other		
14	authorized Legislative Com-		
15	mittees _____	\$	75,000.00
16	H. C. R. No. 4, interim commit-		
17	tee study of state road sys-		
18	tem _____	\$	75,000.00
19	H. C. R. No. 9, interim commit-		
20	tee study of utility assess-		
21	ments _____	\$	15,000.00
22	The above appropriations for		
23	the fiscal year 1952-53 are to		
24	remain in full force and ef-		
25	fect until the convening of		
26	the regular session of the		
27	Legislature, 1955.		
28	With the approval of the		
29	Speaker, an amount, not to		
30	exceed \$3,000.00 per year, is		
31	hereby authorized to be ex-		
32	pended from the contingent		
33	fund of the House of Dele-		

34 gates for janitor service, etc.
35 The House Committee on
36 Rules, with the approval of
37 the Speaker, is hereby au-
38 thorized to expend from the
39 House contingent fund an
40 amount, not to exceed the
41 sum of thirty-eight thousand
42 dollars (\$38,000.00), for the
43 purpose of altering, furnish-
44 ing and ventilating the com-
45 mittee rooms of the Judici-
46 ary and Finance Committees,
47 and for the purpose of alter-
48 ing the elevator in the north-
49 east section of the Main Unit
50 of the Capitol Building so as
51 to provide automatic opera-
52 tion for passenger and freight
53 service.
54 An amount, not to exceed \$5,-
55 000.00, is hereby authorized
56 to be expended from the con-
57 tingent fund of the House of
58 Delegates by the House Com-
59 mittee on Rules for the pur-
60 pose of establishing a House
61 Legislative Drafting Office,
62 employing, if deemed advis-
63 able by the Committee, in
64 connection therewith, tech-
65 nical and clerical assistants,
66 who shall be available to the
67 members and committees of
68 the House of Delegates, at
69 such times as may be deter-
70 mined by the Committee on
71 Rules, for the purpose of as-
72 sisting in the preparation and
73 editing of bills and resolu-
74 tions, and in such other legis-

75 lative drafting and editing as
76 the Committee on Rules may
77 deem proper.

78 The Clerk of the House is au-
79 thorized to draw his war-
80 rants upon the Auditor, pay-
81 able out of the contingent
82 fund of the House for any
83 bills for supplies and services
84 that may have been incurred
85 by the House and not in-
86 cluded in the appropriation
87 bill, and for bills for supplies
88 and services incurred after
89 adjournment, the requisition
90 for same to be accompanied
91 by bills to be filed with the
92 Auditor, including the mile-
93 age of members and other
94 costs of the first extraordi-
95 nary session of 1953 not oth-
96 erwise provided for.

97 For duties imposed by law and
98 by the House of Delegates
99 including the salary allowed
100 by law as keeper of the rolls,
101 the Clerk of the House of
102 Delegates shall be paid a
103 monthly salary at the rate of
104 \$675.00 per month, payable
105 from the contingent fund of
106 the House of Delegates, and
107 the Clerk may employ a sec-
108 retary at a salary of not to
109 exceed \$275.00 per month,
110 payable monthly from the
111 same fund.

3—Joint Expenses

Acct. No. 103

1 To pay the cost of legislative

2	printing and stationery, the		
3	appropriation is to be avail-		
4	able for the year ending June		
5	thirty, one thousand nine		
6	hundred fifty-three. If this		
7	work is not completed prior		
8	to June thirtieth, one thou-		
9	sand nine hundred fifty-three,		
10	then the appropriation shall		
11	continue in full force until		
12	completed _____	\$	125,000.00
13	Commission on Interstate Co-		
14	operation _____	\$	30,000.00

JUDICIAL

4—*Supreme Court of Appeals*

Acct. No. 110

1	Salaries of Judges.....	\$	62,500.00	\$	62,500.00
2	Other Personal Services.....		69,920.00		69,920.00
3	Current Expenses.....		20,000.00		20,000.00
4	Equipment		2,000.00		2,000.00
5	Total	\$	154,420.00	\$	154,420.00

5—*Circuit Courts*

Acct. No. 111

1	Salaries of Judges of the Cir-				
2	cuit Courts	\$	291,000.00	\$	291,000.00
3	Current Expenses		54,000.00		54,000.00
4	Total	\$	345,000.00	\$	345,000.00

6—*Judges' Retirement System*

Acct. No. 112

1	To be transferred to the Judges'				
2	Retirement Fund, in accord-				
3	ance with the law relating				
4	thereto, upon requisition of				
5	the State Auditor.....	\$	25,000.00	\$	25,000.00

7—*State Law Library*

Acct. No. 114

1	Personal Services	\$	11,900.00	\$	11,900.00
2	Current Expenses		1,000.00		1,000.00
3	Equipment		9,000.00		9,000.00
<hr/>					
4	Total	\$	21,900.00	\$	21,900.00

8—*Auditor's Office—Criminal Charges*

Acct. No. 119

1	Criminal Charges.....	\$	160,000.00	\$	160,000.00
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EXECUTIVE

9—*Governor's Office*

Acct. No. 120

1	Salary of Governor.....	\$	12,500.00	\$	12,500.00
2	Other Personal Services, in-				
3	cluding Salaries of Secre-				
4	taries, Stenographers and As-				
5	sistants		32,230.00		32,230.00
6	Current Expenses		9,500.00		9,500.00
7	One hundred dollars annual				
8	dues to the Governors' Con-				
9	ference shall be included in				
10	this item.				
11	Equipment		1,500.00		1,500.00
12	Civil Contingent Fund.....		200,000.00		200,000.00
13	Of this appropriation there may				
14	be expended an amount not				
15	to exceed \$5,000.00 in each				
16	year to provide instruction,				
17	care and maintenance for per-				
18	sons who are deaf and blind,				
19	and for whom the state pro-				
20	vides no facilities.				
21	Of this appropriation there				
22	may be expended, at the dis-				
23	cretion of the Governor, an				

24 amount not to exceed \$1,-
 25 000.00 in each year of the bi-
 26 ennium as West Virginia's
 27 contribution to the Interstate
 28 Oil Compact Commission.

29 Any unexpended balance re-
 30 maining in the Civil Contin-
 31 gent Fund at the close of the
 32 fiscal year 1953-54 is hereby
 33 reappropriated for expendi-
 34 ture during the fiscal year
 35 1954-55.

36 Custodial Fund\$ 31,350.00 \$ 31,350.00

37 To be used for current general
 38 expenses, including compen-
 39 sation of servants and em-
 40 ployees, household mainte-
 41 nance, cost of official func-
 42 tions, and any additional
 43 Household expenses occa-
 44 sioned by such official func-
 45 tions. In the event Napoleon
 46 Gardner, now and for many
 47 years in the service of the
 48 Governor and his predeces-
 49 sors in office, shall become
 50 unable to perform such serv-
 51 ices for which he may earn
 52 compensation, an amount not
 53 in excess of \$50.00 per month
 54 may be expended out of this
 55 appropriation by the Gov-
 56 ernor at his discretion, for the
 57 use and benefit of the said
 58 Napoleon Gardner.

59 Total\$ 287,080.00 \$ 287,080.00

10—*Parole and Probation Investigation and Supervision*

Acct. No. 123

1 Personal Services\$ 112,580.00 \$ 112,580.00

2	Current Expenses	40,800.00	40,700.00
3	Equipment	1,000.00	1,000.00
4	Total	\$ 154,380.00	\$ 154,280.00

FISCAL

11—Auditor's Office—General Administration

Acct. No. 150

1	Salary of State Auditor	\$ 7,250.00	\$ 7,250.00
2	Other Personal Services	106,000.00	106,000.00
3	Current Expenses	9,900.00	9,900.00
4	Equipment	2,500.00	2,500.00
5	Total	\$ 125,650.00	\$ 125,650.00

12—Insurance Commissioner

Acct. No. 151

1	Personal Services	\$ 54,460.00	\$ 54,460.00
2	Current Expenses	10,410.00	9,910.00
3	Equipment	600.00	600.00
4	Total	\$ 65,470.00	\$ 64,970.00

13—Treasurer's Office

Acct. No. 160

1	Salary of State Treasurer	\$ 7,250.00	\$ 7,250.00
2	Other Personal Services	62,560.00	62,560.00
3	Current Expenses	7,500.00	9,000.00
4	Equipment	6,900.00	6,900.00
5	Total	\$ 84,210.00	\$ 85,710.00

14—Sinking Fund Commission

Acct. No. 170

1	Personal Services	\$ 12,900.00	\$ 12,900.00
2	Current Expenses	600.00	600.00
3	Equipment	500.00	
4	Total	\$ 14,000.00	\$ 13,500.00

15—*State Tax Commissioner*

Acct. No. 180

1	Personal Services	\$ 541,600.00	\$ 541,600.00
2	Current Expenses	142,500.00	157,400.00
3	Equipment	14,500.00	15,000.00
4	Total	\$ 698,600.00	\$ 714,000.00
5	This appropriation shall in-		
6	clude all expenditures for the		
7	operation of the Gasoline		
8	Division formerly appropri-		
9	ated from the State Road		
10	Fund.		

16—*West Virginia Board of Control*

Acct. No. 190

1	Salaries of the three members		
2	of the Board of Control.....	\$ 21,000.00	\$ 21,000.00
3	Other Personal Services.....	40,680.00	40,680.00
4	Current Expenses.....	11,550.00	11,500.00
5	Equipment	700.00	700.00
6	Total	\$ 73,930.00	\$ 73,880.00

17—*Director of the Budget*

Acct. No. 210

1	Personal Services.....	\$ 79,600.00	\$ 79,600.00
2	Current Expenses.....	6,300.00	12,600.00
3	Equipment	1,250.00	1,250.00
4	Total	\$ 87,150.00	\$ 93,450.00

18—*Director of the Budget—Inventory Control*

Acct. No. 211

1	Personal Services.....	\$ 17,120.00	\$ 17,120.00
2	Current Expenses.....	4,500.00	4,250.00
3	Total	\$ 21,620.00	\$ 21,370.00
4	To be expended in cooperation		

- 5 with the Director of Pur-
 6 chases to establish and main-
 7 tain an inventory control of
 8 all physical property of the
 9 state.

LEGAL

19—Attorney General

Acct. No. 240

1	Salary of Attorney General.....\$	7,500.00	\$	7,500.00
2	Other Personal Services.....	91,500.00		91,500.00
3	Current Expenses.....	8,500.00		8,500.00
4	Equipment	5,000.00		3,500.00
5	To protect the resources or tax			
6	structure of the State in con-			
7	troversies or legal proceed-			
8	ings affecting same. Any un-			
9	expended balance remaining			
10	in this fund at the close of the			
11	fiscal year 1953-54 is hereby			
12	reappropriated for expendi-			
13	ture during the fiscal year			
14	1954-55	8,000.00		
15	Total	\$ 120,500.00	\$	111,000.00

20—Commission on Uniform State Laws

Acct. No. 245

1	Total	\$ 650.00	\$	650.00
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INCORPORATING AND RECORDING

21—Secretary of State

Acct. No. 250

1	Salary of Secretary of State.....\$	7,250.00	\$	7,250.00
2	Other Personal Services.....	30,780.00		30,780.00
3	Current Expenses.....	5,000.00		6,000.00
4	Equipment	14,000.00		1,000.00
5	Total	\$ 57,030.00	\$	45,030.00

CUSTODIAL AND SERVICE

22—*Capitol Building and Grounds*

Acct. No. 270

1	Personal Services.....	\$	161,000.00	\$	161,000.00
2	Current Expenses.....		94,000.00		94,000.00
3	Repairs and Alterations.....		33,000.00		33,000.00
4	Equipment		4,500.00		4,500.00
5	Total	\$	292,500.00	\$	292,500.00
6	The above appropriation for				
7	repairs and alterations shall				
8	be expended at the discretion				
9	of the Board of Control and				
10	shall include all painting				
11	and decorating for the capitol				
12	buildings and the apartments				
13	therein.				

