

THE AMERICAN LEGION  
**Mountaineer Boys State, Inc.**

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**Department of West Virginia, Inc.**

MANUAL OF GOVERNMENT



SEVENTY EIGHTH ANNUAL SESSION  
JUNE 7 - 13, 2015  
WVU JACKSON'S MILL  
WESTON, WEST VIRGINIA

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NAME (Print)

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COUNTY/COTTAGE



*Oce  
Worthington  
Smith, Jr.  
1938-2014*

This Manual is dedicated to Oce Worthington Smith, Jr. “Oce” as most people knew him, was born on January 4, 1938, in Barrackville (Marion County), West Virginia. He attended Mountaineer Boys State in 1954, and graduated from Barrackville High School in 1955.

Oce graduated from Fairmont State College with a bachelor’s degree in Education and did post-graduate work in Political Science at West Virginia University. He worked for more than 50 years in politics, though he never held an elected position. Oce served as the first Head Page of the West Virginia House of Delegates and took periodic visits to Washington D.C. to work on Capitol Hill for U.S. Senators Matthew Neely and Jennings Randolph.

Oce served as the Sergeant-at-arms of the West Virginia House of Delegates for many years beginning in 1967, and was the longest serving legislative officer in the history of West Virginia. He helped found the National Legislative Services and Security Association in the early 1970s. Oce had a half century-plus association with the *Fairmont Times West Virginian* newspaper, where he wrote personal editorial and feature columns. He frequently wrote about his experiences at Mountaineer Boys State, and brought much positive publicity to the American Legion Mountaineer Boys State program.

Oce was a television election and political analyst, and spoke in 42 states to various gubernatorial and legislative groups on behalf of the State of West Virginia.

Oce had a long tenure on the staff of Mountaineer Boys State, where he performed numerous duties. For years, he was instrumental in arranging many of the guest speakers and served as Advisor to the Boys State Legislature. Oce was a walking encyclopedia of West Virginia political history and an avid story teller. He also did an exceptional and interesting job introducing guest speakers at Boys State.

Oce passed away on October 14, 2014. Those who knew him have very fond memories of him and his antics, and Oce will be deeply missed by his Mountaineer Boys State colleagues.

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## **THE AMERICAN'S CREED**

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes. I therefore believe it is my duty to my country to love it, to support its constitution, to obey its laws, to respect its flag, and to defend it against all enemies.

(Authorized Version)

## **PLEDGE OF ALLEGIANCE TO THE FLAG**

I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## **PREAMBLE TO THE CONSTITUTION OF THE AMERICAN LEGION**

FOR God and country we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred per cent Americanism; to preserve the memories and incidents of our association in the Great Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

## **MEN OF TOMORROW**

Oh we're the men of tomorrow.

We march along in happy ranks today.

We never borrow a bit of care or grief along the way.

Gladly we're learning the things a good American should know.

Gladly we're yearning to chart the way a Patriot should go.

With lessons done, objectives won, good Citizens we'll be.

We'll proudly stand, in our homeland, where Mountaineers are free.

Men of tomorrow, good fellowship each one of us enjoys.

Men of tomorrow, a group of all American boys.

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## **GREETINGS FROM THE GOVERNOR**

As the Governor of our great state, I am pleased to welcome you to WVU Jackson's Mill State 4-H Camp for the 78th Annual Mountaineer Boys State, the second oldest charter in the nation.

You have each been selected because you are leaders in your schools and communities. As a participant, you will have the opportunity to play a part in every function of government including courts, law enforcement, boards of education and other governmental units. In addition, some may participate in banking or journalism.

Your experience here is designed to expand your knowledge beyond the traditional classroom lesson and give you the opportunity to live together as self governing Citizens. As you embark on this remarkable educational journey, I encourage you to learn all you can about your chosen career path and the role you play as a Citizen.

Please take this opportunity to cultivate new friendships while developing your leadership potential. In doing so, I am confident you will leave Mountaineer Boys State with lifelong friends and skills which will serve you and West Virginia well into the future. As a former Boys State attendee, I can tell you, what you learn here will make a lasting impact on your life and the lives of others.

I want to thank the American Legion for your continued commitment to our young men. By sponsoring Mountaineer Boys State you promote patriotism, emphasize the responsibilities of American citizenship and inspire leadership in the next generations.

Once again, welcome to the 2015 Mountaineer Boys State. You are West Virginia's future!

Warm regards,

Earl Ray Tomblin  
Governor



## WELCOME GREETING

Welcome to the 2015 American Legion Mountaineer Boys State Program. For 78 years, this program has taught your fellow West Virginians the basic principles of a democratic society, from the Town Hall to the Statehouse.

You have been recommended and selected to take part as a Citizen because of the leadership qualities and the academic standards that you have exhibited and maintained. Active participation in the American Legion Mountaineer Boys State government will help you to further develop those character traits that are essential for responsible leadership. Your experience here should help you to gain knowledge, appreciation and respect for the structure and responsible operation of our state's governments.

The American Legion pledges, in part, "to inculcate a sense of individual obligation to the community, state, and nation" and "to safeguard and transmit to posterity the principles of justice, freedom and democracy." Your selection and participation in the American Legion Mountaineer Boys State will result in another very inspiring and prestigious implementation of that pledge.

We wish each of you success, enjoyment and many fond memories of your week at the American Legion Mountaineer Boys State. Remember to arrive at camp with an open mind and a willingness to learn and participate.

Sincerely,

Fred Buchanan, Commander  
The American Legion  
Department of West Virginia

Jim Davis, Director  
The American Legion  
Mountaineer Boys State



**American Legion Mountaineer Boys State  
Chapter No. 2 Boys State Inc. of America**



**JIM DAVIS**  
Director



**RANDALL K. KOCSIS**  
Administrator



**D.L. "ROBBIE" ROBINSON**  
Assistant Director



**BOB WINES**  
Operations Administrator



# **PAST GOVERNORS OF THE AMERICAN LEGION MOUNTAINEER BOYS STATE**

Due to wartime restrictions on food and travel, Boys State was not held during 1943 and 1945, hence a Governor was not elected for those years.



**LESLIE G. REED**  
Governor 1936



**PAUL CRONIN**  
Governor 1937



**WILLIAM G. MILLER**  
Governor 1938



**RODNEY WOLFORD**  
Governor 1939



**JAMES H. FRESH**  
Governor 1940



**JACK LEE**  
Governor 1941



**RICHARD TURNER**  
Governor 1942



**TOM LANGFIH**  
Governor 1944



**DAVE DAUGHERTY**  
Governor 1946



**ELMER H. FREESE**  
Governor 1947



**DAVID HERMANDSORFER**  
Governor 1948



**HENRY "Hoppy" SHORES**  
Governor 1949



**TED RAKE**  
Governor 1950



**ROBERT MORGAN**  
Governor 1951



**JIM ST. CLAIR**  
Governor 1952



**RUSSELL A. THOM, JR.**  
Governor 1953



CHARLES F. LUCAS  
Governor 1954



BURTON A. DUDDING  
Governor 1955



JOHN FRYE  
Governor 1956



JOHN F. KILE  
Governor 1957



DEAN HUNNESHAGEN  
Governor 1958



WM. D. SHAFFER  
Governor 1959



DEAN THOMPSON  
Governor 1960



GLENN KIGER  
Governor 1961



PHILLIP J. PETERS  
Governor 1962



THOMAS I. CRAIG, JR.  
Governor 1963



TOM STEWART WAY  
Governor 1964



KERRY BETHEL JARRELL  
Governor 1965



CARL MICHAEL AKERS  
Governor 1966



MALCOLM B. LOUDON  
Governor 1967



CHARLES M. CONNOR  
Governor 1968



HARRY LAYNE HULL  
Governor 1969



VAN JETSON DANIELS  
Governor 1970



DONALD F. COPENHAVER  
Governor 1971



STEVE A. HILL  
Governor 1972



ELLIOT HICKS  
Governor 1973





CHARLES WM. LOEB, JR.  
Governor 1974



SAM MATTHEW SPENIA  
Governor 1975



CHARLES HUGHIE SMITH  
Governor 1976



JOHN ALAN WILLIS  
Governor 1977



TIMMY DEAN WHEELER  
Governor 1978



JOSEPH CARO  
Governor 1979



MARCK ZACHWIEJA  
Governor 1980



BRENT WALKER  
Governor 1981



JAMES GOOTS  
Governor 1982



JOHN GEMONDO  
Governor 1983



WILLIAM R. SPENCER, JR.  
Governor 1984



ANTHONY J. WEBSTER  
Governor 1985



TIMOTHY ABSTEN  
Governor 1986



GREG LUNSFORD  
Governor 1987



STEHEN REDD  
Governor 1988



COY FLOWERS  
Governor 1989



JOSEPH LIMER  
Governor 1990



JOSEPH TENNANT  
Governor 1991



RANDALL A. CAMPBELL  
Governor 1992



BLAIR BUSH  
Governor 1993



RONNIE WELLS  
Governor 1994



BRANDON CRAFT  
Governor 1995



WALTER GREENHOWE, JR.  
Governor 1996



MAJOR NEWSOM  
Governor 1997



PHIL HANCOCK  
Installed June 8, 1998  
Governor 1997



DWAN PERRY  
Governor 1998



STEVEN OCHAP  
Governor 1999



PATRICK KNIGHTON  
Governor 2000



MATTHEW STONESTREET  
Governor 2001



JEREMY LOCKETT  
Governor 2002



FRANK ANG  
Governor 2003



JOSEPH WELLS  
Governor 2004



AFEF AHMED  
Governor 2005



UZKAR IBRAHIM  
Governor 2006



TANNER MOORE  
Governor 2007



DANE HAMILTON  
Governor 2008



CODY STEFFICK  
Governor 2009



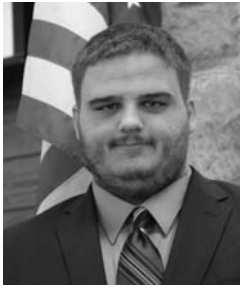
GEORGE CAPEL  
Governor 2010



NIMA RONAGHI  
Governor 2011



DAMIAN COOKE  
Governor 2012



ERIC FINCH  
Governor 2013



DANTE McCARROLL JR.  
Governor 2014

**THE AMERICAN LEGION  
MOUNTAINEER BOYS STATE PLEDGE**

This form must be completed and turned in at the time of Registration (Sunday between 9:00 a.m. and 10:30 a.m.), along with your completed and notarized Medical Certificate, Order Form, Summer Food Application, and Proposed Legislation Form). To avoid delay during the Registration process, please have this form and the other forms ready upon your arrival for Registration.