23—*Central Mailing Office*

Acct. No. 280

1	Personal Services.....	\$	12,620.00	\$	12,620.00
2	Current Expenses.....		58,480.00		58,120.00
3	Equipment		200.00		200.00
4	Total	\$	71,300.00	\$	70,940.00
5	The Workmen's Compensation				
6	Commission, Department of				
7	Public Assistance, West Vir-				
8	ginia Public Service Commis-				
9	sion, Conservation Commis-				
10	sion, Department of Motor				
11	Vehicles, State Road Com-				
12	mission and State Health De-				
13	partment shall reimburse the				
14	Current Expenses appropri-				
15	ation of the Central Mailing				
16	Office monthly for all meter				
17	service. Any spending unit				
18	receiving reimbursement for				

19 postage costs from the Fed-
 20 eral Government shall refund
 21 to the Current Expenses ac-
 22 count of the Central Mailing
 23 Office such amounts. Should
 24 this appropriation for Cur-
 25 rent Expense be insufficient
 26 to meet the mailing require-
 27 ments of the State spending
 28 units as set out above, any ex-
 29 cess postage meter service re-
 30 quirements shall be a proper
 31 charge against the units, and
 32 each spending unit shall re-
 33 fund to the Current Expenses
 34 appropriation of the Central
 35 Mailing Office any amounts
 36 required for that Department
 37 for postage in excess of this
 38 appropriation.

24—*Department of Purchases*

Acct. No. 290

1	Personal Services.....	\$	78,100.00	\$	78,100.00
2	Current Expenses.....		16,000.00		16,000.00
3	Equipment		1,000.000		1,000.00
4	Total	\$	95,100.00	\$	95,100.00

EDUCATIONAL

25—*Department of Education—State Aid to Schools*

Acct. No. 295

1	State aid to supplement the		
2	General School Fund.....	\$42,802,650.00	\$42,784,930.00
3	To be transferred to the gen-		
4	eral school fund upon the		
5	requisition of the Governor.		
6	To be distributed according		
7	to law except an amount not		
8	to exceed \$100,000.00 for each		

9 year of the biennium, which
10 sum shall be available to the
11 State Board of School Fi-
12 nance to aid counties in pro-
13 viding instruction for home-
14 bound physically and men-
15 tally handicapped children
16 under such rules and regula-
17 tions for instruction of home-
18 bound physically and men-
19 tally handicapped children.
20 as may be adopted by the
21 State Board of Education as
22 provided by chapter 18, arti-
23 cle 2, section 5, of the West
24 Virginia code, one thousand
25 nine hundred thirty-one, as
26 amended.

27 In making distribution of state
28 aid to counties as provided by
29 law, the state board of school
30 finance shall allocate to each
31 county state aid of not less
32 than fifty dollars for each net
33 enrolled pupil in the county.

34 From this appropriation the
35 sum of \$500,000.00 shall be
36 earmarked for sick leave ben-
37 efits for teachers, to be allo-
38 cated according to law and to
39 be spent only as provided by
40 section two-a, article seven,
41 chapter eighteen of the code,
42 which sum shall not be taken
43 into account in computing
44 the amount of temporary
45 state aid to which any county
46 may be entitled under the
47 provisions of section twelve,
48 article nine-a, chapter eight-
49 een of the code.

26—Department of Education—Textbook Aid

Acct. No. 297

1	Textbooks for Schools	\$ 200,000.00	\$ 150,000.00
2	To be distributed according to		
3	chapter 51, Acts of the Legis-		
4	lature, regular session, 1939.		

27—Teachers Retirement Board

Acct. No. 298

1	Benefit Fund — Payments to		
2	Retired Teachers	\$ 1,238,300.00	\$ 1,318,300.00
3	Expense Fund	31,100.00	30,100.00
4	Employers' Accumulation Fund		
5	—To match contribution of		
6	members	\$ 3,100,000.00	\$ 3,140,000.00
7	Total	\$ 4,369,400.00	\$ 4,488,400.00

28—West Virginia University

Acct. No. 300

1	Personal Services	\$ 3,451,510.00	\$ 3,449,510.00
2	Current Expenses	534,500.00	534,500.00
3	Repairs and Alterations	237,500.00	237,500.00
4	Equipment	232,250.00	232,250.00
5	State aid to Medical Students	62,500.00	62,500.00
6	State aid to students of Veteri-		
7	nary Medicine	8,000.00	16,000.00
8	Total	\$ 4,526,260.00	\$ 4,532,260.00
9	Out of the above appropria-		
10	tion for Personal Services		
11	there shall be available a sum		
12	not to exceed \$30,000.00 each		
13	year of the biennium for ad-		
14	dditional retirement benefits as		
15	provided by Acts of the Legis-		
16	lature, 1951.		

**29—West Virginia University—Mining and Industrial
Extension**

Acct. No. 301

1	Personal Services.....	\$	47,500.00	\$	47,500.00
2	Current Expenses.....		20,500.00		20,500.00
3	Equipment		1,000.00		1,000.00
4	Total	\$	69,000.00	\$	69,000.00

**30—West Virginia University—Agricultural, Horticultural
and Home Economics Extension**

Acct. No. 302

1	Personal Services.....	\$	88,700.00	\$	85,700.00
2	Current Expenses.....		14,670.00		14,670.00
3	Equipment		1,000.00		1,000.00
4	Total	\$	104,370.00	\$	101,370.00

5 Provided that \$6,000.00 is ap-
 6 propriated in the year 1953-54
 7 and \$6,000.00 is appropriated
 8 in the year 1954-55 out of the
 9 Personal Services item—Line
 10 1—for the employment of a
 11 Spray Specialist who shall be
 12 stationed only at the West
 13 Virginia University Experi-
 14 ment Farm at Kearneysville.
 15 Out of the above appropria-
 16 tion, under item two, an
 17 amount not to exceed \$1,-
 18 500.00 may be expended for
 19 propagation of blight resistant
 20 chestnuts.

31—West Virginia University—Jackson's Mill 4-H Camp

Acct. No. 303

1	Personal Services.....	\$	24,400.00	\$	24,400.00
2	Current Expenses.....		14,900.00		14,900.00
3	Repairs and Alterations.....		12,500.00		12,500.00

4 Equipment	4,500.00	3,450.00
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5 Total	\$ 56,300.00	\$ 55,250.00
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32—*West Virginia University—Cooperation with Oglebay
Institute*

Acct. No. 304

1 Unclassified—Total	\$ 4,000.00	\$ 4,000.00
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33—*West Virginia University—Extension Division*

Acct. No. 305

1 Personal Services	\$ 167,100.00	\$ 167,100.00
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2 Current Expenses	32,600.00	32,600.00
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3 Total	\$ 199,700.00	\$ 199,700.00
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4 To pay expenses of County		
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5 Agricultural Agents and		
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6 Home Demonstration Agents.		
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34—*West Virginia University—Engineering Experiment
Station*

Acct. No. 306

1 Personal Services	\$ 19,800.00	\$ 19,800.00
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2 Current Expenses	3,200.00	3,200.00
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3 Equipment	4,000.00	4,000.00
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4 Total	\$ 27,000.00	\$ 27,000.00
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35—*West Virginia University—Gas and Petroleum Research*

Acct. No. 309

1 Personal Services	\$ 13,000.00	\$ 13,000.00
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2 Current Expenses	3,500.00	3,500.00
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3 Equipment	2,000.00	1,000.00
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4 Total	\$ 18,500.00	\$ 17,500.00
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36—*West Virginia University—Agricultural Experiment
Station*

Acct. No. 310

1 Personal Services	\$ 124,900.00	\$ 124,900.00
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APPROPRIATIONS

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2	Current Expenses.....	17,840.00	17,840.00
3	Repairs and Alterations.....	8,000.00	6,000.00
4	Equipment	10,000.00	12,000.00
5	Total	\$ 160,740.00	\$ 160,740.00

37—West Virginia University—Experiment Farm—
Kearneysville

Acct. No. 311

1	Current Expenses.....	\$ 13,800.00	\$ 13,800.00
2	Repairs and Alterations.....	3,500.00	3,500.00
3	Equipment	7,200.00	7,200.00
4	Total	\$ 24,500.00	\$ 24,500.00

38—West Virginia University—Reymann Memorial Farm

Acct. No. 312

1	Current Expenses.....	\$ 11,000.00	\$ 11,000.00
2	Repairs and Alterations.....	3,000.00	3,000.00
3	Equipment	2,000.00	2,000.00
4	Total	\$ 16,000.00	\$ 16,000.00

39—West Virginia University—Ohio Valley Sub-Station

Acct. No. 313

1	Current Expenses.....	\$ 6,400.00	\$ 6,400.00
2	Equipment	2,500.00	2,500.00
3	Total	\$ 8,900.00	\$ 8,900.00

40—West Virginia University—Experiment Farm—Reedsville

Acct. No. 314

1	Current Expenses.....	\$ 7,000.00	\$ 7,000.00
2	Repairs and Alterations.....	5,600.00	4,600.00
3	Equipment	3,400.00	4,400.00
4	Total	\$ 16,000.00	\$ 16,000.00

41—*Potomac State College of West Virginia University*

Acct. No. 315

1	Personal Services.....	\$ 215,950.00	\$ 215,950.00
2	Current Expenses.....	37,700.00	37,500.00
3	Repairs and Alterations.....	20,900.00	20,900.00
4	Equipment	13,200.00	13,200.00
5	Total	\$ 287,750.00	\$ 287,550.00

42—*Marshall College*

Acct. No. 320

1	Personal Services.....	\$ 1,221,260.00	\$ 1,221,260.00
2	Current Expenses.....	119,740.00	118,240.00
3	Repairs and Alterations.....	51,000.00	51,000.00
4	Equipment	65,000.00	65,000.00
5	Flood Wall Assessment.....	2,200.00	2,200.00
6	Total	\$ 1,459,200.00	\$ 1,457,700.00

43—*Fairmont State College*

Acct. No. 321

1	Personal Services.....	\$ 418,340.00	\$ 418,340.00
2	Current Expenses.....	51,560.00	51,560.00
3	Repairs and Alterations.....	20,000.00	20,000.00
4	Equipment	21,000.00	21,000.00
5	Total	\$ 510,900.00	\$ 510,900.00

44—*Glenville State College*

Acct. No. 322

1	Personal Services.....	\$ 259,640.00	\$ 259,640.00
2	Current Expenses.....	36,500.00	36,400.00
3	Repairs and Alterations.....	15,000.00	15,000.00
4	Equipment	18,500.00	18,500.00
5	Total	\$ 329,640.00	\$ 329,540.00

45—*West Liberty State College*

Acct. No. 323

1	Personal Services.....	\$ 257,300.00	\$ 257,300.00
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2	Current Expenses.....	32,600.00	32,300.00
3	Repairs and Alterations.....	15,000.00	15,000.00
4	Equipment	15,000.00	15,000.00
5	Total	\$ 319,900.00	\$ 319,600.00

46—Shepherd College

Acct. No. 324

1	Personal Services.....	\$ 239,050.00	\$ 239,050.00
2	Current Expenses.....	36,000.00	36,000.00
3	Repairs and Alterations.....	16,500.00	16,500.00
4	Equipment	15,000.00	15,000.00
5	Total	\$ 306,550.00	\$ 306,550.00

47—Concord College

Acct. No. 325

1	Personal Services.....	\$ 380,400.00	\$ 380,400.00
2	Current Expenses.....	46,500.00	46,400.00
3	Repairs and Alterations.....	25,000.00	25,000.00
4	Equipment	22,000.00	22,000.00
5	Total	\$ 473,900.00	\$ 473,800.00

48—West Virginia Institute of Technology

Acct. No. 327

1	Personal Services.....	\$ 302,800.00	\$ 302,800.00
2	Current Expenses.....	50,500.00	50,000.00
3	Repairs and Alterations.....	21,500.00	21,500.00
4	Equipment	32,000.00	32,000.00
5	Total	\$ 406,800.00	\$ 406,300.00

49—West Virginia State College

Acct. No. 328

1	Personal Servies.....	\$ 640,300.00	\$ 640,300.00
2	Current Expenses.....	89,000.00	89,000.00
3	Repairs and Alterations.....	42,500.00	42,500.00
4	Equipment	52,000.00	52,000.00
5	Total	\$ 823,800.00	\$ 823,800.00

50—Bluefield State College

Acct. No. 329

1 Personal Services.....	\$ 270,100.00	\$ 270,100.00
2 Current Expenses.....	49,000.00	48,800.00
3 Repairs and Alterations.....	25,000.00	25,000.00
4 Equipment	25,000.00	25,000.00
5 Total	\$ 369,100.00	\$ 368,900.00

51—West Virginia State College—4-H Camp for Colored
Boys and Girls

Acct. No. 330

1 Personal Services.....	\$ 12,240.00	\$ 12,240.00
2 Current Expenses.....	5,000.00	5,000.00
3 Repairs and Alterations.....	3,000.00	3,000.00
4 Equipment	2,500.00	2,500.00
5 Total	\$ 22,740.00	\$ 22,740.00

52—West Virginia Schools for the Deaf and Blind

Acct. No. 333

1 Personal Services.....	\$ 282,480.00	\$ 282,480.00
2 Current Expenses.....	120,000.00	120,000.00
3 Repairs and Alterations.....	15,000.00	15,000.00
4 Equipment	15,000.00	15,000.00
5 Total	\$ 432,480.00	\$ 432,480.00

53—West Virginia School for the Colored Deaf and Blind

Acct. No. 334

1 Personal Services.....	\$ 39,790.00	\$ 39,790.00
2 Current Expenses.....	22,000.00	22,000.00
3 Repairs and Alterations.....	4,500.00	4,500.00
4 Equipment	4,000.00	4,000.00
5 Total	\$ 70,290.00	\$ 70,290.00

54—State FFA-FHA Camp and Conference Center

Acct. No. 336

1 Personal Services.....	\$ 7,400.00	\$ 7,400.00
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APPROPRIATIONS

[Ch. 1

2	Current Expenses.....	1,000.00	1,000.00
3	Repairs and Alterations.....	1,200.00	
4	Equipment	500.00	500.00
5	Total	\$ 10,100.00	\$ 8,900.00

55—*State Board of Education—Storer College*

Acct. No. 338

1	To pay Storer College for use		
2	of Plant and Facilities for		
3	West Virginia Students.....	\$ 20,000.00	\$ 20,000.00
4	To be expended by the State		
5	Board of Education on a per		
6	capita cost basis for West Vir-		
7	ginia students only.		

56—*Department of Archives and History*

Acct. No. 340

1	Personal Services.....	\$ 17,640.00	\$ 17,640.00
2	Current Expenses.....	3,700.00	3,700.00
3	Equipment	7,000.00	5,500.00
4	Total	\$ 28,340.00	\$ 26,840.00

57—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services.....	\$ 43,460.00	\$ 43,460.00
2	Current Expenses.....	10,400.00	10,400.00
3	Equipment	500.00	500.00
4	Books and Periodicals.....	30,000.00	30,000.00
5	Total	\$ 84,360.00	\$ 84,360.00

CHARITIES AND CORRECTION

58—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services.....	\$ 144,500.00	\$ 145,070.00
2	Current Expenses.....	80,000.00	80,000.00
3	Repairs and Alterations.....	10,000.00	10,000.00

4	Equipment	10,000.00	10,000.00
5	Total	\$ 244,500.00	\$ 245,070.00

59—*West Virginia Industrial School for Colored Boys*

Acct. No. 371

1	Personal Services	\$ 36,830.00	\$ 36,830.00
2	Current Expenses	28,950.00	28,950.00
3	Repairs and Alterations	4,000.00	4,000.00
4	Equipment	5,000.00	5,000.00
5	Total	\$ 74,780.00	\$ 74,780.00

60—*West Virginia Industrial Home for Girls*

Acct. No. 372

1	Personal Services	\$ 74,370.00	\$ 74,370.00
2	Current Expenses	58,400.00	58,400.00
3	Repairs and Alterations	6,500.00	6,500.00
4	Equipment	6,500.00	6,500.00
5	Total	\$ 145,770.00	\$ 145,770.00

61—*West Virginia Industrial Home for Colored Girls*

Acct. No. 373

1	Personal Services	\$ 9,310.00	\$ 9,310.00
2	Current Expenses	8,500.00	8,500.00
3	Repairs and Alterations	2,500.00	2,500.00
4	Equipment	1,200.00	1,200.00
5	Total	\$ 21,510.00	\$ 21,510.00

62—*West Virginia State Prison for Women*

Acct. No. 374

1	Personal Services	\$ 29,520.00	\$ 29,520.00
2	Current Expenses	38,000.00	38,000.00
3	Repairs and Alterations	9,300.00	4,000.00
4	Equipment	5,000.00	4,500.00
5	Total	\$ 81,820.00	\$ 76,020.00

63—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services.....	\$	435,020.00	\$	435,020.00
2	Current Expenses.....		460,000.00		460,000.00
3	Repairs and Alterations.....		25,000.00		25,000.00
4	Equipment		20,000.00		15,000.00
5	Total	\$	940,020.00	\$	935,020.00

64—*Medium Security Prison*

Acct. No. 376

1	Personal Services.....	\$	155,000.00	\$	155,000.00
2	Current Expenses.....		170,000.00		170,000.00
3	Repairs and Alterations.....		13,000.00		13,000.00
4	Equipment		15,000.00		15,000.00
5	Total	\$	353,000.00	\$	353,000.00

65—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services.....	\$	28,620.00	\$	28,620.00
2	Current Expenses.....		21,300.00		21,300.00
3	Repairs and Alterations.....		3,000.00		3,000.00
4	Equipment		1,500.00		1,500.00
5	Total	\$	54,420.00	\$	54,420.00

66—*West Virginia Colored Children's Home*

Acct. No. 381

1	Personal Services.....	\$	13,580.00	\$	13,580.00
2	Current Expenses.....		15,930.00		15,930.00
3	Repairs and Alterations.....		3,000.00		3,000.00
4	Equipment		3,000.00		3,000.00
5	Total	\$	35,510.00	\$	35,510.00

67—*West Virginia Home for Aged and Infirm Colored
Men and Women*

Acct. No. 382

1	Personal Services.....	\$	23,480.00	\$	23,480.00
2	Current Expenses.....		39,400.00		39,400.00

3	Repairs and Alterations	7,500.00	7,500.00
4	Equipment	4,500.00	4,500.00
5	Total	\$ 74,880.00	\$ 74,880.00

68—*West Virginia Training School*

Acct. No. 383

1	Personal Services	\$ 134,440.00	\$ 134,440.00
2	Current Expenses	87,900.00	87,900.00
3	Repairs and Alterations	7,500.00	7,500.00
4	Equipment	15,500.00	7,500.00
5	Total	\$ 245,340.00	\$ 237,340.00

69—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	Personal Services	\$ 149,280.00	\$ 149,280.00
2	Current Expenses	155,000.00	155,000.00
3	Repairs and Alterations	10,000.00	10,000.00
4	Equipment	7,500.00	7,500.00
5	Total	\$ 321,780.00	\$ 321,780.00

HEALTH AND WELFARE

70—*State Health Department*

Acct. No. 400

1	Personal Services	\$ 558,270.00	\$ 558,170.00
2	Current Expenses	105,000.00	104,100.00
3	Equipment	14,540.00	14,540.00
4	Cancer Control and Treatment	95,000.00	95,000.00
5	Tuberculosis Field Clinic and		
6	Nursing Service—To be ex-		
7	pected in cooperation with		
8	West Virginia Tuberculosis		
9	and Health Association	10,000.00	10,000.00
10	Out-Patient Pneumothorax		
11	Treatment	25,000.00	25,000.00
12	Hospitalization of Needy Tu-		

13	bercular Children	5,000.00	5,000.00
14	Total	\$ 812,810.00	\$ 811,810.00

71—State Water Commission

Acct. No. 401

1	Personal Services	\$ 37,380.00	\$ 37,380.00
2	Current Expenses	13,300.00	13,200.00
3	Equipment	1,500.00	1,500.00
4	For cooperation with the U. S.		
5	Geological Survey for a pro-		
6	gram of stream gauging	4,000.00	4,000.00
7	Total	\$ 56,180.00	\$ 56,080.00

72—Bureau of Negro Welfare and Statistics

Acct. No. 403

1	Personal Services	\$ 14,600.00	\$ 14,600.00
2	Current Expenses	4,000.00	3,950.00
3	Equipment	250.00	250.00
4	Total	\$ 18,850.00	\$ 18,800.00

73—West Virginia Department of Veterans Affairs

Acct. No. 404

1	Personal Services	\$ 139,820.00	\$ 139,820.00
2	Current Expenses	44,950.00	44,770.00
3	Equipment	1,950.00	1,700.00
4	To provide Educational Oppor-		
5	tunities for Children of War		
6	Veterans as provided by		
7	Chapter 39, Acts of the Leg-		
8	islature, 1943	12,500.00	12,500.00
9	Total	\$ 199,220.00	\$ 198,790.00

74—Department of Public Assistance

Acct. No. 405

1	Personal Services	\$ 850,000.00	\$ 850,000.00
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2	Current Expenses	172,000.00	172,000.00
3	Equipment	10,000.00	10,000.00
4	Public Assistance Grants (Classified Aid)	7,700,000.00	7,700,000.00
6	Aid to Crippled Children.....	300,000.00	300,000.00
7	General Medical and Hospitalization	700,000.00	700,000.00
9	Conservation of Vision and Prevention of Blindness.....	35,000.00	35,000.00
11	Child Welfare Services.....	75,000.00	75,000.00
12	General Relief	600,000.00	600,000.00
13	Boarding Care	350,000.00	350,000.00
14	Commodity Distribution	34,890.00	34,890.00
15	Merit System	11,400.00	11,400.00
16	Social Security Matching Funds	20,000.00	20,000.00
17	Total	\$10,858,290.00	\$10,858,290.00

75—Weston State Hospital

Acct. No. 420

1	Personal Services	\$ 893,980.00	\$ 893,980.00
2	Current Expenses	619,500.00	619,500.00
3	Repairs and Alterations.....	27,500.00	27,500.00
4	Equipment	22,500.00	22,500.00
5	Total	\$ 1,563,480.00	\$ 1,563,480.00

76—Spencer State Hospital

Acct. No. 421

1	Personal Services	\$ 389,740.00	\$ 389,740.00
2	Current Expenses	301,600.00	301,600.00
3	Repairs and Alterations.....	15,000.00	15,000.00
4	Equipment	12,000.00	12,000.00

5 Total

\$	718,340.00	\$	718,340.00
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6 All revenue collected by the
 7 above spending unit in excess
 8 of the amount required to pay
 9 the principal and interest on
 10 outstanding Clinic Bonds shall

- 11 be deposited to the State
12 Fund—General Revenue.

77—*Huntington State Hospital*

Acct. No. 422

1	Personal Services	\$ 505,760.00	\$ 505,760.00
2	Current Expenses	429,200.00	429,200.00
3	Repairs and Alterations.....	22,500.00	22,500.00
4	Equipment	15,000.00	15,000.00
5	Total	\$ 972,460.00	\$ 972,460.00
6	All revenue collected by the		
7	above spending unit in excess		
8	of the amount required to		
9	pay the principal and inter-		
10	est on outstanding Clinic		
11	Bonds shall be deposited to		
12	the State Fund — General		
13	Revenue.		