As a Citizen of The American Legion Mountaineer Boys State, I voluntarily make the following pledge:

- I will stay the entire duration of the Mountaineer Boys State Program.
- I will get written permission from the Administrator before I leave the WVU Jackson's Mill grounds, for any reason.
- I will obey the statutes, rules and regulations of the Mountaineer Boys State.
- I will protect and conserve all property of the WVU Jackson's Mill 4-H Camp, my host for the week.
- I will show proper respect to the Flag by reciting the Pledge of Allegiance and participate in the singing of the National Anthem.
- I will discharge my duties as a Citizen of Boys State with dignity and honor to my State, County, and City.
- I will adhere to the program of the State, participating in government and recreational activities as scheduled.
- I will attend the assemblies and other group meetings which are arranged for my citizenship and social development.
- I will serve my State with honor regardless of my office or position at Boys State.
- I will make reports on time and conscientiously.
- I will respect the judgment of Counselors, Directors and Administrators.
- I will not possess tobacco products, pornographic materials, any type of weapon, alcoholic beverages, or illegal drugs while at Mountaineer Boys State.
- I will e-mail, write, or call my homefolks twice during Boys State.
- I will make a report to my sponsor of my impression of Boys State soon after my return home and inform them of my activities at Boys State.
- I understand that I will be dismissed from Boys State for violating the rules of the program and or engaging in behavior that the staff believes to be disruptive and/or inappropriate and if dismissed, I understand that my school's recommending official(s) and my local American Legion Post will be notified of my dismissal.
- Above all, I will respect the rights of my fellow Citizens.

The undersigned parent(s) or guardian(s), acknowledge that we have received the information packet and have reviewed its contents. The undersigned Citizen further agrees that he will abide by the rules of the program, which he will attend for the entire week. The undersigned further agrees that if you fail to make notification in a timely manner, you or your parent(s)/legal guardian(s) will be liable for reimbursement of the \$200.00 fee. If the Citizen leaves prior to the completion of the program on Saturday, you will be required to reimburse the balance of your meal and lodging fees to Mountaineer Boys State.

Citizen Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Parent(s) or Guardian(s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address and telephone numbers: \_\_\_\_\_



# THE AMERICAN LEGION MOUNTAINEER BOYS STATE, INC.

WVU Jackson's Mill, Weston, West Virginia

## DAILY AND WEEKLY SCHEDULES

### SUNDAY

7:15 Staff Breakfast

9:00 - REGISTRATION of Citizens at Assembly Hall will begin immediately after breakfast

Assign Citizens to a political party and county cottage.

Applications for Bank, Police Academy, Homeland Security (National Guard) and Journalism (broadcast and newspaper) positions available.

Car keys turned in to GHQ in Dorsey Center to Operations Administrator. Note: Citizens have been instructed not to bring a vehicle to Jackson's Mill.

Citizens then process through Medical at Assembly Hall, leave medical certificates, and receive medical form that will allow admission to cottage. Citizen's individual photograph is taken.

Check into cottage.

(When writing, phoning, e-mailing home, advise the persons picking you up that the Final Commencement Exercise will begin promptly at 9:30 on Saturday morning and they should be seated in the Exhibition Hall no later than 9:25 a.m.)

10:30 - 12:15 - Orientation in assigned cottages. **Counselors will explain all available career paths (Political, Legal, Banking, Journalism, Law Enforcement, National Guard/Homeland Security and Office of Emergency Services).**

Regulations, responsibilities, Form county Executive committees by party, Select State

Executive committeemen by party, Select Registrar, Poll Clerks, etc. and Athletic Directors.

Counselor completes Counselor Report Form and forwards to GHQ in the Dorsey Center.

**Citizens provided with Job Application forms** and begin their completion.

Study for Bar Examination.

12:25 - INFORMATION at DINING HALL (**Bring pencil, law lecture study material and Manual of Government;** promptly assemble. Points will be deducted from Inspection scores for late arrivals and inappropriate behavior in formation).

12:30 - LUNCH to be followed by LAW LECTURE

1:45 - BAR EXAMINATION (Bring pencil, law lecture study material, and Manual of Government; Exhibition Hall, aka Livestock Unit)

Home County Photographs - immediately following Bar Exam

3:00 - 5:00 - State Police and DNR Police Applicants meet in Electric Energy Center (EEC) #5 with Advisors (Bring completed application)

National Guard Applicants meet in Electric Energy Center downstairs with Advisors (Bring completed application)

Journalism interviews – Southeastern Learning Center (SLC) right (Bring completed application)

Bank interviews – Agriculture Hall of Fame (Bring completed application)

Office of Emergency Services Applicants meet in Kanawha Center with advisors (Bring completed application)

Campaign materials available for purchase at GHQ (Dorsey) using Boys State currency. Campaigning permitted.

Prospective Band Members and Chorus Members, not involved in Job Application process, report to Assembly Hall and bring instruments.

Those not involved in above activities meet in Cottage to receive Inspection preparation instruction.

5:20 – INFORMATION AT DINING HALL (Promptly assemble. Points to be deducted from inspection scores for late arrivals and inappropriate behavior in formation.)

5:25 - FLAG LOWERING

All news items and campaign ads due. Journalism staff will be on Dining Hall porch to accept submissions.

5:30 - DINNER (After dinner, all prospective Band Members report to Assembly Hall with instruments.

**HQ STAFF PHOTO IMMEDIATELY AFTER DINNER SPEAKER IN FRONT OF DINING HALL**

Campaign materials available for purchase using Boys State currency in GHQ after HQ Staff photo.

7:00 – ASSEMBLY

Invocation, Pledge to the Flag, National Anthem, Introductions, Rules/Regulations, Mechanics of the Boys State Bank, Inspections, Boys Nation briefing, POW/MIA table, election information.

AFTER ASSEMBLY – Both State Executive Committees meet with party advisors in Assembly Hall.

Athletic Directors – Meet with Athletic Staff at Harrison Front Porch.

Journalism interviews (if necessary) – SLC **right**. (Bring completed application).

Bank interviews – (if necessary) – Agriculture Hall of Fame. (Bring completed application).

State Police, DNR Police, and National Guard meet with advisors in EEC.

Office of Emergency Services meet with advisors in Kanawha Center

**Bar Examination results available in WV Building. Advanced Legal Instruction (Law School) held for all Citizens interested in pursuing Legal Career Path at WV Building.**

File for State Offices at GHQ (Dorsey) front.

File for Board of Education, County, City, Senate, House of Delegates in your respective cottage.

NOTE: Federalists file on Blue forms, Nationalists file on Pink forms, Non-partisan candidates (State Supreme Court Justice, Circuit Judge, Magistrate) file on White forms.

Campaign materials for primary election available for purchase using Boys State currency at GHQ.

SWIMMING at POOL

10:30 – Devotions at Chapel

11:00 – ALL EVENING ACTIVITIES END.

11:10 – **ALL** Citizens shall be in their respective cottages. Individual cottage activities (meeting, devotions, etc.) left to the discretion of individual cottage Counselors and Citizens.

11:30 – **ALL** Citizens in bed and LIGHTS OUT. NO ACTIVITY permitted. Electronic communication device use policy strictly enforced. Violators subject to disciplinary action and reduction in cottage inspection scores.

## MONDAY

6:45 - Reveille and Clean Quarter/Inspection Preparation

7:50 - IN FORMATION at Dining Hall.

7:55 - FLAG RAISING

8:00 - BREAKFAST Note: Cottage Inspections during and immediately after Breakfast.

9:00 - 12:00 (NOON) – Cottage Americanism Program Representatives meet with Americanism Advisor(s) immediately after breakfast on Mount Vernon Dining Hall front porch.

File for State Elective Office in GHQ (Dorsey Center front).

9:00 - Make up Bar Examination at GHQ for all Citizens who did not take the Bar Examination on Sunday.

	9:00 - 9:35	9:35 - 9:50	9:50 – 10:25
Federalists (WV Building)	Parliamentary Procedure	Break	Leadership
Nationalists (Assembly Hall)	Leadership	Break	Parliamentary Procedure

Citizens, by political party, may file for State Offices at WV Building and Assembly Hall during breaks and after Party Caucuses.

**Citizens are encouraged to use Break time during morning informational meetings to meet fellow Citizens and participate in campaign activities.**

10:30 - 12:00 - Party Caucuses; Federalists in West Virginia Building, Nationalists in Assembly Hall  
(Party Leadership elections, platform discussions) File for State Offices at Caucus sites.

**Note: Filing for all offices ends at Noon.**

12:15 - Citizens in cottages

12:25 – IN FORMATION AT DINING HALL

12:30 – LUNCH

1:30 - 2:30 - All Citizens in Assembly Hall for Americanism Instruction

2:30 - 3:45 - Party Caucuses (Federalists in WV Building; Nationalists in Assembly Hall);  
Parties organized with Advisors, Meet the State Office Candidates

3:50 – 5:00 ADHERE TO SCHEDULE

State Police, DNR Police, and National Guard meet with Advisors in EEC

Journalism Staff organized and working (SLC **right**)

Bank Staff organized and working (Agriculture Hall of Fame)

Office of Emergency Services meet with Advisors in Kanawha Center

Athletics, Swimming

5:20 – IN FORMATION AT DINING HALL

5:25 - FLAG LOWERING

All news items and campaign ads due. Journalism staff will be on Dining Hall porch to accept submissions.

5:30 – DINNER

6:30 – 7:30

State Police, DNR Police, and National Guard meet in EEC

Journalism Staff organized and working

Bank Staff organized and working

Office of Emergency Services meet in Kanawha Center

Athletics and Swimming

7:15 – Band Practice in Assembly Hall

7:45 – ASSEMBLY - Keynote speaker, then Supreme Court Justice candidates to present; 45 seconds each

AFTER ASSEMBLY – All interested applicants for State Superintendent of Schools must have application submitted to GHQ within 30 minutes of assembly end.

**Primary and Non-Partisan Elections** - ALL Citizens PROCEED DIRECTLY TO THEIR COTTAGES TO VOTE.

**State Polls** will open at Dining Hall Basement immediately after Assembly ends and will remain open until at least 10:45 or later as announced. State Election results posted at GHQ.

Campaign material for general election available for purchase using Boys State currency at GHQ front.

10:45 – Devotions at Chapel.

11:15 (Approximately) - NEWS CONFERENCE AT GHQ TO ANNOUNCE STATE ELECTION RESULTS upon their tabulation.

11:25 – ALL EVENING ACTIVITIES END.

11:35 – ALL Citizens shall be in their respective cottages. Individual cottage activities (meeting, devotions, etc.) left to the discretion of individual cottage Counselors and Citizens.

11:45 – ALL Citizens in bed and LIGHTS OUT. NO ACTIVITY permitted. Electronic communication device use policy strictly enforced. Violators subject to disciplinary action and reduction in cottage inspection scores.

## TUESDAY

6:45 - Reveille and Clean Quarters/Inspection Preparation

7:50 - IN FORMATION at Dining Hall.