78—*Lakin State Hospital*

Acct. No. 423

1	Personal Services	\$ 238,600.00	\$ 238,600.00
2	Current Expenses	152,200.00	152,200.00
3	Repairs and Alterations.....	12,500.00	12,500.00
4	Equipment	10,000.00	10,000.00
5	Total	\$ 413,300.00	\$ 413,300.00

79—*Barboursville State Hospital*

Acct. No. 424

1	Personal Services	\$ 149,500.00	\$ 149,500.00
2	Current Expenses	124,600.00	124,600.00
3	Repairs and Alterations.....	8,700.00	8,700.00
4	Equipment	10,700.00	7,500.00
5	Total	\$ 293,500.00	\$ 290,300.00

80—*Fairmont Emergency Hospital*

Acct. No. 425

1	Personal Services	\$ 98,720.00	\$ 98,720.00
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2	Current Expenses	70,000.00	70,000.00
3	Repairs and Alterations.....	8,000.00	8,000.00
4	Equipment	7,500.00	6,000.00
5	Total	\$ 184,220.00	\$ 182,720.00

81—*Welch Emergency Hospital*

Acct. No. 426

1	Personal Services	\$ 102,260.00	\$ 102,260.00
2	Current Expenses	135,000.00	135,000.00
3	Repairs and Alterations.....	8,000.00	8,000.00
4	Equipment	6,500.00	6,500.00
5	Total	\$ 251,760.00	\$ 251,760.00

82—*Hopemont Sanitarium*

Acct. No. 430

1	Personal Services	\$ 399,380.00	\$ 399,380.00
2	Current Expenses	327,660.00	327,660.00
3	Repairs and Alterations.....	20,000.00	20,000.00
4	Equipment	12,500.00	12,500.00
5	Total	\$ 759,540.00	\$ 759,540.00

83—*Pinecrest Sanitarium*

Acct. No. 431

1	Personal Services	\$ 537,120.00	\$ 537,120.00
2	Current Expenses	535,750.00	535,750.00
3	Repairs and Alterations.....	30,000.00	30,000.00
4	Equipment	39,500.00	20,000.00
5	Total	\$ 1,142,370.00	\$ 1,122,870.00

84—*Denmar Sanitarium*

Acct. No. 432

1	Personal Services	\$ 155,500.00	\$ 155,500.00
2	Current Expenses.....	146,700.00	146,700.00
3	Repairs and Alterations.....	10,000.00	10,000.00

4	Equipment	10,000.00	7,500.00
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5	Total	\$ 322,200.00	\$ 319,700.00
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85—*Berkeley Springs Sanitarium*

Acct. No. 436

1	Personal Services	\$ 25,900.00	\$ 25,900.00
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2	Current Expenses	7,460.00	7,460.00
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3	Repairs and Alterations	2,500.00	2,500.00
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4	Equipment	1,500.00	1,500.00
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5	Total	\$ 37,360.00	\$ 37,360.00
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86—*Non-State Institutions*

Acct. No. 437

1	Morris Memorial Hospital	\$ 10,000.00	\$ 10,000.00
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2	Marmet Hospital, Inc.	7,500.00	7,500.00
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3	Total	\$ 17,500.00	\$ 17,500.00
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4	To be expended by the Depart-		
5	ment of Public Assistance to		
6	meet actual per capita costs		
7	for hospitalization of needy		
8	West Virginia patients at		
9	these institutions.		

87—*State Board of Education—Rehabilitation Division*

Acct. No. 440

1	Vocational Rehabilitation Serv-		
2	ices	\$ 325,000.00	\$ 325,000.00

3	To provide management and		
4	supervisory services for vend-		
5	ing stand program for the		
6	blind	7,420.00	7,420.00

7	Total	\$ 332,420.00	\$ 332,420.00
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BUSINESS AND INDUSTRIAL RELATIONS

88—*Bureau of Labor and Department of Weights and Measures*

Acct. No. 450

1	Personal Services.....	\$	193,620.00	\$	193,620.00
2	Current Expenses.....		55,000.00		55,000.00
3	Equipment		3,000.00		3,000.00
4	Total	\$	251,620.00	\$	251,620.00

89—*Department of Mines*

Acct. No. 460

1	Personal Services.....	\$	554,980.00	\$	554,980.00
2	Current Expenses.....		164,250.00		164,250.00
3	Equipment		17,000.00		17,000.00
4	Total	\$	736,230.00	\$	736,230.00

90—*Commission on Interstate Cooperation*

Acct. No. 472

1	Total	\$	8,500.00	\$	8,500.00
2	Out of the above appropriation				
3	the sum of \$6,000.00 may be				
4	made available for West Vir-				
5	ginia's membership in the				
6	Council of State Govern-				
7	ments.				

91—*Interstate Commission on Potomac River Basin*

Acct. No. 473

1	West Virginia's contribution to				
2	Potomac River Basin Inter-				
3	state Commission.....	\$	3,600.00	\$	3,600.00

92—*Ohio River Valley Water Sanitation Commission*

Acct. No. 474

1	West Virginia's contribution to				
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2	the Ohio River Valley Water			
3	Sanitation Commission.....	\$	12,250.00	\$ 12,250.00

93—Department of Banking

Acct. No. 480

1	Personal Services.....	\$	60,000.00	\$ 60,000.00
2	Current Expenses.....		26,100.00	25,800.00
3	Equipment		900.00	900.00
4	Total	\$	87,000.00	\$ 86,700.00

94—West Virginia State Aeronautics Commission

Acct. No. 485

1	Personal Services.....	\$	11,900.00	\$ 11,900.00
2	Current Expenses.....		6,000.00	6,000.00
3	Equipment		300.00	300.00
4	Total	\$	18,200.00	\$ 18,200.00

95—West Virginia Industrial and Publicity Commission

Acct. No. 486

1	Personal Services.....	\$	26,140.00	\$ 26,140.00
2	Current Expenses.....		61,300.00	61,300.00
3	Equipment		1,500.00	1,000.00
4	Total	\$	88,940.00	\$ 88,440.00

96—West Virginia Non-Intoxicating Beer Commission

Acct. No. 490

1	Personal Services	\$	111,900.00	\$ 111,900.00
2	Current Expenses.....		62,500.00	62,500.00
3	Equipment		1,000.00	1,000.00
4	Total	\$	175,400.00	\$ 175,400.00

97—West Virginia Racing Commission

Acct. No. 495

1	To pay per diem of members			
2	and other general expenses....	\$	65,000.00	\$ 65,000.00

AGRICULTURE

98—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner.....	\$	7,250.00	\$	7,250.00
2	Other Personal Services.....		136,490.00		136,490.00
3	Current Expenses.....		70,000.00		70,000.00
4	Equipment		9,000.00		9,000.00
5	For the Eradication and Preven-				
6	tion of Livestock Diseases—				
7	To be expended at the discre-				
8	tion of the Commissioner of				
9	Agriculture		118,500.00		118,500.00
10	Aid to Dairy Development Pro-				
11	gram		55,000.00		55,000.00
12	Eradication and Control of Jap-				
13	anese beetle and other plant				
14	pests		20,000.00		20,000.00
15	Total	\$	416,240.00	\$	416,240.00

99—*Department of Agriculture—Soil Conservation
Committee*

Acct. No. 512

1	To pay per diem and travel ex-				
2	penses of District Supervisors				
3	and Other General Expenses				
4	of the Soil Conservation Com-				
5	mittee	\$	50,000.00	\$	50,000.00

100—*Department of Agriculture—Marketing and Research*

Acct. No. 513

1	For cooperation with the Fed-				
2	eral Government in a pro-				
3	gram of marketing and re-				
4	search	\$	45,500.00	\$	45,500.00
5	Any part or all of this appro-				
6	priation may be transferred				
7	to Special Revenue Fund for				

- 8 the purpose of matching fed-
 9 eral funds for the above
 10 named purpose.

101—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1 Incorporated County and Dis-			
2 trict Fairs, 4-H Fairs and Ex-			
3 hibits and Vocational Agricul-			
4 tural Fairs and Exhibits.....\$	12,500.00	\$	12,500.00
5 State Agricultural Fairs and			
6 Agricultural and Industrial			
7 Exhibits	25,000.00		25,000.00
8 West Virginia State Fair.....	22,500.00		22,500.00
9 Mountain State Forest Festival	9,000.00		9,000.00
10 Total	69,000.00	\$	69,000.00
11 To be expended at the discre-			
12 tion of the Commissioner of			
13 Agriculture and in accord-			
14 ance with law.			

CONSERVATION AND DEVELOPMENT

102—*West Virginia Geological Survey*

Acct. No. 520

1 Personal Services.....\$	70,000.00	\$	70,000.00
2 Current Expenses.....	20,000.00		20,000.00
3 Equipment	3,100.00		3,100.00
4 Total	93,100.00	\$	93,100.00
5 Of the above appropriation for			
6 Current Expenses not more			
7 than \$5,000.00 may be used			
8 each year of the biennium to			
9 cooperate with the United			
10 States Geological Survey in			
11 Ground Waters Resources			
12 Study.			

103—*Conservation Commission*

Acct. No. 521

1 To match Pittman-Robertson			
2 appropriation	\$ 80,000.00	\$	80,000.00
3 Dingell-Johnson	14,000.00		14,000.00
4 Oak Wilt Control	6,000.00		6,000.00
5 Total	\$ 100,000.00	\$	100,000.00

104—*Conservation Commission—Division of State Parks*

Acct. No. 522

1 Personal Services	\$ 60,680.00	\$	70,680.00
2 Current Expenses	56,600.00		56,200.00
3 Repairs and Alterations	20,000.00		20,000.00
4 Equipment	8,960.00		8,960.00
5 Total	\$ 146,240.00	\$	155,840.00

105—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1 For cooperation with the United			
2 States Department of Agri-			
3 culture in Fire Prevention			
4 and Control	\$ 75,000.00	\$	75,000.00

106—*Point Pleasant Battle Monument Commission*

Acct. No. 561

1 For Maintenance of Historical			
2 Monument	\$ 3,200.00	\$	3,200.00

107—*Rumseyan Society*

Acct. No. 562

1 For Maintenance of Historical			
2 Monument	\$ 350.00	\$	350.00

108—*Morgan Morgan Memorial*

Acct. No. 563

1 For Maintenance of Historical			
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APPROPRIATIONS

[Ch. 1

2 Monument _____\$ 25.00 \$ 25.00

109—*Grafton G. A. R. Post*

Acct. No. 564

1 In aid of Memorial Day Patri-
 2 otic Exercises. _____\$ 1,000.00 \$ 1,000.00
 3 To be expended subject to the
 4 approval of The Board of
 5 Public Works upon presenta-
 6 tion of satisfactory plans by
 7 the Grafton G. A. R. Post,
 8 American Legion, Veterans of
 9 Foreign Wars and Sons of
 10 Veterans.

PROTECTION

110—*Department of Public Safety*

Acct. No. 570

1 Personal Services _____\$ 853,480.00 \$ 864,000.00
 2 Current Expenses _____ 556,520.00 548,520.00
 3 Repairs and Alterations _____ 17,500.00 17,500.00
 4 Equipment _____ 64,000.00 45,000.00
 5 Total _____\$ 1,491,500.00 \$ 1,475,020.00

111—*Adjutant General—State Militia*

Acct. No. 580

1 Personal Services _____\$ 56,200.00 \$ 56,200.00
 2 Current Expenses _____ 138,760.00 139,260.00
 3 Repairs and Alterations _____ 3,000.00 3,000.00
 4 Equipment _____ 4,000.00 4,000.00
 5 Compensation of Commanding
 6 Officers, Clerical Services and
 7 Care of Property _____ 73,970.00 73,970.00
 8 Total _____\$ 275,930.00 \$ 276,430.00

112—*Division of Civilian Defense*

Acct. No. 581

1 Personal Services _____\$ 15,000.00 \$ 15,000.00

2	Current Expenses.....	7,000.00	7,000.00
3	Equipment	3,500.00	3,500.00
4	Total	\$ 25,500.00	\$ 25,500.00

113—*State Armory Board*

Acct. No. 582

1	For Insurance, maintenance,		
2	repair, and equipment for		
3	state owned Armories.....	\$ 20,000.00	\$ 20,000.00

114—*State Board of Education—Insurance*

Acct. No. 584

1	Boiler Insurance Premiums.....	\$ 7,600.00	
2	To pay insurance premiums on		
3	boilers at state colleges.		
4	The above appropriation is for		
5	premiums for a three-year		
6	period.		

115—*West Virginia Board of Control—Insurance*

Acct. No. 585

1	Boiler Insurance Premiums.....	\$ 10,000.00	
2	To pay Insurance Premiums on		
3	boilers at state institutions.		
4	The above appropriation is for		
5	premiums for a three-year		
6	period.		

116—*State Board of Examiners of Accountants*

Acct. No. 586

1	To pay the per diem of mem-		
2	bers and other general ex-		
3	penses	\$ 2,000.00	\$ 2,000.00
4	From Collections.....	2,000.00	2,000.00

117—*State Board of Examiners of Registered Nurses*

Acct. No. 588

1	To pay the per diem of mem-		
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2	bers and other general ex-			
3	penses	\$	18,750.00	\$ 18,750.00
4	From Collections.....		18,750.00	18,750.00

118—*State Board of Dental Examiners*

Acct. No. 589

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	2,000.00	\$ 2,000.00
4	From Collections.....		2,000.00	2,000.00

119—*State Board of Pharmacy*

Acct. No. 590

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	12,000.00	\$ 12,000.00
4	From Collections.....		12,000.00	12,000.00

120—*State Board of Osteopathy*

Acct. No. 591

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	1,000.00	\$ 1,000.00
4	From Collections.....		1,000.00	1,000.00

121—*State Board of Optometry*

Acct. No. 592

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	2,500.00	\$ 2,500.00
4	From Collections.....		2,500.00	2,500.00

122—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses	\$	10,000.00	\$ 10,000.00
4	From Collections.....		10,000.00	10,000.00

123—*State Board of Registration for Professional Engineers*

Acct. No. 594

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 15,000.00	\$	15,000.00
4 From Collections.....	15,000.00		15,000.00

124—*State Board of Examiners for Architects*

Acct. No. 595

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 2,500.00	\$	2,500.00
4 From Collections.....	2,500.00		2,500.00

125—*State Board of Examiners for Veterinarians*

Acct. No. 596

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 500.00	\$	500.00
4 From Collections.....	500.00		500.00

126—*State Board of Law Examiners*

Acct. No. 597

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses	\$ 2,400.00	\$	2,400.00

127—*Auditor's Office—Social Security*

Acct. No. 598

1 To match contributions of state			
2 employees for social security			
3 tax	\$ 192,500.00	\$	220,000.00
4 The above appropriation is in-			
5 tended to cover the state's			
6 share of social security costs			
7 for those departments oper-			
8 ating from General Revenue			
9 Fund and General School			

10 Fund appropriations. The
 11 State Road Commission, De-
 12 partment of Motor Vehicles,
 13 Workmen's Compensation
 14 Commission, Public Service
 15 Commission, and other de-
 16 partments operating from
 17 Special Revenue Funds
 18 and/or Federal Funds shall
 19 pay their proportionate share
 20 of the social security cost
 21 for their respective divisions.
 22 Such payments may be made
 23 from the balances in the vari-
 24 ous Special Revenue Funds
 25 in excess of specific appropri-
 26 ations.

Sec. 2. *Appropriations from Other Funds.*—From the
 2 funds designated there is hereby appropriated condition-
 3 ally upon the fulfillment of the provisions set forth in
 4 chapter 39, acts of the Legislature, regular session, one
 5 thousand nine hundred thirty-nine, the following amounts,
 6 as itemized, for expenditure during the fiscal years one
 7 thousand nine hundred fifty-four and one thousand nine
 8 hundred fifty-five.

128—*Department of Agriculture*

Acct. No. 655

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	127,480.00	\$	127,480.00
2	Current Expenses and Equip-				
3	ment		60,370.00		60,370.00
4	Total	\$	187,850.00	\$	187,850.00

5 The total amount of this appro-
 6 priation shall be paid from
 7 Special Revenue Fund out of
 8 collections made by the De-
 9 partment of Agriculture as

10 provided by law. It is the
 11 intention that special funds
 12 in excess of the amounts
 13 hereby appropriated shall be
 14 made available by budget
 15 amendments upon request of
 16 the Commissioner of Agricul-
 17 ture.

129—*State Committee of Barbers and Beauticians*

Acct. No. 656

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	19,380.00	\$	19,380.00
2	Current Expenses.....		10,550.00		10,550.00
3	Total	\$	29,930.00	\$	29,930.00

4 The total amount of this appro-
 5 priation shall be paid from
 6 Special Revenue Fund out of
 7 collections made by the State
 8 Committee of Barbers and
 9 Beauticians as provided by
 10 law.

130—*Insurance Commissioner—Fire Marshal*

Acct. No. 660

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	69,220.00	\$	69,440.00
2	Current Expenses.....		27,000.00		27,000.00
3	Equipment		11,300.00		10,100.00
4	Total	\$	107,520.00	\$	106,540.00

5 The total amount of this appro-
 6 priation shall be paid from
 7 Special Revenue Fund out of
 8 collections of the special tax
 9 of one-half of one per cent of
 10 premium receipts of fire in-
 11 surance companies as pro-
 12 vided by law.

131—*Public Service Commission*

Acct. No. 661

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners.....	\$ 22,500.00	\$ 22,500.00
2	Other Personal Services.....	240,000.00	240,000.00
3	Current Expenses.....	27,000.00	27,000.00
4	Equipment	5,000.00	5,000.00

5	Total	\$ 294,500.00	\$ 294,500.00
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6 The total amount of this appropriation shall be paid from
 7 Special Revenue Fund out of
 8 collections for special license
 9 fees from public service corporations as provided by law.
 10 Out of the above appropriation
 11 \$5,000.00 may be transferred
 12 annually to the State Water
 13 Commission for use in cooperation with the U. S. Geological Survey in a program
 14 of stream gauging.

132—*Public Service Commission—Motor Carrier Division*

Acct. No. 662

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$ 149,760.00	\$ 149,760.00
2	Current Expenses.....	39,000.00	38,700.00
3	Equipment	3,500.00	3,500.00

4	Total	\$ 192,260.00	\$ 191,960.00
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5 The total amount of this appropriation shall be paid from
 6 Special Revenue Fund out of
 7 receipts collected for or by
 8 the Public Service Commission pursuant to and in the
 9 exercise of regulatory authority over motor carriers as
 10 authorized by law.

133—Conservation Commission

Acct. No. 663

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services.....	\$ 899,180.00	\$ 899,180.00
2 Current Expenses.....	410,520.00	410,520.00
3 Repairs and Alterations.....	70,000.00	70,000.00
4 Equipment	48,000.00	48,000.00
5 Building, Land and Improve-		
6 ments	21,350.00	21,350.00
7 Land Purchase.....	90,478.00	47,850.00
8 National Forests.....	92,792.00	65,000.00
9 White Pine Blister Rust Con-		
10 trol	5,000.00	5,000.00
11 Oak Wilt Control	4,000.00	4,000.00
12 For payment of bounties.....	5,000.00	5,000.00
13 For construction of ponds and		
14 small lakes.....	65,000.00	65,000.00
15 For restocking of game	45,000.00	45,000.00

16 Total	\$ 1,756,320.00	\$ 1,685,900.00
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17 The total amount of this appro-
 18 priation shall be paid from
 19 Special Revenue Fees col-
 20 lected by the Conservation
 21 Commission. Expenditures
 22 shall be limited to the
 23 amounts appropriated except
 24 for Federal Funds received
 25 and Special Funds collected
 26 at State Parks. The sum of
 27 \$5,000.00 may be transferred
 28 annually from the Current
 29 Expenses appropriation to
 30 the State Water Commission
 31 for use in cooperation with
 32 the U. S. Geological Survey
 33 in a program of stream gaug-
 34 ing.
 35 Special Funds in excess of the
 36 amounts hereby appropriated

37 may be made available by
 38 budget amendment upon re-
 39 quest of the Conservation
 40 Commission and approval
 41 of the Board of Public Works
 42 for any emergency which
 43 might arise in the operation
 44 of this Division during the
 45 biennium.

46 It is the intent of the Legisla-
 47 ture that the reductions
 48 made in the above items of
 49 appropriation shall not affect
 50 fire protection and propaga-
 51 tion of game and fish. It shall
 52 be the responsibility of the
 53 Conservation Commission to
 54 curtail other items of ex-
 55 penditure to operate within
 56 the amounts appropriated
 57 herein.

58 It is the intent of this Legisla-
 59 ture that the Conservation
 60 Commission shall not own,
 61 operate or maintain in ex-
 62 cess of one hundred ten au-
 63 tomobiles.

134—*West Virginia Liquor Control Commission*

Acct. No. 667

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of three members of		
2	the Commission.....	\$ 21,000.00	\$ 21,000.00
3	Other Personal Services.....	2,715,000.00	2,715,000.00
4	Current Expenses.....	816,000.00	816,000.00
5	Repairs and Alterations.....	17,500.00	17,500.00
6	Equipment	30,000.00	30,000.00
7	Total	\$ 3,599,500.00	\$ 3,599,500.00
8	The total amount of this appro-		

9 priation shall be paid from
10 the Special Revenue Fund
11 out of liquor revenues.

12 The above appropriation in-
13 cludes the salaries of store
14 personnel, store inspectors,
15 store operating expenses and
16 equipment, and equipment
17 for administration offices.

18 There is hereby appropriated
19 from liquor revenues, in ad-
20 dition to the above appropria-
21 tion, the necessary amount for
22 the purchase of liquor.

135—*State Road Commission—General Administration
and Engineering*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1 Personal Services.....	\$ 353,100.00	\$ 353,100.00
2 Current Expenses.....	85,000.00	85,000.00
3 Equipment	20,000.00	20,000.00

4 Total	\$ 458,100.00	\$ 458,100.00
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5 In addition to the foregoing ap-
6 propriations or claims, as au-
7 thorized by this act or by law
8 to be paid from the state road
9 fund, the balance or residue
10 of the annual receipts of the
11 state road fund are hereby
12 appropriated first for the pay-
13 ment of interest on and prin-
14 cipal of outstanding road
15 bonds, and thereafter for
16 maintenance, construction
17 and reconstruction of state
18 roads, in accordance with the
19 provisions of chapter seven-
20 teen, code of West Virginia,
21 1931 as amended.

136—Department of Motor Vehicles

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Personal Services.....	\$	490,400.00	\$	490,400.00
2	Current Expenses.....		200,000.00		200,000.00
3	Equipment		30,000.00		20,000.00
4	Total	\$	720,400.00	\$	710,400.00

137—State Board of Education

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	23,620.00	\$	23,620.00
2	Current Expenses.....		12,000.00		11,800.00
3	Equipment		500.00		500.00
4	Out-of-State aid to Negroes.....		10,000.00		10,000.00
5	Total	\$	46,120.00	\$	45,920.00

138—State Board of Education—Vocational Division

Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	23,310.00	\$	23,310.00
2	Current Expenses.....		6,700.00		6,500.00
3	Equipment		1,000.00		1,000.00
4	Vocational Aid.....		300,000.00		300,000.00
5	Total	\$	331,010.00	\$	330,810.00

139—Department of Education

Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintend-				
2	ent	\$	7,250.00	\$	7,250.00
3	Other Personal Services.....		120,930.00		120,930.00
4	Current Expenses.....		74,850.00		64,850.00
5	Equipment		2,500.00		2,500.00
6	Salaries of County Superin-				

7	tendents	62,000.00	64,000.00
8	Total	\$ 267,530.00	\$ 259,530.00

140—*State Board of School Finance*

Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 12,720.00	\$ 12,720.00
2	Current Expenses	3,600.00	3,600.00
3	Total	\$ 16,320.00	\$ 16,320.00

141—*Department of Education—Hot Lunches*

Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 37,840.00	\$ 37,840.00
2	Current Expenses	10,000.00	10,000.00
3	Aid to Counties—Includes hot		
4	lunches and canning for hot		
5	lunches	125,000.00	125,000.00
6	Total	\$ 172,840.00	\$ 172,840.00

142—*Auditor's Office—Land Department*

Acct. No. 709

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services	\$ 62,780.00	\$ 62,780.00
2	Current Expenses	2,000.00	2,000.00
3	Equipment	1,500.00	1,500.00
4	Total	\$ 66,280.00	\$ 66,280.00

143—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Personal Services	\$ 529,500.00	\$ 529,500.00
2	Current Expenses	175,500.00	250,500.00
3	Equipment	20,000.00	20,000.00
4	Total	\$ 725,000.00	\$ 800,000.00

5 There is hereby authorized to
 6 be paid out of the above ap-
 7 propriation for Current Ex-
 8 penses the amount necessary
 9 for the premiums on bonds
 10 given by the State Treasurer
 11 and bond custodian for the
 12 protection of the Workmen's
 13 Compensation Fund.