7:55 - FLAG RAISING

8:00 - Breakfast Note: Cottage Inspections during and immediately after Breakfast.

	9:00 - 9:35	9:35 - 9:50	9:50 - 10:25
Federalists (Assembly Hall)	County Govt. Overview	Break	Press Relations
Nationalists (WV Building)	Press Relations	Break	County Govt. Overview

Citizens are not permitted to post any campaign materials during the above class and break periods.

**Citizens are encouraged to use Break time during morning informational meetings to meet fellow Citizens and participate in campaign activities.**

10:25 - Nationalists proceed to College/Career Fair - Main Pavilion; Federalists proceed to WV Building

10:30 - 11:15 - Nationalists in and near the vicinity of the Main Pavilion to participate in College/Career Fair, Driver's Safety Training and static displays, as well as to meet fellow Citizens in furtherance of campaign activities.

Federalists at WV Building for driver safety instruction.

11:15 - 11:25 Nationalists proceed to WV Building; Federalists proceed to Main Pavilion.

NO CitizenS PERMITTED IN COTTAGES DURING THIS DESIGNATED TIME.

11:25 - 12:10 - Activities continue as described above.

12:25 – IN FORMATION AT DINING HALL

12:30 – LUNCH

1:45 - 2:20 - All Citizens in Assembly Hall for Legal Procedure Instruction

2:30 - 3:20 - Party Caucuses (Federalists in Assembly Hall; Nationalists in WV Building)

3:30 - 4:30 - Board of Education Members meet with advisors in WV Building

Formal Review practice for Senior Counselors, right guides, Color Guard, State Police, DNR Police, National Guard, Law Enforcement Advisors and National Guard Advisors. Meet at Exhibition Hall (aka. Livestock Unit)

Office of Emergency Services organized and working

Bank & Journalism staffs organized and working

Athletics/Swimming

4:00 - Band Practice at Assembly Hall

4:40 - FORMAL REVIEW PRACTICE (ALL COUNTIES PROMPTLY ASSEMBLE at DINING HALL)

5:20 – IN FORMATION AT DINING HALL

5:25 - Flag Lowering

All news items due. Journalism staff will be on Dining Hall porch to accept submissions.

5:30 – DINNER

6:15 – 7:15 - State Police, DNR Police, and National Guard meet with Advisors in EEC

Journalism Staff organized and working (SLC right)

Bank Staff organized and working (Agriculture Hall of Fame)

Office of Emergency Services meet with Advisors in Kanawha Center

Band Practice, Athletics, Swimming

Talent Show Auditions in West Virginia Building

7:30 - FLAG RETIREMENT CEREMONY; All Personnel present at Amphitheater.

7:45 – 9:15 ASSEMBLY

Each party allotted 25 minutes to showcase State Candidates

State Candidate debate (Questions to be asked based upon party platforms)

AFTER ASSEMBLY

**General Election** – ALL Citizens PROCEED DIRECTLY TO THEIR RESPECTIVE COTTAGES TO VOTE.

**State Polls** will open in the DINING HALL BASEMENT immediately after Assembly ends and will remain open until at least 10:45 or later as announced.

AFTER VOTING – State Police, DNR Police, and National Guard meet with Advisors in EEC

Journalism Staff organized and working (SLC right)

Bank Staff organized and working (Agriculture Hall of Fame)

Office of Emergency Services organized and working

10:45 – Devotions at Chapel.

11:15 (Approximately) - NEWS CONFERENCE AT GHQ TO ANNOUNCE STATE ELECTION RESULTS upon their tabulation.

11:25 – All evening activities end (unless otherwise announced)

11:35 (unless otherwise announced) - **ALL** Citizens shall be in their respective cottages. Individual cottage activities (meeting, devotions, etc.) left to the discretion of individual cottage Counselors and Citizens.

11:45 (or as otherwise announced) - **ALL** Citizens in bed and LIGHTS OUT. NO ACTIVITY permitted. Electronic communication device use policy strictly enforced. Violators subject to disciplinary action and reduction in cottage inspection scores.

Counselors submit unemployed forms to Unemployment Office Advisor.

## WEDNESDAY

6:45 - Reveille and Clean Quarters/Inspection Preparation. Cabin photos (official Citizen and Staff uniforms)

7:50 - INFORMATION at Dining Hall.

7:55 - FLAG RAISING

8:00 - Breakfast Note: Cottage Inspections during and immediately after Breakfast.

9:15 – 12:00 Senate and House in session in Jackson Lodge Basement

Governor and Board of Public Works meet in Jackson Lodge Basement meeting rooms

Supreme Court and Attorney General meet with advisor(s) in Harrison rear

State Police, DNR Police and National Guard meet in EEC

Legal – All Circuit Court Judges, Magistrates, Circuit Clerks, Sheriffs, Prosecuting Attorneys, and Defense Attorneys associated with scheduled court trials (both Wednesday and Thursday) meet in Assembly Hall to receive specialized instruction.

Police Chiefs (Appointed by Mayors) meet in Assembly Hall with Sheriffs

Bank and Journalism staff organized and working

County Boards of Education meet in Chapel for specialized instruction.

City and County Officials meet at the following locations for specialized instruction

County Commission – West Virginia Building

City Government – Jubilee Pavilion (beyond pool)

Assessor - Kanawha Center

County Clerk – Rotary Pavilion

Division of Motor Vehicles - Commissioner and Staff meet in Main Pavilion

All Directors of Emergency Services - Meet Life Safety Officer on Mount Vernon Dining Hall Front Porch for Fire Academy/ Instruction.

ALL Citizens needing full time employment meet with Employment Opportunity Director and Advisors at Main Picnic Pavilion (across from pool) to receive employment assignments.

Public Service Announcements by Educational Broadcasting Director and/or staff through remainder of week.

11:00 All attorneys/judges, needing to be sworn in to practice law, report to Supreme Court (Harrison rear).

DMV organized and working in Main Pavilion. (Driver's License testing, Motor Vehicle and Watercraft Registration, Insurance available for purchase, Motor Vehicle Inspections).

12:15 - ALL Citizens in cottages

12:25 - INFORMATION AT DINING HALL (NOTE: ALL Staff and Citizens in official Formal Review uniform)

12:30 - LUNCH

Immediately after LUNCH - Camp Photograph as announced.

1:45 - 2:15 - Band Practice

2:30 – INAUGURATION in Assembly Hall. Boys State Governor's Address.

3:15 – 5:15 – Law Enforcement and National Guard Scenarios, Athletics and Swimming, Band Practice.

DMV organized and working in Main Pavilion. (Driver's License testing, Motor Vehicle and Watercraft Registration, Insurance available for purchase, Motor Vehicle Inspection).

Hunter Education and Boater Education courses available from DNR in EEC

5:20 – INFORMATION AT DINING HALL

5:25 - FLAG LOWERING

All news items due. Journalism staff will be on Dining Hall porch to accept submissions.

5:30 – DINNER

6:30 – FORMAL REVIEW (Parents, Guardians, American Legion Personnel, Dignitaries, Distinguished Guests present)

ASSEMBLY – Immediately following Formal Review in Exhibition Hall (Family and Guests Welcome)

30 MINUTES AFTER ASSEMBLY ENDS – ALL BOYS STATE LAWS, INCLUDING MOTOR VEHICLE LAWS, IN EFFECT AND ENFORCED. LAW ENFORCEMENT PERSONNEL ORGANIZED AND WORKING THROUGHOUT REMAINDER OF WEEK.

Law Enforcement and National Guard Scenarios,

Bank and Journalism staffs organized and working

Office of Emergency Services organized and working

9:00 - 11:10 - Musicians and Performers gather on Marion front porch, Swimming (staff discretion)

10:45 – Devotions at Chapel.

11:10 – ALL EVENING ACTIVITIES END.

11:20 – ALL Citizens shall be in their respective cottages. Individual cottage activities (meeting, devotions, etc.) left to the discretion of individual cottage Counselors and Citizens.

11:30 – ALL Citizens in bed and LIGHTS OUT. NO ACTIVITY permitted. Electronic communication device use policy strictly enforced. Violators subject to disciplinary action and reduction in cottage inspection scores.

Counselors submit unemployed forms to Unemployment Office Advisor.

## **THURSDAY**

6:45 Reveille and Clean Quarters/Inspection Preparation

7:50 - INFORMATION AT DINING HALL

7:55 - FLAG RAISING

8:00 - BREAKFAST Note: Cottage Inspections during and immediately after Breakfast.

9:00 - 12:10 – City and County Officials meet at the following locations for specialized instruction

County Commission – West Virginia Building

City Government – Main Pavilion (across from pool)

Assessor – Kanawha Center

County Clerk – Kanawha Center

ALL CitizenS needing full time employment meet with Employment Opportunity Director and Advisors at the West Virginia Building to receive employment assignments.

Governor & Board of Public Works meet in Jackson Lodge meeting rooms.

Senate & House in session in Jackson Lodge Basement

Supreme Court in session at Chapel at Harrison rear

County School Superintendents and Boards of Education meet at Chapel

Bank and Journalism staffs organized and working

Office of Emergency Services organized and working

State Police, DNR Police at EEC (Hunter Education and Boater Education courses available)

National Guard meet in EEC

Sheriffs and Police Chiefs meet with Advisor(s) in Assembly Hall

City and County Governments organized and working in cottages after initial meetings.

Fire Training Academy for Directors of Emergency Services - Details will be provided by Staff Fire Marshal

Magistrate and Circuit Courts organized and working in cottages

DMV organized and working in Main Pavilion. (Driver's License testing, Motor Vehicle and Watercraft Registration, Insurance available for purchase, Motor Vehicle Inspections).

12:15 - ALL Citizens in Cottages

12:25 - INFORMATION AT DINING HALL

12:30 - LUNCH

1:15 – Circuit Courts in session with legal advisors present. ALL CitizenS IN ATTENDANCE

AFTER CIRCUIT COURT TRIALS – State, County, and City governments organized and working (see morning schedule for locations)

Bank and Journalism staffs organized and working

State Police, DNR Police, National Guard, Sheriffs, Police Chiefs meet in Assembly Hall for specialized instruction



4:00 - 5:00 – Athletics and Swimming

5:20 - INFORMATION AT DINING HALL

5:25 - FLAG LOWERING

All news items due. Journalism staff will be on Dining Hall porch to accept submissions.

5:30 - DINNER

6:30 - 7:30 - Government and Courts organized and working,

Bank and Journalism staffs organized and working.

Office of Emergency Services organized and working.

State Police, DNR Police, and National Guard organized, working and meeting with Advisors for further instruction in EEC.

Talent Show Auditions - All interested participants meet with Talent Show Coordinator at Assembly Hall.

Athletics and Swimming.

7:15 - Band Practice

7:45 - TOMB OF UNKNOWN CEREMONY - all personnel report to Dining Hall front.