Sec. 3. *Deficiency Appropriations.* — From the State
 2 Fund, General Revenue, except as otherwise provided,
 3 there are hereby appropriated the following amounts, as
 4 itemized, for expenditure during the fiscal year one thou-
 5 sand nine hundred fifty-three to supplement the 1952-53
 6 appropriations, and to be available for expenditure upon
 7 date of passage.

144—*Circuit Courts*

Acct. No. 111

1 Salaries of Judges..... \$ 17,000.00

145—*Auditor's Office—Criminal Charges*

Acct. No. 119

1 Total \$ 25,000.00

146—*Capitol Building and Grounds*

Acct. No. 270

1 Current Expenses..... \$ 20,500.00

147—*Teachers Retirement Board*

Acct. No. 298

1 Employers' Accumulation Fund
 2 —To Match Contributions of
 3 Members \$ 376,570.00

148—*West Virginia Industrial Home for Girls*

Acct. No. 372

1 Current Expenses..... \$ 5,000.00

149—*West Virginia State Prison for Women*

Acct. No. 374

1 Current Expenses.....	\$	6,500.00
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150—*West Virginia Penitentiary*

Acct. No. 375

1 Current Expenses.....	\$	150,000.00
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151—*Medium Security Prison*

Acct. No. 376

1 Current Expenses.....	\$	25,000.00
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152—*Weston State Hospital*

Acct. No. 420

1 Current Expenses.....	\$	40,000.00
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153—*Spencer State Hospital*

Acct. No. 421

1 Personal Services.....	\$	40,000.00
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2 Current Expenses.....		46,000.00
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3 Total	\$	86,000.00
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154—*Huntington State Hospital*

Acct. No. 422

1 Current Expenses.....	\$	20,000.00
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155—*Lakin State Hospital*

Acct. No. 423

1 Personal Services.....	\$	25,000.00
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2 Current Expenses.....		16,000.00
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3 Total	\$	41,000.00
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156—*Pinecrest Sanitarium*

Acct. No. 431

1 Current Expenses.....	\$	25,000.00
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157—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1	Total	\$ 50,000.00
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158—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Other Personal Services.....	\$ 31,500.00
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159—*Department of Education*

Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Current Expenses.....	\$ 10,000.00
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Sec. 4. *Awards for Claims Against the State.*—Ap-
 2 propriations to pay awards for claims against the State as
 3 approved and certified by the State Court of Claims are for
 4 the remainder of the fiscal year 1952-53, and to remain in
 5 effect until June 30, 1955.

Claims Versus State Road Commission

TO BE PAID FROM STATE ROAD FUND

1	Andrews, Doyle.....	\$ 121.50
2	Copley, Jennie Bell.....	350.00
3	Copley, Stanley.....	50.25
4	Gill, Stanley B. and Florence L.	1,100.00
5	Higginbotham, P. O.....	600.00
6	Colonial Glass Company.....	335.35
7	Jarrell, Roger Dale, by Eugene	
8	Jarrell, his father and legal	
9	guardian	200.00
10	Meadows, O. W.....	117.18
11	Meadows, Ocie.....	150.00
12	Wilkinson, Fred N.....	50.00
13	Total	\$ 3,074.28

Claims Versus State Tax Commissioner

TO BE PAID FROM STATE ROAD FUND

1	Corbin, Frank P. d/b/a Osgood
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2	Bus Lines.....	\$	558.80
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Claims Versus State Auditor—Land Department

TO BE PAID FROM GENERAL SCHOOL FUND

1	Holliday, J. Kelvin and Kath-		
2	leen Holliday, d/b/a The Fay-		
3	ette Tribune.....	\$	76.55

Claims Versus Department of Archives and History

TO BE PAID FROM GENERAL REVENUE FUND

1	Norris, Fred W.....	\$	150.00
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Claims Versus State Adjutant General

TO BE PAID FROM GENERAL REVENUE FUND

1	Crichton, H. N. (Mrs.).....	\$	30.00
2	Esso Standard Oil Company		58.00
3	Johnson, Cora.....		30.00
4	Rich Valley Dairy Company.....		416.47
5	Stewart, Clifford S.....		79.41
6	Weekley, Margaret E.....		57.00
7	Weekley, J. C.....		608.82
8	Young, Hazen D.....		202.90

9	Total	\$	1,482.60
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Claims Versus State Board of Control

TO BE PAID FROM GENERAL REVENUE FUND

1	Bumgarner, Wallace.....	\$	2,000.00
2	Reynolds, James		550.00

3	Total	\$	2,550.00
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*Claims Versus State Board of Control**Huntington State Hospital*

TO BE PAID FROM GENERAL REVENUE FUND

1	Crichton Engineering Company	\$	2,903.00
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*Claims Versus Potomac State College of
West Virginia University*

TO BE PAID FROM GENERAL REVENUE FUND

1	Melody, Thomas.....	\$	20.00
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APPROPRIATIONS

[Ch. 1

2	Zacot, Francis.....	93.00
3	Beal, Edward.....	255.73
4	Pendegrast, Robert.....	15.00

5	Total	\$ 383.73
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Claims Versus State Tax Commissioner

TO BE PAID FROM GENERAL REVENUE FUND

1	American Oil Company.....	\$ 674.83
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*Claims Versus State Auditor**Criminal Claims Department*

TO BE PAID FROM GENERAL REVENUE FUND

1	Chambers, Thurman, Sheriff of	
2	Mingo County.....	\$ 82.40
3	Dean, James J., Sheriff of	
4	Greenbrier County.....	137.80
5	Frame, Drexell, Sheriff of Gil-	
6	mer County.....	20.00
7	Morrison, F. A., Sheriff of	
8	Mason County.....	20.20
9	Pugh, Warren W., Sheriff of	
10	Ohio County.....	63.00
11	Smith, Houston A.....	300.00
12	Wilson, Howard E., Sheriff of	
13	Clay County.....	149.70
14	Wright, Dick, Sheriff of Han-	
15	cock County.....	283.70
16	Total	\$ 1,056.80

Claims Versus State Conservation Commission

TO BE PAID FROM SPECIAL REVENUE FUND

1	Cleaver, Tressie V., admx., es-	
2	tate of Lemuel A. Cleaver,	
3	Jr., deceased.....	\$ 256.80
4	Herbaugh, Sylvia.....	75.00
5	Total	\$ 331.80

Sec. 5. Appropriations from Surplus Revenues.—The
2 following items are appropriated from the General Reve-

3 nue Fund, subject to the following terms and conditions:

4 (a) The following items are hereby appropriated and are
5 to be available for expenditure only out of the surplus in the
6 Treasury on the first day of July, 1953, or at the time release
7 or encumbrance of any such items is made, subject to the
8 conditions and limitations hereinafter expressed.

9 Before making funds available or encumbering such sur-
10 plus for expenditure hereunder, except as otherwise pro-
11 vided, The Board of Public Works shall review the revenues
12 of the state from the date that appropriations hereunder
13 are expected to be made available or encumbered for ex-
14 penditure hereunder, and determine whether, in its opinion,
15 revenues then in prospect or on hand will be sufficient to
16 meet all appropriations under this section, and make a find-
17 ing with respect thereto.

18 (b) The order in which the items of this section are named
19 does not indicate a preference as to priority of expenditure.
20 The Board of Public Works may authorize the expenditure
21 of any one or more of said items without regard to the order
22 in which they are listed.

23 (c) The amounts of the several items are suggestive, and
24 are not to be considered as absolute. The Board may revise
25 or reduce any item downward, without restriction, or elim-
26 inate it entirely, and may increase any one or more of the
27 items by not more than twenty-five per cent, so long as
28 such increases, if any, as to items so increased and released
29 do not exceed the total amount made available under this
30 section, and corresponding decreases or eliminations are
31 made to offset increases.

32 (d) Expenditures authorized, which are for construction
33 purposes, shall be for a complete and usable unit or project
34 including necessary equipment, and in any case where addi-
35 tional funds are available, by aid from a Federal Agency
36 or other source, such fact may be considered by the Board
37 in determining what items should at any time be encum-
38 bered or released for expenditure, provided, that in making
39 such release the Board shall first determine that all funds
40 available will be provided for completion of a complete and
41 usable unit or project, including necessary equipment.

42 (e) Any of the items under this section may be released
43 or encumbrances made therefor at any time after the first

44 day of July, 1953, as the Board may deem proper, subject
45 to the limitations of subsection (a) herein.

46 Subject to the foregoing conditions, the following appro-
47 priations are made for the purpose named in this
48 section:

49 Item 1: West Virginia Uni- 50 versity, to complete and equip 51 Music Building; (a part or all 52 of this appropriation may be 53 made available for expenditure 54 from date of passage of this 55 act)	\$ 170,000.00
56 Item 2: West Virginia Uni- 57 versity, to construct and 58 equip a girls' dormitory (to be 59 supplemented by funds de- 60 rived from sale of Revenue 61 Bonds)	700,000.00
62 Item 3: West Virginia Uni- 63 versity — Reymann Memorial 64 Farm, for construction of a lay- 65 ing and brooding house.....	16,000.00
66 Item 4: West Virginia Uni- 67 versity—Ohio Valley Sub-Sta- 68 tion, for construction of tobacco 69 barn	12,000.00
70 Item 5: Potomac State 71 College, for repair and renova- 72 tion and/or sprinkler system 73 for boys' dormitory.....	40,000.00
74 Item 6: Marshall College, to 75 construct and equip a girls' 76 dormitory (to be supple- 77 mented by funds derived from 78 sale of Revenue Bonds).....	325,000.00
79 Item 7: Glenville State Col- 80 lege, for major building repairs 81 and alterations.....	50,000.00
82 Item 8: West Liberty State 83 College, to construct and equip 84 a Physical Education building	500,000.00

85	Item 9: West Liberty State	
86	College, for furnishings for	
87	present girls' dormitory.....	25,000.00
88	Item 10: Shepherd College,	
89	for purchase of land from the	
90	City of Shepherdstown.....	4,000.00
91	Item 11: Concord College, to	
92	complete athletic field	85,000.00
93	Item 12: West Virginia Insti-	
94	tute of Technology: (a) for	
95	renovation and fireproofing of	
96	Old Main Building, \$115,000.00;	
97	and (b) for completion of Sci-	
98	ence Building, \$21,000.00; (a	
99	part or all of this appropriation	
100	may be made available for ex-	
101	penditure from date of passage	
102	of this act)	136,000.00
103	Item 13: West Virginia State	
104	College, for major building re-	
105	pairs and renovations.....	50,000.00
106	Item 14: West Virginia State	
107	College, to purchase equipment	
108	for new Science Building	50,500.00
109	Item 15: West Virginia State	
110	College, for purchase of land ...	21,750.00
111	Item 16: West Virginia	
112	Schools for the Deaf and Blind,	
113	for dormitory, classroom and	
114	hospital building.....	400,000.00
115	Item 17: West Virginia In-	
116	dustrial School for Boys, to	
117	construct and equip a Physical	
118	Education Building.....	225,000.00
119	Item 18: West Virginia In-	
120	dustrial Home for Girls, for	
121	major building repairs.....	25,000.00
122	Item 19: West Virginia State	
123	Prison for Women, for pur-	
124	chase of land.....	8,000.00
125	Item 20: West Virginia Peni-	