8:00 ASSEMBLY

AFTER ASSEMBLY – Government and Courts organized and working.

Bank and Journalism staffs organized and working.

Office of Emergency Services organized and working.

State Police, DNR Police, and National Guard organized and working.

9:00 - 11:10 - Musicians and Performers gather on Marion front porch, Swimming (staff discretion).

10:45 - Devotions at Chapel.

11:10 – ALL EVENING ACTIVITIES END.

11:20 – **ALL** Citizens shall be in their respective cottages. Individual cottage activities (meeting, devotions, etc.) left to the discretion of individual cottage Counselors and Citizens.

11:30 – **ALL** Citizens in bed and LIGHTS OUT. NO ACTIVITY permitted. Electronic communication device use policy strictly enforced. Violators subject to disciplinary action and reduction in cottage inspection scores.

## **FRIDAY**

6:45 - Reveille and Clean Quarters/Inspection Preparation

7:50 - INFORMATION AT DINING HALL

7:55 - FLAG RAISING

8:00 - BREAKFAST Note: Cottage Inspections during and immediately after Breakfast.

9:00 - 12:00 – City, County, State governments, Courts, Boards of Education organized and working (See Thursday A.M. schedule)

Bank and Journalism staffs organized and working

Office of Emergency Services organized and working

State Police, DNR Police, and National Guard organized, working and meeting with Advisors for further instruction

Sheriffs and Police Chiefs meet with Advisor(s) in Assembly Hall

12:15 - ALL Citizens in Cottages

12:25 - INFORMATION AT DINING HALL

12:30 - LUNCH

1:15 - Circuit Courts in session with legal advisors present. ALL Citizens IN ATTENDANCE

4:00 - 5:00 - Final Talent Show Auditions and rehearsal in Assembly Hall

Athletics and Swimming

5:20 - INFORMATION AT DINING HALL (ALL GOVERNMENT ACTIVITIES OFFICIALLY END - Work Product Packets Turned In)

5:25 - FLAG LOWERING

All news items due. Journalism staff will be on Dining Hall porch to accept submissions.

5:30 - DINNER

6:30 - 7:45 – Athletics and Swimming

7:15 - Band Practice

8:00 - THE WEST FORK RIVER REVUE

AFTER ASSEMBLY – Citizens PROCEED DIRECTLY TO COTTAGES IN FORMATION FOR refreshments, cottage meetings and devotions.

Midnight – ALL Citizens in bed and LIGHTS OUT. NO ACTIVITY permitted. Electronic communication device use policy strictly enforced. Violators subject to disciplinary action and reduction in cottage inspection scores



**SATURDAY**

6:45 – Reveille and clean quarters

7:50 – INFORMATION AT DINING HALL

7:55 – FLAG RAISING

8:00 – BREAKFAST (Note: Final Inspection will occur during and immediately after breakfast)

8:30 – 9:15 – Prepare for departure. All luggage and belongings must be removed from the interior of all cottages and deposited on any cottage's covered porch, the Assembly Hall porch or the interior of the West Virginia Building.

9:30 – FINAL ASSEMBLY (Parents and guardians are encouraged to attend) in Exhibition Hall; Presentation of awards, honors and closing comments

11:00 – ADJOURNMENT

HAVE A SAFE TRIP HOME AND BEST WISHES IN YOUR FUTURE ENDEAVORS!

	<b>AREA 1 VOLLEYBALL SAND COURT</b>	<b>AREA 2 VOLLEYBALL HARD COURT</b>	<b>AREA 3 FRISBEE BEHIND CHAPEL</b>	<b>AREA 4 SOFTBALL MAIN FIELD</b>	<b>AREA 5 BASKETBALL BEHIND GILMER</b>
	<b>MONDAY – 3:50 - 5 p.m.</b>				
1st game	BARBOUR/WEBSTER-F UPSHUR/HARRISON-N	MONROE - F PANHANDLE - F	BRAXTON - F MONROE - N	CALHOUN/GILMER-N KANAWHA - F	CALHOUN/GILMER-F PANHANDLE - N
2nd game	LEWIS - N RANDOLPH - N	BRAXTON - N KANAWHA - N	LEWIS - F UPSHUR/HARRISON-F	MARION - N RANDOLPH - F	MARION - F BARBOUR/WEBSTER-N
	<b>MONDAY – 6:30 - 7:30 p.m.</b>				
1st game	BARBOUR/WEBSTER-N PANHANDLE - N	LEWIS -F RANDOLPH - F	BARBOUR/WEBSTER-F MONROE - F	BRAXTON - N MONROE - N	CALHOUN/GILMER-N PANHANDLE - F
2nd game	KANAWHA - F CALHOUN/GILMER-F	BRAXTON - F MARION - F	KANAWHA - N RANDOLPH - N	LEWIS - N UPSHUR/HARRISON-F	MARION - N UPSHUR/HARRISON-N
	<b>TUESDAY – 3:30 - 4:300 p.m.</b>				
1st game	UPSHUR/HARRISON-N CALHOUN/GILMER-N	MONROE - N MARION - N	MARION - F BRAXTON - N	MONROE - F CALHOUN/GILMER-F	BRAXTON - F KANAWHA - N
2nd game	LEWIS - N PANHANDLE - N	UPSHUR/HARRISON-N KANAWHA - F	PANHANDLE - F RANDOLPH - F	BARBOUR/WEBSTER-N LEWIS - F	BARBOUR/WEBSTER-F RANDOLPH - N
	<b>TUESDAY – 6:15 - 7:15 p.m.</b>				
1st game	MARION - N PANHANDLE - F	PANHANDLE - N RANDOLPH -F	CALHOUN/GILMER-F LEWIS-N	BRAXTON - F RANDOLPH - N	LEWIS - F MONROE - N
2nd game	MARION - F MONROE - F	KANAWHA - N BARBOUR/WEBSTER-N	LEWIS - N UPSHUR/HARRISON-N	BRAXTON - N BARBOUR/WEBSTER-F	UPSHUR/HARRISON-F KANAWHA - F
	<b>WEDNESDAY – 3:15 - 5:15 p.m.</b>				
1st game	KANAWHA - N MONORE - N	RANDOLPH - N UPSHUR/HARRISON-F	PANHANDLE - N BARBOUR/WEBSTER-N	PANHANDLE - F MARION - F	RANDOLPH - F MONROE - F
2nd game	UPSHUR/HARRISON-N BRAXTON - F	BARBOUR/WEBSTER-F CALHOUN/GILMER-N	KANAWHA - F MARION - N	CALHOUN/GILMER-F LEWIS - F	LEWIS - N BRAXTON - N
	<b>THURSDAY – 4 - 5 p.m.</b>				
1st game	LEWIS - F CALHOUN/GILMER-N	PANHANDLE - F BRAXTON - F	BARBOURWEBSTER-N CALHOUN/GILMER-F	PANHANDLE - N UPSHUR/HARRISON-F	BRAXTON - N KANAWHA - N
2nd game	RANDOLPH - F BARBOUR/WEBSTER-F	MONROE - F LEWIS - N	MARION - F KANAWHA - F	MARION - N UPSHUR/HARRISON-N	MONROE - N RANDOLPH - N
	<b>THURSDAY – 6:30 - 7:30 p.m.</b>				
1st game	RANDOLPH - N CALHOUN/GILMER-F	MARION - N CALHOUN/GILMER-N	BRAXTON - N RANDOLPH - F	KANAWHA - N PANHANDLE - F	MARION - F UPSHUR/HARRISON-F
2nd game	KANAWHA - F LEWIS - F	MONROE - F BARBOUR/WEBSTER-N	LEWIS - N BARBOUR/WEBSTER-F	BRAXTON - F PANHANDLE - N	UPSHUR/HARRISON-N MONROE - N
	<b>FRIDAY – 4 - 5 p.m.</b>				
	<b>TUG OF WAR - ALL CABINS - GRASS FIELD IN FRONT OF MARION COTTAGE</b>				
	<b>FRIDAY – 6:30 - 7:45 p.m.</b>				
1st game	MARION - F UPSHUR/HARRISON-F	CALHOUN/GILMER-F MONROE - N	BRAXTON - F MARION - N	MONROE - F RANDOLPH - N	CALHOUN/GILMER-N BARBOUR/WEBSTER-F
2nd game	BRAXTON - N KANAWHA - N	LEWIS - F PANHANDLE - N	UPSHUR/HARRISON-N PANHANDLE - F	LEWIS - N KANAWHA - F	RANDOLPH-F BARBOUR/WEBSTER-N

## WEBCAST SCHEDULE

Inform your parents and friends of the schedule below so they can watch  
American Legion Mountaineer Boys State LIVE at [mountaineerboysstate.org](http://mountaineerboysstate.org).

### SUNDAY

7:00 p.m. .... Assembly

### MONDAY

12:45 p.m. .... Lunch Speaker

1:30 p.m. .... Americanism Class

5:45 p.m. .... Dinner Speaker

7:45 p.m. .... Assembly

### TUESDAY

12:45 p.m. .... Lunch Speaker

5:45 p.m. .... Dinner Speaker

7:30 p.m. .... Flag Retirement Ceremony

7:45 p.m. .... Evening Assembly

11:15 p.m. .... State Election Results (approx.)

### WEDNESDAY

2:30 p.m. .... Inauguration

5:45 p.m. .... Dinner Speaker

6:30 p.m. .... Formal Review

7:00 p.m. .... Evening Assembly

### THURSDAY

9:00 a.m. .... Legislative Session

12:45 p.m. .... Lunch Speaker

5:45 p.m. .... Dinner Speaker

7:45 p.m. .... Tomb of Unknown Ceremony

8:00 p.m. .... Evening Assembly

### FRIDAY

12:45 p.m. .... Lunch Speaker

5:45 p.m. .... Dinner Speaker

8:00 p.m. .... The West Fork River Revue

### SATURDAY

9:30 a.m. .... Graduation

## SUNDAY MORNING

**Mountaineer Boys State Citizen:** Congratulations! You have made it to the American Legion Mountaineer Boys State and have joined an elite group of young men (approximately 360 annually) who have become Mountaineer Boys State Citizens since the program's beginning in 1936. You are probably reading this for the first time, on Sunday morning, at the request of your Cottage Counselor(s). Sunday morning and afternoon is known to be a hectic, busy, confusing yet exciting time. If you are feeling a little unsure of what you are about to experience, are feeling some anxiety, nervousness, etc., take comfort in knowing that is normal and nearly everyone around you is experiencing the same.