126	tentiary, for completion of new	
127	cell block and mine shaft and	
128	for fire proofing roof area of ad-	
129	ministration section; (a part or	
130	all of this appropriation may be	
131	made available for expenditure	
132	from the date of passage of this	
133	act)	300,000.00
134	Item 21: West Virginia Peni-	
135	tentiary, for purchase of land	
136	(this appropriation may be	
137	made available from date of	
138	passage of this act).....	18,000.00
139	Item 22: Medium Security	
140	Prison, to complete waterproof-	
141	ing of main building, construc-	
142	tion of pasteurization plant	
143	and equipment, and cannery	
144	building and equipment.....	57,500.00
145	Item 23: West Virginia Chil-	
146	dren's Home, for hay barn and	
147	fencing	3,500.00
148	Item 24: West Virginia Col-	
149	ored Children's Home, for in-	
150	stallation of showers and major	
151	plumbing repairs.....	10,000.00
152	Item 25: West Virginia Home	
153	for Aged and Infirm Colored	
154	Men and Women, for major	
155	building repairs.....	7,500.00
156	Item 26: West Virginia	
157	Training School, for new build-	
158	ing or buildings, including a	
159	ward building. A part of this	
160	appropriation may be used to	
161	repair administration building	500,000.00
162	Item 27: Andrew S. Rowan	
163	Memorial Home, for purchase	
164	of land and improvement of	
165	water system.....	25,000.00
166	Item 28: Weston State Hos-	

167	pital, for renovation and fire-	
168	proofing of old buildings and/or	
169	construction of new buildings	
170	to replace present structures....	1,150,000.00
171	Item 29: Spencer State Hos-	
172	pital, for renovation and fire-	
173	proofing of existing buildings....	600,000.00
174	Item 30: Huntington State	
175	Hospital, for renovation and	
176	fireproofing of old buildings	
177	and/or construction of new	
178	building to replace present	
179	structures	1,000,000.00
180	Item 31: Lakin State Hos-	
181	pital, for employees' dormitory	100,000.00
182	Item 32: Fairmont Emergen-	
183	cy Hospital, for roof repairs	
184	and to replace elevator.....	28,500.00
185	Item 33: Welch Emergency	
186	Hospital, for major building re-	
187	pairs and repairs to elevator.....	8,000.00
188	Item 34: Hopemont Sanitar-	
189	ium, for additional floors to	
190	new hospital unit; (a part or	
191	all of this appropriation may be	
192	made available for expenditure	
193	from the date of passage of this	
194	act)	400,000.00
195	Item 35: Denmar Sanitar-	
196	ium, for employees' dormitory	100,000.00
197	Item 36: Denmar Sanitar-	
198	ium, for machine shed and	
199	storage building.....	10,000.00
200	Item 37: Berkeley Springs	
201	Sanitarium, for construction of	
202	a bath house and major build-	
203	ing repairs	45,000.00
204	Item 38: State Board of Ed-	
205	ucation, for construction of a	
206	bridge at the FFA-FHA Camp	
207	and Conference Center located	

208 in Jackson County.....	55,000.00
209 Item 39: Department of Ed-	
210 ucation, for temporary supple-	
211 mental aid to counties to be	
212 distributed by the State Board	
213 of School Finance for the two	
214 year period beginning July 1,	
215 1953, in accordance with the	
216 new formula for distribution	
217 of state aid to schools.....	2,500,000.00
218 Item 40: Department of Ed-	
219 ucation, State aid to Schools,	
220 to supplement the appropria-	
221 tion for State Aid to Schools	
222 for the fiscal year 1953-54, in	
223 the amount of \$1,347,350.00, and	
224 for the fiscal year 1954-55, in	
225 the amount of \$2,165,070.00.....	3,512,420.00
226 Item 41: State Office Build-	
227 ing Commission, for payment	
228 of principal and interest due	
229 October 1, 1953, and April 1,	
230 1954, on bonds issued for con-	
231 struction of an office building	
232 at the corner of California Ave-	
233 nue and Washington Street.....	140,000.00
234 The foregoing amount to be	
235 refunded to the general reve-	
236 nue fund at such time as suf-	
237 ficient revenues have accrued	
238 to the State Office Building	
239 Commission in excess of an-	
240 nual bond requirements and	
241 operating expenses as provided	
242 in the bond resolution.	
243 Item 42: Conservation Com-	
244 mission, for the following pur-	
245 poses:	
246 (a) Construction of tele-	
247 phone line to Lost River State	
248 Park \$10,000.00; (b) construc-	

249 tion of concession building and
250 equipment and for beach im-
251 provements at Tygart Lake
252 State Park \$40,000.00; (c) to ac-
253 quire land \$10,000.00 and con-
254 struction of parking lot \$3,-
255 000.00 at Cathedral State Park;
256 (d) for Picnic Shelter, parking
257 area, additional road for one
258 way traffic to "Fall View" at
259 Blackwater Falls State Park,
260 and other improvements \$30,-
261 000.00; (e) for bath house and
262 filtering system at Greenbrier
263 State Forest \$40,000.00; (f) for
264 construction of Superintend-
265 ent's residence at Spring Run
266 Trout Hatchery \$15,000.00; (g)
267 for construction of Superin-
268 tendent's residence at Audra
269 State Park \$15,000.00; (h) for
270 improvements at Coonskin
271 Park in Kanawha County, to
272 be expended upon recommen-
273 dation of the Coonskin Park
274 Commission \$40,000.00; (i) for
275 development of new State Park
276 in Ritchie County \$30,000.00
277 (j) for development of new
278 State Park in Gilmer County
279 \$30,000.00; and (k) for im-
280 provement of Grandview State
281 Park in Raleigh County \$30,-
282 000.00

293,000.00

283 Item 43: State Armory
284 Board, for construction and/or
285 acquisition of new armories,
286 including needed land acquisi-
287 tion, and for purchase and re-
288 pair of buildings now used or
289 to be used as armories

100,000.00

290 Item 44: The Board of Pub-
291 lic Works, for an independent
292 audit of the Tax Commis-
293 sioner's Office and the Depart-
294 ment of Motor Vehicles_____

75,000.00

Sec. 6. *Reappropriations.*—The date for expiring the
2 unexpended balances, if any, in items 2, 4, 15, 19, 24, 47, 49, 50,
3 51 and 52 in the appropriations made by and under au-
4 thority of Section 5 of the 1949 Budget Act, as reappro-
5 priated by Section 6 of the 1951 Budget Act, and item
6 8 of the appropriations made by and under authority of
7 Section 5 of the 1951 Budget Act, is extended to June
8 30, 1954, and such items are hereby reappropriated from
9 their respective dates of expiration to June 30, 1954, ex-
10 cept that only \$110,000.00 of item 24 is reappropriated
11 by this section. The State Office Building Commission
12 may expend from the amount hereby reappropriated a
13 sum sufficient to cover increased costs, caused by un-
14 avoidable delay, in the construction of the State Office
15 Building presently being constructed on the corner of
16 Washington Street and California Avenue in the City of
17 Charleston. A part or all of this reappropriation may be
18 made available for expenditure for the last mentioned
19 purpose from the date of passage of this Act.

Sec. 7. *Special Revenue Appropriations.*—There is here-
2 by appropriated for expenditure during the fiscal years
3 one thousand nine hundred fifty-four and one thousand
4 nine hundred fifty-five appropriations made by general law
5 from special revenue which are not paid into the state fund
6 as general revenue under the provisions of section two,
7 article two, chapter twelve of the code of West Virginia,
8 one thousand nine hundred thirty-one: *Provided, however,*
9 That none of the moneys so appropriated by this section
10 shall be available for expenditure except in compliance
11 with and in conformity to the provisions of articles 2 and
12 3, of chapter 12, code of West Virginia, and chapter 39, acts
13 of the Legislature, regular session, one thousand nine hun-
14 dred thirty-nine, and unless the spending unit has filed
15 with the state director of the budget and the state auditor
16 prior to the beginning of each fiscal year:

17 (a) An estimate of the amount and sources of all reve-
18 nues accruing to such fund:

19 (b) A detailed expenditure schedule showing for what
20 purposes the fund is to be expended.

Sec. 8. *Appropriations Revived and Extended.*—A part
2 of an appropriation to a spending unit that remains unex-
3 pended at the end of the fiscal year one thousand nine hun-
4 dred fifty-four may, by order of the board of public works,
5 be revived and expended only to meet unforeseen contin-
6 gencies arising during the fiscal year one thousand nine
7 hundred fifty-five.

Sec. 9. *Specific Statutory Appropriations.*—Whenever the
2 specific payment of a definite sum of money is required by
3 general law such sum shall be paid from the proper item
4 appropriated by this act.

Sec. 10. *Specific Funds and Collection Accounts.* — A
2 fund or collection account, which by law is dedicated to a
3 specific use is hereby appropriated in sufficient amount to
4 meet all lawful demands upon the fund or collection ac-
5 count, and shall be expended according to the provisions
6 of article three, chapter twelve of the code of West Vir-
7 ginia, one thousand nine hundred thirty-one.

Sec. 11. *Appropriations for Refunding Erroneous Pay-
2 ments.*—Money that has been erroneously paid into the
3 state treasury is hereby appropriated out of the fund into
4 which it was paid for refund to the proper person.
5 When the officer authorized by law to collect money for
6 the state finds that a sum has been erroneously paid, he
7 shall issue his requisition upon the auditor for the refund-
8 ing of the proper amount. The auditor shall issue his war-
9 rant to the treasurer and the treasurer shall pay the war-
10 rant out of the fund into which the amount was originally
11 paid.

Sec. 12. *Contingent Fund.*—A contingent fund may be
2 expended as appropriated, with the approval of the board
3 of public works, when the expenditure will improve the
4 governmental service and care for unexpected contingencies.
5 A part of a contingent fund that remains unexpended at the

6 end of the first fiscal year shall automatically become avail-
7 able for expenditure during the second fiscal year.

8 The expenditure of the governor's civil contingent fund,
9 and the legislative contingent funds shall not be conditioned
10 upon the approval of the board of public works.

Sec. 13. *Sinking Fund Deficiencies.*—There is hereby ap-
2 propriated to the board of public works a sufficient amount
3 to meet a deficiency that may arise in the funds of the state
4 sinking fund commission because of the failure of any state
5 agency for either general obligation or revenue bonds or
6 any local taxing district for general obligation bonds to re-
7 mit funds necessary for the payment of interest and sinking
8 fund requirements. The board of public works is authorized
9 to transfer from time to time such amounts to the state sink-
10 ing fund commission as may be necessary for this purpose.
11 The state sinking fund commission shall reimburse the
12 State of West Virginia through the board of public works
13 from the first remittance collected from any state agency
14 or local taxing district for which the board of public works
15 advanced funds, with interest at the rate carried by the bonds
16 for which the advance was made.

Sec. 14. *Appropriations from Taxes and License Fees.*—
2 There is hereby appropriated from all chain store tax fees
3 and general license taxes collected by the state tax com-
4 missioner, all necessary salaries and expenses, not to ex-
5 ceed twenty-five per cent of the gross collections author-
6 ized by law to be expended in the collection of such chain
7 store tax fees and general license taxes. There is hereby
8 appropriated from the cigarette tax for administration and
9 enforcement of the law relating to said tax a sum not to
10 exceed one and one-half per cent of the tax collected or
11 stamps sold. There is hereby appropriated from the soft
12 drink tax revenues for administration and enforcement of
13 the law relating to said tax, a sum not to exceed two and
14 one-half per cent of the total revenues collected. All such
15 salaries and expenses, authorized by law as aforesaid, shall
16 be paid by the tax commissioner through the state treasurer
17 out of gross collections.

Sec. 15. *Appropriations to Pay Premiums on Bonds of*

2 *County Clerks.*—There is hereby appropriated out of the
3 general school fund, to be paid upon the requisition of the
4 auditor, a sum sufficient to pay premiums on bonds of
5 county clerks to protect funds belonging to the said gen-
6 eral school fund, and out of the special revenue fund of the
7 conservation commission, to be paid upon the requisition of
8 the director, a sum sufficient to pay premiums on bonds of
9 county clerks to protect funds belonging to the said conserva-
10 tion commission.

Sec. 16. *Appropriations to Pay Costs of Publication of*
2 *Delinquent Corporations.*—There is hereby appropriated
3 out of the state fund, general revenue, out of funds not
4 otherwise appropriated to be paid upon requisition of the
5 auditor and/or the governor, as the case may be, a sum
6 sufficient to pay the cost of publication of delinquent
7 corporations as provided by sections seventy-five and sev-
8 enty-seven of article twelve, chapter eleven, code of West
9 Virginia.

Sec. 17. *Appropriations for Local Governments.*—There is
2 hereby appropriated for payment to counties, districts, and
3 municipal corporations such amounts as will be necessary to
4 pay taxes due county, district, and municipal corporations and
5 which have been paid into the treasury:

- 6 1. For the redemption of lands;
- 7 2. By public service corporations;
- 8 3. For tax forfeitures.

Sec. 18. *Printing Costs.*—The cost of printing, binding
2 and stationery for each spending unit shall be paid from
3 the current expenses appropriation for the spending unit.
4 *Provided, however,* That no annual or biennial report of
5 any spending unit shall be printed except upon order of
6 the Governor in accordance with Chapter 5, article 1,
7 section 20, of the code of West Virginia, one thousand
8 nine hundred thirty-one, as amended: *Provided, further,*
9 That the amounts expended for printing, binding and
10 stationery shall not exceed the amounts set forth in the
11 printing and binding appendix "A" to this budget act.
12 For those spending units not listed in the appendix, ex-
13 penditures for printing, binding and stationery shall not
14 exceed the amounts approved by the board of public

15 works in the budget document. Spending units shall
16 maintain subsidiary records covering printing and bind-
17 ing which shall be subject to audit by the State Tax Com-
18 missioner.

Sec. 19. *Total Appropriation.*—Where only a total sum is
2 appropriated to a spending unit that total sum shall include
3 personal services, current expenses, and capital outlay, ex-
4 cept as otherwise provided in Title I, Section 3.

Sec. 20. *General School Fund.*—The balance of the pro-
2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropriated
4 for expenditure in accordance with section six, article nine,
5 chapter eighteen of the code of West Virginia, one thousand
6 nine hundred thirty-one, as amended.

Title 3. Administration.

Section

1. Appropriations conditional.
2. Suspension of certain acts.
3. Limitation on spending.
4. Limitation on publicity.
5. Limitation on expenditures for insurance.
6. Appropriations for supplemental retirement benefits.
7. Constitutionality.

Section 1. *Appropriations Conditional.*—The expenditures
2 of the appropriations made by this act, except those appro-
3 priations made to the legislative and judicial branches of
4 the state government, are conditioned upon the compliance
5 by the spending unit with the requirements of article five,
6 chapter five, of the code of West Virginia, one thousand nine
7 hundred thirty-one, as amended by chapter thirty-nine, acts
8 of the Legislature, regular session, one thousand nine hun-
9 dred thirty-nine.

Sec. 2. *Suspension of Certain Acts.*—A provision of an-
2 other act, or of the code of West Virginia, one thousand nine
3 hundred thirty-one, as amended, which is in conflict with
4 the provisions of this act is hereby suspended during the
5 operation of this act.

Sec. 3. *Limitation on Spending.*—The appropriations made
2 by this act are made for the maintenance and operation
3 of the departments, services, and institutions, humane, edu-

4 cational, eleemosynary, and penal, as heretofore established
5 by the Legislature, and may be expended only for the
6 maintenance and operation of the departments, services,
7 and institutions as so established. All requisitions for the
8 purchase of automobiles and all requests for transfer of
9 automobiles from one spending unit to another shall be
10 approved by the board of public works as to the neces-
11 sity and propriety therefor before any obligation is made
12 for the purchase or transfer of such equipment. No part
13 of any appropriation, including contingent and emergency
14 appropriations, made by this act for any institution, hu-
15 mane, educational, eleemosynary, or penal, shall be ex-
16 pended for any purpose or at any place other than for
17 the maintenance and operation of such institution at the
18 geographical place or location at which such institution
19 has heretofore been established by the Legislature, and
20 for no other purpose and at no other place: *Provided,*
21 *however,* That where any appropriation appears in the
22 name of an institution, the name of which has been
23 changed by an act of this session of the Legislature, the
24 funds appropriated for the old institution shall be ap-
25 plied to the institution operating under the new name
26 and succeeding to the possession of the physical plant
27 of the former institution, and any officer or person who
28 shall expend or shall participate in the expenditure of
29 any part of any appropriation made by this act in vio-
30 lation of any of the provisions hereof shall be personally
31 liable therefor. Travel expenses shall not exceed the
32 amounts listed in Appendix "B" of this act. For
33 those spending units not listed, the travel expenses shall
34 not exceed the amounts approved by the board of public
35 works in the budget document on the line entitled "Travel
36 Expenses." Gasoline, oil and repairs are not to be in-
37 cluded in this limitation unless such expenditures have
38 been combined in the budget document under "Travel
39 Expenses." Spending units shall maintain subsidiary rec-
40 ords covering travel expenses which shall be subject to
41 audit by the State Tax Commissioner. It is the intention
42 of the Legislature in making the appropriations here for
43 "Personal Services" that reductions in the amounts recom-
44 mended and approved by the Board of Public Works in the

45 budget document shall be accomplished by reduction in per-
46 sonnel and shall not prejudice the granting of normal wage
47 and salary increases recommended by the Board for all
48 employees.

Sec. 4. *Limitation on Publicity.*—Spending units other
2 than the West Virginia Industrial and Publicity Commis-
3 sion shall not expend funds appropriated to them here-
4 under, or receivable as special revenues or otherwise as
5 a result of acts of the Legislature, in advertising the state
6 as a whole, or in the employment of personnel whose
7 major duties are publicity or promotional work to that
8 end. Spending units which conduct advertising or pro-
9 motional work as a part of their functioning shall, in any
10 case where expenditures therefor exceed five hundred
11 dollars, have the program first approved by the director
12 of said commission before any expense in excess of five
13 hundred dollars in any one year is incurred: *Provided,*
14 *however,* That no funds shall be spent by any agency, unit,
15 department, state officer or employee, publicizing any in-
16 dividual, state officer or employee.

Sec. 5. *Limitation on Expenditures For Insurance.*—Not
2 more than ten per cent of the total amount which may
3 be expended from all appropriations of this act for the
4 payment of premiums on fire, casualty or fidelity insur-
5 ance shall be paid to insurance agent or agencies in any
6 one county, and of such total amount not more than five
7 per cent shall be paid to any one insurance agent or
8 agency.

Sec. 6. *Appropriations for Supplemental Retirement*
2 *Benefits.*—From the amounts appropriated for personal
3 services in the various state colleges, the board of educa-
4 tion may, at its discretion, authorize the payment of sup-
5 plemental retirement benefits as provided in section two-
6 a, article seven-a, of chapter eighteen of the Code of West
7 Virginia, one thousand nine hundred and thirty-one, as
8 amended, provided the necessary adjustments can be made
9 in personnel to provide the amount required to pay such
10 benefits: *And provided further,* That expenditures under
11 this section for the fiscal year ending June thirty, one
12 thousand nine hundred fifty-four and for the fiscal year

13 ending June thirty, one thousand nine hundred fifty-five
14 shall not exceed the following amounts for each year:

15 Marshall College, fifteen thousand dollars; Concord Col-
16 lege, five thousand dollars; Shepherd College, five thou-
17 sand dollars; Fairmont State College, five thousand dol-
18 lars; West Liberty State College, four thousand dollars;
19 West Virginia State College, four thousand dollars; Glen-
20 ville State College, three thousand dollars; Bluefield State
21 College, three thousand dollars; West Virginia Institute
22 of Technology, three thousand dollars.

Sec. 7. *Constitutionality.*—If any part of this act is de-
2 clared unconstitutional by a court of competent jurisdic-
3 tion, its decision shall not affect any portion of this act
4 which remains, but the remaining portions shall be in
5 full force and effect as if the portion declared unconstitu-
6 tional had never been a part of the act.

APPENDIX "A" TO BUDGET BILL

Biennium Beginning July 1, 1953 and ending June 30, 1955

PRINTING AND BINDING

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
123	\$ 1,000.00	\$ 900.00
150	4,500.00	4,000.00
151	4,500.00	4,000.00
160	1,000.00	900.00
180	31,500.00	45,000.00
190	450.00	400.00
210	1,575.00	7,150.00
250	2,240.00	2,000.00
298	720.00	640.00
300	31,500.00	28,000.00
301	1,080.00	960.00
302	1,350.00	1,200.00
310	900.00	800.00
315	3,140.00	2,880.00
320	13,050.00	11,600.00
321	720.00	640.00
322	1,350.00	1,200.00
323	3,150.00	2,900.00

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
324	2,700.00	2,400.00
325	1,350.00	1,200.00
327	2,250.00	2,000.00
328	1,350.00	1,200.00
329	1,800.00	1,600.00
340	2,700.00	2,400.00
375	540.00	480.00
400	8,100.00	7,200.00
401	1,350.00	1,200.00
403	270.00	240.00
404	2,250.00	2,000.00
420	1,170.00	1,000.00
421	630.00	560.00
422	540.00	480.00
430	900.00	800.00
431	720.00	640.00
450	1,800.00	1,600.00
460	16,200.00	14,400.00
480	2,700.00	2,400.00
486	13,500.00	12,000.00
490	1,350.00	1,200.00
510	6,200.00	5,700.00
520	2,250.00	2,000.00
521	45,000.00	40,000.00
580	1,350.00	1,200.00
655	5,400.00	4,800.00
660	900.00	800.00
661	2,000.00	1,800.00
662	1,350.00	1,200.00
667	18,000.00	16,000.00
670	20,500.00	18,000.00
671	112,000.00	112,000.00
700	900.00	800.00
701	1,350.00	1,200.00
703	52,000.00	42,000.00
704	540.00	480.00
705	700.00	650.00
900	4,500.00	4,000.00

APPENDIX "B" TO BUDGET BILL

Biennium Beginning July 1, 1953 and ending June 30, 1955

TRAVEL EXPENSES*

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
123 -----	\$ 32,500.00	\$ 32,500.00
151 -----	2,900.00	2,900.00
180 -----	80,000.00	80,000.00
190 -----	3,600.00	3,600.00
290 -----	2,500.00	2,500.00
315 -----	2,700.00	2,700.00
320 -----	10,800.00	10,800.00
321 -----	3,100.00	3,100.00
322 -----	1,800.00	1,800.00
323 -----	2,200.00	2,200.00
324 -----	3,300.00	3,300.00
325 -----	3,100.00	3,100.00
327 -----	3,000.00	3,000.00
329 -----	2,700.00	2,700.00
401 -----	6,000.00	6,000.00
403 -----	2,900.00	2,900.00
404 -----	24,000.00	24,000.00
450 -----	46,800.00	46,800.00
460 -----	115,000.00	115,000.00
480 -----	20,200.00	20,200.00
485 -----	1,800.00	1,800.00
486 -----	1,800.00	1,800.00
490 -----	61,000.00	61,000.00
510 -----	31,000.00	31,000.00
520 -----	4,500.00	4,500.00
580 -----	5,800.00	5,800.00
581 -----	3,800.00	3,800.00
660 -----	13,500.00	13,500.00
661 -----	7,200.00	7,200.00
670 -----	16,200.00	16,200.00
671 -----	21,000.00	21,000.00
700 -----	8,100.00	8,100.00
701 -----	15,100.00	15,100.00
703 -----	27,500.00	27,500.00
704 -----	2,500.00	2,500.00

ACCT. NO.	APPROPRIATIONS	
	1953-54	1954-55
705 -----	6,300.00	6,300.00
900 -----	37,000.00	37,000.00

* As shown in Budget Document on lines under "Travel Expense."