**You will only get this opportunity one time in your life so make the most of it.** It has been proven, time and time again, that those Citizens who take an active role and get involved with the program have a good experience. Those who choose not to involve themselves are setting themselves up for what could be one of the longest weeks of their life. So **GET INVOLVED!** Check out pages 32 and 33 of this Manual. All the jobs that are available at Mountaineer Boys State are listed there. Everyone will have a full time job by Wednesday morning and possibly a part-time job or two. You should know by the end of lunch today what job(s) you are interested in pursuing. **The National Guard/Homeland Security, State Police, DNR Police, Office of Emergency Services, Bank, and Journalism (Broadcast and Newspaper) will be accepting applications immediately after the Bar Examination this afternoon.** If you are interested in those positions but do not apply at the designated time and location, you will have missed your opportunity. Your Counselors have Job Applications and remember, you'll get an immediate \$1,000.00 signing bonus if you apply for and are accepted into the National Guard/Homeland Security component. You can choose to run for political office (one position at each level - State, County, City) but if you don't file for office by noon tomorrow (Monday), these opportunities will have passed you by. Don't wait until then though to start campaigning and lining up Citizens to vote for you. Your Counselors will have available "Certificate of Announcement" forms that you must use to file for County and City offices. "Certificate of Announcement" forms for state wide offices will be available at General Headquarters (GHQ) at the Dorsey Center after the evening assembly tonight.

Check out page thirty (30) of this Manual to learn about the Awards that are given at Boys State. Maybe you'd be interested in representing Mountaineer Boys State at Boys Nation later this summer. That is a great experience that only two Citizens will get the opportunity to participate in. If you are interested in this, you'll notice that you will be eligible for consideration only if you are elected to a State wide office, are elected Speaker of the House, are elected to be President of the Senate, are designated to be your respective party chairperson, or in the rarest of circumstances are recommended by a staff member for your extraordinary participation and contributions to the program.

This Manual contains nearly all of the information that you need to be successful at Mountaineer Boys State. Take the time to read it (particularly at this time on Sunday morning, this page through page 33). This manual contains explanations of nearly every position available at Boys State and the *Blue Book* that has been provided to you provides other valuable information on many positions.

Shortly, your Counselors will be having the first cottage meeting. Don't hesitate to ask any questions you may have. In all likelihood, some of your fellow Citizens have the same questions. Don't hold back, **GET INVOLVED!** After your first cottage meeting, you'll divide by political party (Nationalists and Federalists) in order to fill/elect some positions; some of which may not appear on the "Jobs List". At this time those positions will be explained.

**Athletic Director (AD):** Depending upon the size of the cottage, one or two Athletic Directors will be selected. The AD is responsible for organizing the cottage's participation at all organized athletic events and exists to assure that each cottage fields a team at the designated time. The AD is paid \$500.00 and will meet with the other Athletic Directors and the Staff Athletic Director, immediately after the evening Assembly on the front porch of Harrison cottage.

**State Rules Committee Member:** Each county or combined county (see # 31 on page 27 for a list of combined counties) will provide one Citizen per political party to serve on the State Executive Party Rules Committee. This person should be interested in providing direction on setting and carrying out policy for the political process. The State Executive Party Rules Committee determines the operation of the respective political party (Nationalist and Federalist) and establishes the method by which each party will operate up until the General Election. The benefit

of this position is that if the Citizen's political party is successful at the state office(s) level, State Rules Committee Members, as well as State Platform Committee Members, are probable choices for state appointive offices. No compensation is provided for this (the State Rules Committee Member) position and the person holding it may run for a political office (political career path) but generally will not be able to participate in the other career paths full time. Members of the State Rules Committee will meet with the Political Party Advisors, immediately after the evening assembly at the designated location (see schedule on page 13).

**State Platform Committee Member:** Each county or combined county (see #31 on page 27 for a list of combined counties) will provide one Citizen per political party to serve on the State Platform Committee. The State Platform Committee will be instrumental in establishing the issues, ideals, goals and objectives of the party. State Platform Committee Members will meet with their respective Political Party Advisors, immediately after the evening assembly, at the designated place (see schedule on page 13). Like the State Rules Committee Members, the State Platform Committee Members will receive no financial compensation for this position but may recognize the benefit of being appointed to a lucrative state position if his party is successful in the state General Election on Tuesday evening. Also, a member of the State Platform Committee may run for a political office (political career path) but generally will not be able to participate in other career paths full time.

**County Executive Committee:** Each political party in a county or combined county (see #31 on page 27 for a list of combined counties) will designate a Chairman and Vice-Chairman that will comprise the County Executive Committee. The County Executive Committee's primary responsibility is to recruit candidates, for their respective party, to fill any vacant positions that may appear on the General Ballot and to work diligently within the county to get the candidates of their party elected at the General Election. The County Executive Committee, in the event of a vacancy in a county office occupied by a member of their political party, will provide a list of qualified candidates to the County Commission for selection so that the vacancy may be filled. The members of the County Executive Committee receive no financial compensation for their efforts.

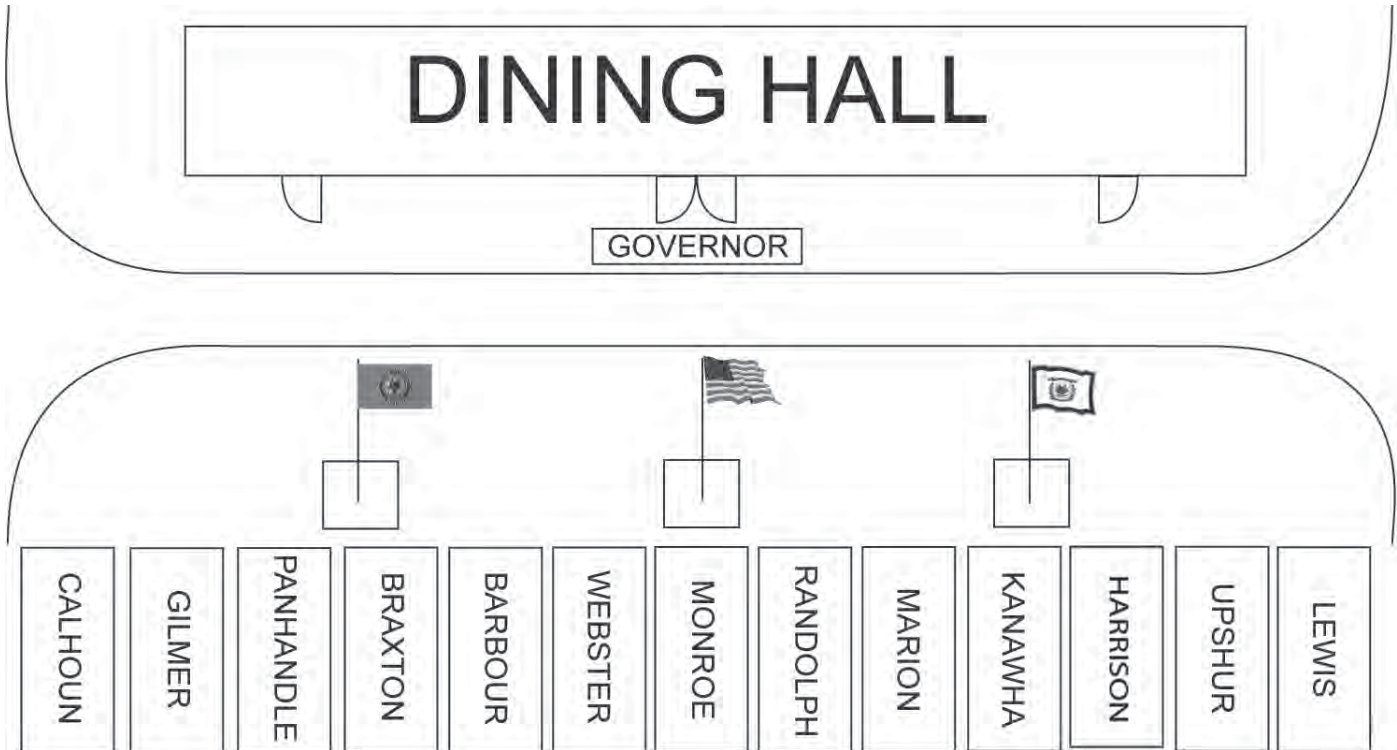
**Registrar:** Each political party in a county or combined county will designate a Registrar whose job is to maintain a list of all eligible voters, by party, for that county and works with the Poll Clerks to ensure that only qualified voters are allowed to vote. The Registrar will receive \$100.00 per election for his services and this is considered a part-time (ancillary) position.

**Ballot Commissioner:** Each political party in a county or combined county will designate at least one Ballot Commissioner and the majority political party in the county will designate two Ballot Commissioners. The job of the Ballot Commissioner is to staff the ballot box and ensure the executed ballots are collected and under the supervision of the Counselors, works with the Poll Clerks, to tabulate the ballots. One of the majority party Ballot Commissioners is also tasked with providing instruction(s) to would be voters as needed. A Ballot Commissioner receives \$100.00 per election and this is considered a part-time (ancillary) position.

**Election Commissioner:** Each political party in a county or combined county will designate an Election Commissioner who is paid \$100.00 per election to certify that his party's portion of the ballot is accurate and inclusive of all candidates. The Election Commissioner is a part-time (ancillary) position.

**Poll Clerks:** Each political party in a county will designate one Poll Clerk whose job is to work with the Registrar to provide ballot(s) only to qualified voters and under the supervision of the Counselors tabulates the ballots. He will be paid \$100.00, per election, for performing this part-time (ancillary duty).

## DINING HALL SCHEDULE



### GENERAL INSTRUCTIONS

1. Each cottage must have a leader on entering the Dining Hall and a rear guard, who are responsible for seeing that their cottage enters the assigned entrance in proper order as listed above.
2. **In no case will unauthorized Citizens be permitted on the Dining Hall porch until the doors are opened and everyone is marching in.**
3. No Citizen will be allowed to enter the Dining Hall unless in full uniform. This means trousers or appropriate short pants and Boys State shirt. No swimming trunks may be worn in the Dining Hall.
4. Counselors will sit at the head of the tables and be responsible for the conduct of Citizens at their tables.
5. Everyone should remain standing until everyone has entered the Dining Hall and "grace" has been said.
6. **Unless announced otherwise by the Officer of the Day, it is presumed that there will be an after meal speaker and all Citizens shall return to their seats after they have deposited their plates and utensils at a collection station.**
7. Each Citizen is responsible for taking dishes to the collection stations after eating.
8. In getting additional food, the Citizen who takes the last piece of bread on the plate, or last portion of any food, has the responsibility of going to the kitchen for a refill.
9. Whistling, yelling, loud talking, and unmannerly conduct are not permitted. All persons should conduct themselves as if they were eating at the table in their respective homes.
12. ORDER OF ENTRY(beginning Sunday Lunch)
  - Right Entrance: Lewis, Upshur, Harrison, Kanawha
  - Center Entrance: Marion, Randolph, Monroe, Webster, Barbour
  - Left Entrance: Braxton, Panhandle, Gilmer, Calhoun

The above order of entry will remain the same order throughout the week. However, each day, the second cottage in entry from the previous day will assume the lead entry position for that day for all meals.



## INSPECTION

A daily inspection of quarters will be conducted by the Inspection Staff during and immediately after Breakfast on Monday - Saturday. The following items will be evaluated:

Bed Uniformity	Window Shade Uniformity	Clothing Stored Properly
Bedroom Floors Clean	Aisle & Fire Escapes Clear	Restroom Floors Mopped & Dry
Restroom Mirrors & Shelves Clean	Toilet Lids Up	Toilet Paper Uniform
Restrooms Clear of Personal Items (soap, towels, shampoo, etc.) <i>NOTE: Restroom sinks, showers and toilets will be cleaned and disinfected by WVU Jackson's Mill Staff and not by Citizens.</i>		
Garbage Cans Empty	Lawns, Porches & Cabin Perimeter clean	

Counselors are prohibited from cleaning cabins and, if detected, will incur an immediate reduction of the daily inspection score by twenty (20) percentage points.

One (1) percentage point will be deducted for each infraction (except for Counselors cleaning which will result in the deducting of twenty (20) percentage points), and the inspection scores will be provided to the Fugitt Award Coordinator. The cabins will not be provided specific inspection scores throughout the week but will be provided with a Daily Evaluation Sheet that designates items that are satisfactory and those that need improvement.

The Inspection staff will notify the Senior Counselor and involved cottage(s) of significant recurring deficiencies so that corrective action can be taken. At any time, a cottage may request the inspection staff's assistance/guidance in resolving deficiencies.

## RULES, REGULATIONS AND ADMINISTRATIVE INFORMATION

1. The purpose of The American Legion Mountaineer Boys State is to teach good government through participation. The first two days will be spent in training for organization of a state government, 10 county governments and 10 city governments. The American Legion Mountaineer Boys State officials then take over for the remainder of the week and govern their State as the 51st State of the Union.

2. Counties and municipalities are as follows, and the political majority of the County Court is shown below (for purpose of appointing election officials).

County .....	City	County .....	City
Barbour/Webster-Federalist.....	Webster Springs	Marion-Nationalist.....	Fairmont
Braxton-Federalist .....	Sutton	Harrison/Upshur-Nationalist.....	Buckhannon
Calhoun/Gilmer-Nationalist .....	Glenville	Monroe-Nationalist.....	Union
Kanawha-Federalist.....	Charleston	Panhandle-Federalist.....	Ellwood City
Lewis-Federalist .....	Weston	Randolph-Federalist.....	Elkins

3. Your political party will depend upon your Registration Number, that is whether it is odd or even and your County Counselor will so inform you.

4. The Staff member in charge of elections will serve as Secretary of State at GHQ (Dorsey Center) until a Citizen is elected at the general election to this position. The Chief Legislative Advisor will serve as the Legislature until the Citizen Legislature is elected at the general election.

5. The Counselors in each county will assume full responsibility in the organization of their county governments. They will serve as county court, county clerk, prosecuting attorney, circuit judge, circuit clerk, mayor, city clerk, city council, notary or any other necessary official until Citizens are elected or appointed to these positions.

6. The Chief Legal Advisor will act as the Supreme Court of Appeals until such court is elected.

7. Special problems for which Counselors are not in position to assume responsibility will be referred to the Administrator of The American Legion Mountaineer Boys State.

8. Each county will have a magistrate. Each city will have a municipal court. There will be 5 circuit courts,

depending upon availability of legal Counselors and there will be a State Supreme Court.

9. All Judges, the Attorney General, Prosecuting Attorneys and all attorneys, in order to qualify, must take and pass the bar examination. An attorney will be permitted to practice law in The American Legion Mountaineer Boys State and to hang out his "shingle" on condition that he successfully passes the bar examination and takes the appropriate oath before the Supreme Court. Circuit Clerks and Magistrates are urged to qualify as attorneys. However, one is not required to successfully pass the Bar Examination to be eligible to hold the offices of Circuit Clerk and Magistrate.
10. County Counselors will guide judges/magistrates, sheriffs, and other officers on the form and extent of punishment. No money fines (other than in Mountaineer Boys State currency) will be imposed. Sentences of confinement to the Mountaineer Boys State Jail/Prison must be according to established protocol under the guidance of the cottage Senior Counselor and Jail/Prison staff advisor in coordination with the Division of Corrections Commissioner and his staff of Corrections Officers.
11. By act of The American Legion Mountaineer Boys State Legislature it is unlawful for Citizens to bring into the camp, or use there, campaign literature, placards or campaign material of any kind prepared before entering camp. Preparation of material must be done during free periods and not on time scheduled for regular activities. All campaign materials must be issued and approved by the materials section of the headquarters staff.
12. Laws and regulations of The American Legion Mountaineer Boys State, the State of West Virginia, and the State Four-H Camp at WVU Jackson's Mill will be enforced by ALL Staff and officials State, County, Municipal, State Police, DNR Police, Sheriffs, County Officers, etc. "OBEDIENCE TO LAW IS LIBERTY."
13. Boys State Law Enforcement Personnel (State Police, DNR Police, Sheriffs and Deputies, Police Chiefs and Officers) have jurisdiction in Boys State on a parallel with Law Enforcement Personnel in West Virginia. Courtesy to visitors and good judgment within the State will add to the success of the week. Courtesy cards usually mean more in Boys State than arrests. Also, the Boys State Law Enforcement Personnel, under the guidance of the cottage Counselors are requested to care for their own cottages after "taps". Good will among Citizens is better than "authority".
14. Boys State Troopers and the Boys State Superintendent of the Department of Public Safety, as well as Boys State DNR Police and the Colonel of the DNR Law Enforcement Section, will become eligible to serve in the aforesaid positions on condition that they successfully pass the Public Safety tests, and they receive the recommendation of the law enforcement advisors. The Public Safety tests will be part of the special instruction conducted on Monday, Tuesday, and Wednesday by representatives of West Virginia Department of Public Safety and Division of Natural Resources, Law Enforcement Section.
15. The Boys State Superintendent of the Department of Public Safety (Colonel) and the DNR Law Enforcement Section Colonel, will be selected by the Boys State Governor, with the advice and consent of the Boys State Senate, from an eligible list prepared by the law enforcement advisors. All Boys State Troopers and DNR Police will attend all regular sessions with their county for instruction on all divisions of government.
16. The evening assemblies begin after 7:00 p.m. They will consist of high type of addresses, Citizen participation and entertainment.
17. It is essential that classes and programs start on time and that they not be interrupted by late entrants.
18. All Citizens will participate in recreation of some nature as scheduled. Citizens will not be permitted to sleep or loiter around the cottages during the afternoon recreation hours or during government periods.
19. No practicing or playing of games will be permitted during government periods. Also, there shall be no loitering about grounds prior to recreation periods.
20. Band and Chorus exist and Citizens should join at the outset in the organization in which they have an interest. These groups will appear on the Assembly Programs and participants receive compensation in Boys State Currency (\$100.00 per performance).
21. Boys State is not military. There will be no military drill, as such, or for punishment purposes. However, formal flag raising and retreat will be observed. Also we will march in columns of "three," to meals and to all assemblies as a method of maintaining a necessary rhythm to good government and as a means of "checking in" on 100 per cent attendance.

22. There will be **NO POSSESSION/CONSUMPTION OF ALCOHOLIC BEVERAGES OR GAMBLING** in connection with The American Legion Mountaineer Boys State. **POSSESSION and/or USE OF TOBACCO PRODUCTS AND POSSESSION and/or viewing OF PORNOGRAPHIC MATERIALS IS STRICTLY PROHIBITED.** Violations of this section will result in a Citizen's immediate dismissal from Boys State.
23. Three or more roll calls will be made daily in every county. (More may be taken if the Counselors desire). Numbers, instead of names will facilitate the roll calls. The County Clerk is charged with making these roll calls under the direction of the County Counselors. **ABSENCE** must be filed with the Administrator **IMMEDIATELY** following each roll call. This is a safety measure. If a boy is not present we need to know where he is. Deliberate or accidental cause of absence needs immediate attention.
24. The Chief Inspector and his assistant(s) will inspect all County cottages daily and advise the cottages and the Senior Counselor of findings. All Citizens are required to clean cottages and uniformly make beds.
25. WVU Jackson's Mill is State property. Great care will be exercised to protect our heritage. Beds, pillows, bed clothing, tables, lights and other equipment belong to the State of West Virginia. Our permanency as an institution at WVU Jackson's Mill is determined by our actions. All such equipment will be checked by County Counselors before, throughout, and immediately prior to the close of camp.
26. *The Mountaineer* daily newspaper will be published by an efficient staff. Save your copies of *The Mountaineer* to take home with you for future reference.
27. Each Citizen, prior to his departure from Boys State will write a letter to his sponsoring organization advising of his activities and upon his return home from The American Legion Mountaineer Boys State, will make himself available to provide a report before the organization which sponsored him. This is an obligation which should not be overlooked and goes a long way in assuring continued support by the sponsoring organizations.
28. Citizens are requested to communicate home often. (Letters, cards, e-mail, phone calls will suffice) Sponsors should be notified of the "offices" held by the Citizens. Citizens should also inform their local newspapers promptly of their activities. Citizens will be provided with a "Press Release" form in their graduation packet to assist in notifying local media upon return to their hometowns.
29. Every illness or injury, no matter how slight, must be reported at once, or at the next sick call to the medical staff.
30. **VISITOR MEAL TICKETS.** Please inform all visitors that meal tickets can be secured at GHQ (Dorsey Center). **ONLY THOSE WHO PARTICIPATE IN THE PROGRAM WILL BE GIVEN "COMPLIMENTARY" TICKETS.** Legionnaires, wives, friends, parents, notables not on program, etc., will be directed to purchase tickets. See Operations Administrator at GHQ (Dorsey Center).
31. For the purposes of County Government, City Government and the Board of Education, the following cottages are "combined": Barbour/Webster; Harrison/Upshur; Calhoun/Gilmer. At least one (1) Board of Education member shall be elected from each cottage. At least one (1) County Commissioner shall be elected from each cottage. At least one (1) City Councilman shall be elected from each cottage. The "combined" cottages shall elect two (2) Senators with one coming from each cottage. Each cottage in the "combined" cottage will elect a House of Delegate member for every 7 Citizens in that cottage or greater fraction thereof (one for every 10 Citizens if the Boys State Population is below 350 Citizens).
32. A Citizen shall be permitted to run for election for only one office at each level (State, County, City). A Citizen can hold only one elected office.
33. The numerous career opportunities at Boys State are open to all Citizens on an equal basis. No member of the staff shall in any way limit a Citizen's desire to pursue a career opportunity. Staff members shall in no way pick Citizens for a particular career path and/or limit the number of Citizens that pursue the various career opportunities.
34. Directors of the Office of Emergency Services (OES) will operate under the guidance of the Staff Life Safety Officer and OES Coordinators. Said Directors shall provide a list of three (3) individuals from their ranks, to the Governor, for the purpose of allowing the Governor to appoint a State Fire Marshal.
35. Cottage Counselors retain supervisory authority over the Citizens when the Citizens are scheduled to be in the cottages or involved in cottage activities such as classes, organized athletics, assemblies, voting, etc. Program advisors retain supervisory authority over the Citizens when the Citizens are scheduled to be participating in the various programs (Banking, Journalism, Law Enforcement, Fire Academy, Legislative). A cottage

Counselor will not be able to prohibit a Citizen from participating in a scheduled program activity and a program advisor will not be able to prohibit a Citizen from participating in a scheduled cottage activity.

36. In the essence of safety, there shall be a staff Life Safety Officer who shall coordinate safety concerns with all staff members. Prior to lights out on Sunday night, the cottage Counselors will explain to each Citizen in their cottage the emergency evacuation plan for that cottage. Additionally, each cottage will conduct at least one Emergency Evacuation drill with all Citizens participating, before lights out on Sunday night. The Citizen State Fire Marshal and the Staff Life Safety Officer, in coordination with the Cottage Directors of Emergency Services, will conduct Fire Safety Training and Emergency Evacuation drills throughout the week and those drill(s) will be coordinated with the Senior Counselor of a cottage before it/they occur. No Emergency Evacuation drills will be conducted by the Staff Life Safety Officer, any staff member, and/or Director of Emergency Services between 11 p.m. and the beginning of breakfast.
37. Organized Athletics is one of the rating criteria for the Fugitt Award. In this regard, each cottage team will begin the week with 100% and will retain that percentage regardless of the cottage's won-loss record. However, 5% points will be deducted for each scheduled athletic event that a cottage fails to field a complete team. An organized athletic event team can only be comprised of Citizens from the cottage scheduled to compete. The Athletic Staff has the discretion to deduct % points from a cottage's total athletic participation score for acts of unsportsmanlike conduct.
38. Private communication/electronic devices such as cell phones, blackberrys, ipods, MP3 players, laptops, etc. are to be used only during scheduled free time. The use of these devices, at any other time, to include after "lights out", can be disruptive and will be confiscated if used at any time other than scheduled free time. A Citizen's parents will be notified if it becomes necessary to confiscate a private communication/electronic device. All confiscated private communication/electronic devices will be turned in to GHQ and will be returned at the conclusion of the camp

## PRINCIPLES OF MARCHING

Marching is a time honored tradition at the American Legion Mountaineer Boys State and is not done for punishment but is done for the following reasons. It has been proven that the most efficient and safe way to move a group of individuals between two points is in an orderly fashion such as marching. We march at Boys' State in preparation for the Formal Review (Parade) that is held to honor the newly elected State Officials and to instill in each cottage a sense of pride and teamwork. Citizens are encouraged to participate by adding their own "cadences". However, off color, vulgar and inappropriate "cadences" will not be tolerated and will result in a reduction in a cottage's Fugitt Award overall conduct score and may result in the dismissal of the offending party from the Mountaineer Boys State. When marching, there is only one person in charge at a time. This is usually the Senior Counselor or a designated Counselor. When in formation and marching at Boys State, Citizens have restricted movement, meaning they can only move when they are told, and then only doing exactly what they are told to do. In most stances any movement and talking at all is disallowed except in the event of an emergency such as illness.

**Four States of Alert** are commonly used at Boys' State. They are:

1. Attention: standing straight, eyes forward, chest out, knees straight but not locked, feet together at a 45-degree angle, no talking or movement permitted.
2. Parade Rest: a modified position of attention in which the left foot is moved to shoulder width and the hands are placed in the small of the back, no talking or movement permitted.
3. At Ease: A position similar to Parade Rest in which the hands are lowered to a more comfortable position behind the back. Feet are shoulder width apart and still no movement and no talking is permitted. However, the Citizen is allowed to look at the speaker. This is the position the Citizens should assume when called into formation.
4. At Rest: The Citizen is allowed to move all but the right foot. The Citizen may talk.

A formation must be brought to the position of attention before it can go to a lower state of alert.

## Commands

The typical commands are spoken extremely clearly and emphatically and consist of three major parts.

1. Identifier, or who is to follow the command. This is typically the name of the cottage or "Boys State".
2. Cautionary, or the first part of what is to be done. This is commonly referred to as the "preparatory command and



some common preparatory commands are “left”, “right”, “forward”, “column left” column right”.

3. Executive or execution, a single syllable on which the Citizens actually move. Command executive commands include “march”, “halt”. There is always a significant pause between the Cautionary and the Executive commands. The Executive command is always given a greater emphasis than the preparatory command.
4. Common Parade commands include:
  - Fall In - This is used to have a cottage or “Boys State” fall into formation
  - Fall Out - This is used to have a cottage or “Boys State” fall out of formation.
  - Dis-miss - A fall-out where the Citizens have free time until their next designated period of activity (typically done at the end of a command day, although often is simply an erroneous substitution for Fall Out).

### **Alignment Command**

Dressing right, Dress, or just Right Dress - All Citizens in the cottage, except the right guide, pause, and bring up their arms parallel to the ground in front of them and to their right in order to ensure uniform spacing by placing their right hand extremely close to the Citizen’s shoulder to their right and front.

When creating the cottage’s initial formation, care should be taken to position the tallest Citizen’s in the front row and in decreasing height so that the shortest Citizens are in the last row. All cottage’s formation shall consist of three rows.

### **Turning Motions While Still**

1. Right Face: The body is rotated on the ball of the right foot and the left heel is brought forward to meet the right heel in the position of attention.
2. Left Face: A mirror image of Right Face.
3. About Face: The right toe is brought back to behind the left heel; the body pivots on the right toe and left heel 180 degrees.

### **Turning Motions While Marching**

1. Column Right, MARCH - A 90 degree turn to the right done by rotating on the right heel and left ball. The cautionary and executive are both called on the left foot.
2. Column Left, MARCH - A 90 degree turn to the left, done by rotation on the right ball and the left heel.
3. About Turn, MARCH - A 180 degree turn to the right, done as an exaggerated version of the right turn.

Commands are always given on the left foot.

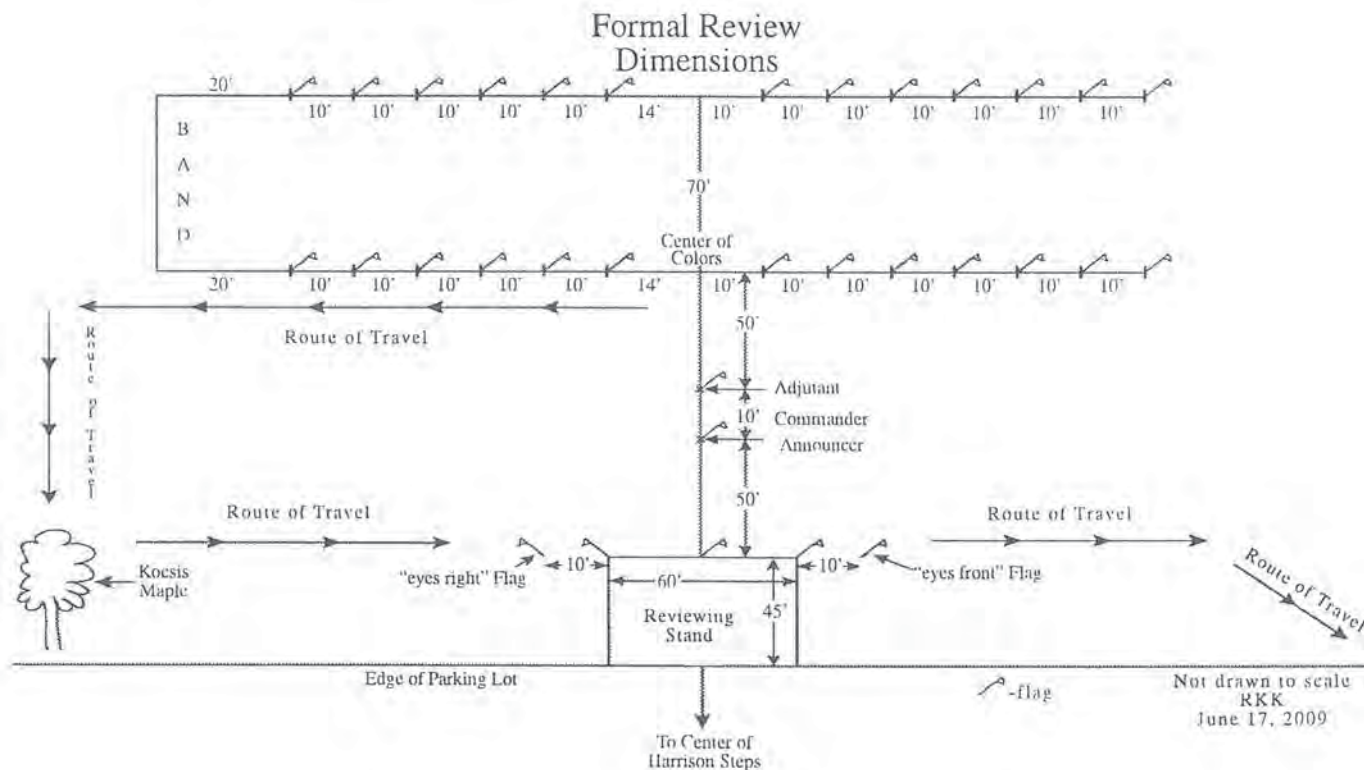
### **Marching Motions**

1. Double Time, MARCH - This is essentially a moderate jog at approximately 180 paces per minute.
2. Mark Time, MARCH - This is essentially a stationary march with the knees coming up parallel to the ground or the foot dangling six inches off the ground. This is designed to maintain the time of large parades when portions need no forward speed.
3. Forward, March - This causes Citizens marking time or stationary to resume a normal march.

**Formal Review** - The Formal Review, in effect an Inauguration Parade, is held to honor the newly elected State Officials of Boys State. It follows the following Command Sequence.

- |                                       |   |
|---------------------------------------|---|
| <b>1. SOUND ADJUTANT’S Call</b>       | ADJUTANT (band begins to play), cottages march to parade field and assume Parade Rest position  |
| <b>2. SOUND OFF</b>                   | ADJUTANT (band will play and troop the line after this order)                                   |
| <b>3. BOYS STATE, ATTENTION</b>       | ADJUTANT (after band has returned to band’s position)   |
| <b>4. PRESENT, ARMS</b>               | ADJUTANT (after command, band plays National Anthem)  |
| <b>5. ORDER, ARMS</b>                 | ADJUTANT (said after National Anthem is complete)   |
| <b>6. SIR, THE PARADE IS FORMED</b>   | ADJUTANT to Commander   |
| <b>7. RECEIVE THE REPORT</b>          | COMMANDER to Adjutant   |
| <b>8. REPORT</b>                      | ADJUTANT (Each county Senior Counselor reports “ <b>the county’s name and ALL PRESENT SIR</b> ” |
| <b>9. SIR, ALL PRESENT</b>            | ADJUTANT to Commander   |
| <b>10. BOYS STATE, PASS IN REVIEW</b> | COMMANDER   |

## FORMAL REVIEW DIMENSIONS



## UNIFORM

The Citizen Uniform shall consist of respectable pants (slacks or shorts), closed toed shoes, the Boys State T-shirt tucked in the pants and the name tag displayed on the Boys State T-shirt on the right chest above the logo on the shirt and below the shoulder. No type of head cover shall be worn, except for religious purposes. The Citizen Uniform, for the Formal Review, will consist of navy blue slacks or shorts, as announced by Senior Staff, the Boys State T-shirt, and dark closed toed shoes. No non-prescription glasses and no sunglasses will be worn during the Formal Review. Name tags will not be worn during the Formal Review and should be secured in a Citizen's pant's pocket and worn when the Formal Review concludes. The Citizen Uniform is required to be worn at all times except during scheduled athletics. All Citizens must have in their possession at all times their name tag, and make it available for inspection by any Staff member upon request.

## AWARDS

**BOYS NATION:** Two Citizens will be selected to represent The American Legion Mountaineer Boys State at Boys Nation. This is the highest honor that can be bestowed upon a Citizen. Two alternates will be selected in case the main selectees are not able to attend. Only those Citizens who are elected to a state office, Speaker of the House, President of the Senate and each political party chairman are eligible for selection to attend Boys nation. In extremely rare circumstances, the Boys Nation Selection Committee will consider a Citizen(s) who did not obtain one of the aforementioned positions, but who has excelled in all aspects of the program. Each candidate will be required to complete an application, as well as go through an interview. The Selection Committee will obtain input from the candidate's Counselors regarding the candidate's character and suitability for selection.

**WILLIAM R. FUGITT MEMORIAL AWARD:** This award, given in memory of long time Mountaineer Boys State Administrator William R. Fugitt, is given to the cottage that attains the best total score in the categories of City Government, County Government, Board of Education, Bar Examination, Legal Program, Daily Inspection, Athletics/Band Participation, State Election Participation, and General conduct of **all** Citizens of that cottage during the entire week.



**DR. JOHN T. DOMBROSKY AWARD:** This award, given in memory of Dr. John T. Dombrosky who was a Mountaineer Boys State Citizen, Assistant Medical Officer and Chief Medical Officer, is presented to a Staff member or Citizen who has displayed the attributes of life, liberty, and the pursuit of happiness with the Legion principles as exemplified by Dr. Dombrosky. Previous recipients of the Dr. John T. Dombrosky Award shall comprise the Selection Committee.

**LEGISLATOR OF THE YEAR AWARD:** The Legislator of the Year award is given to a member of the Mountaineer Boys State Senate or House of Delegates who best exemplifies extraordinary character, enthusiasm for education, and a genuine devotion to the legislative process. The Legislative Advisors, chaired by the Legislative Coordinator shall select the recipient of this award.

*THE RECIPIENTS OF THE FOLLOWING AWARDS WILL BE SELECTED IN THE FOLLOWING MANNER:*

Recommendations are made by the Counselors of each cottage and in exceptional circumstances by other staff members.

Candidates are interviewed by the respective Award selection committee.

**TOMMY E. JONES AWARD:** This award, given in memory of long time Mountaineer Boys State Administrator Tommy E. Jones, will be awarded to the Citizen who contributes the most to the political process. Among the criteria for this award are: Enthusiasm, Sincerity, Honesty, Organizational Ability, Creativity.

**P. E. KERCHEVAL AWARD:** This award, given in memory of longtime Mountaineer Boys State Chief Medical Officer and one of the original Founders of Mountaineer Boys' State, Dr. P. E. Kercheval, is given to a Citizen who is a participant in all of the activities of Boys State, is courteous, congenial, has high moral standards and demonstrates leadership.

**FRANK TAYLOR JR. AWARD:** This award, given in memory of longtime Mountaineer Boys State Legal Advisor Frank Taylor Jr., is awarded to the Citizen of Mountaineer Boys State who exhibits an enthusiastic interest in law and displays high moral character with honor, respect and integrity for the rights of others. In addition, the recipient must be an active participant in the programs of Mountaineer Boys State. Only Citizens who successfully passed the Mountaineer Boys State Bar Examination will be considered for this award.

**DAVID "Dave" FARRIS AWARD:** This award, given in memory of longtime Mountaineer Boys State Counselor and Headquarters Staff member, David "Dave" Farris, is presented to the Citizen who contributes significantly to the city and/or county government aspects of the Mountaineer Boys State program and exhibits the qualities of a good sense of humor, kindness, competence and fairness for all. Only those Citizens who hold an elected city or county office shall be eligible for this award.

**AMERICAN LEGION MOUNTAINEER BOYS STATE AMERICANISM AWARD:** This award will be bestowed upon the graduating Citizen who has shown the most patriotism throughout the week, demonstrating respect to the flag and to ceremonies. The Citizen should demonstrate integrity, enthusiasm, service before self, honor, and love of country.

**BOYS STATE COUNSELOR/STAFF:** Each year a new group of Counselors and staff members are selected to fill vacancies that may exist in the Counselor/Staff rolls. Preference is given for these positions to Citizens who have been selected as Award recipients (see page 30) and from Citizens who have completed a Counselor/Staff application and have received the highest evaluations from their cottage Senior Counselors and Counselors.

**THE BOYS STATE PIN:** Each Citizen who successfully completes Boys State will be given a White Boys State Pin. A Red Boys State Pin signifies five (5) years participation. A Blue Boys State Pin signifies ten (10) years participation. A Gold/Yellow Boys State Pin signifies twenty (20) years participation.

## THE AMERICAN LEGION MOUNTAINEER BOYS STATE

### ELECTIVE STATE OFFICERS

Governor  
Auditor  
Attorney General\*  
Treasurer

Secretary of State  
Commissioner of Agriculture  
5 Justices of State Supreme Court\*

### ELECTIVE COUNTY OFFICERS

Sheriff  
Assessor  
County Clerk  
Circuit Clerk  
Three County Commissioners  
Prosecuting Attorney\*

1 Circuit Judge (County to be a Judicial circuit)\*  
2 State Senators  
3 Members County Board of Education  
Members House of Delegates (See amendment 13)  
1 Magistrate (County to be a Magisterial District)

### ELECTIVE CITY OFFICERS

Mayor  
Council (3)

### JOURNALISM PROGRAM

Newspaper Editor  
Staff Reporter (3)

Graphic Design Editor  
Photographer Cameraman (2)

### BANK STAFF

President  
Vice President  
Loan Officer

Staff, Full Time (3)  
Staff, Part Time (Branch) 1 per cottage

### LAW ENFORCEMENT

State Police (20)

DNR Police (14)

### NATIONAL GUARD/HOMELAND SECURITY

Adjutant General  
Colonel  
Lieutenant

Sergeant  
Private First Class (approx. 9)  
Private (approx. 10)

### OFFICE OF EMERGENCY SERVICES

Director - 1 per county/combined county

*\* - denotes a position that requires a passing score on bar examination*

## MOUNTAINEER BOYS' STATE EMPLOYMENT

Upon arrival at American Legion Mountaineer Boys' State you will be encouraged to pursue one or more of the available career paths. The career paths are Political, Legal, Law Enforcement, Banking, Journalism (broadcast and newspaper) and National Guard/Homeland Security. On the next page is a complete list of all of the jobs available at Mountaineer Boys State. The salary reflected will be paid in Boys' State money and the pay period will be one month. You are highly encouraged to pursue a career path or paths that interests you. If you are not successful in securing a job by the end of Tuesday night, your name will be provided to the Unemployment office advisor and you will be assigned to a job. You will have one of the full time jobs, listed on page 33, by Wednesday morning.

## MOUNTAINEER BOYS' STATE JOBS LIST

### ELECTED POSITIONS                      SALARY

Governor.....	150,000
Secretary of State.....	95,000
Auditor.....	95,000
Treasurer.....	95,000
Attorney General * .....	95,000
Commissioner of Agriculture .....	95,000
Supreme Court Justices (5) * .....	136,000
Circuit Judges (10) * .....	126,000
State Senators (20).....	60,000
House of Delegates (1 for every 7).....	60,000
Magistrates (10).....	60,000
Sheriffs (10).....	60,000
Prosecuting Attorneys (10) * .....	70,000
Circuit Clerks (10).....	50,000
County Clerks (10).....	50,000
Assessors (10).....	50,000
County Commissioners (30).....	47,500
Mayors (10).....	47,500
City Council Members (30).....	35,000
County Board of Education .....	30,000

### APPOINTED POSITIONS                      SALARY

Department Secretaries (1 each)	
Education & Arts.....	75,000
Health & Human Resources.....	90,000
Military & Public Safety .....	75,000
Revenue.....	75,000
Transportation .....	75,000
Commerce .....	90,000
Environmental Protection .....	85,000
State Superintendent of Schools .....	200,000
Public Defender Director.....	70,000
Educational Broadcasting Director.....	70,000
State Fire Marshal.....	70,000
State Police Superintendent .....	70,000
Lottery Director .....	70,000
Division of Corrections Commissioner .....	70,000
Highways Commissioner.....	70,000
Motor Vehicle Director.....	70,000
Tourism & Parks Director.....	70,000
State Forestry Director.....	70,000
Natural Resources Director.....	70,000
Natural Resources Law Enforcement Chief .....	68,500
State Unemployment Director .....	70,000
Supreme Court Clerk.....	50,000
Supreme Court Crier.....	47,500
Governor's Chief of Staff .....	65,000
Director Public Defenders Institute .....	65,000
House Clerk .....	32,500
Senate Clerk.....	32,500
House Sergeant at Arms.....	30,000

Senate Sergeant at Arms .....	30,000
House Door Keeper .....	28,000
Senate Door Keeper.....	28,000

### SUNDAY APPLICATION POSITIONS      SALARY

State Police (20).....	45,000
Natural Resources Police Officers (14) .....	32,000
National Guard/Homeland Security	
Adjutant General .....	70,000
Colonel .....	60,000
Lieutenant.....	50,000
Sergeant.....	40,000
Private First Class (approximately 9).....	27,500
County Emergency Services Directors(10) .....	47,500
Journalism Staff (13)	
Newspaper Editor .....	50,000
Staff Reporters (3 full time) .....	35,000
Photographer .....	30,000
Cameraman (2).....	30,000
Graphic Design Editor.....	25,000
Bank Staff (7)	
President .....	100,000
Vice-President .....	80,000
Loan Officer .....	50,000
Staff (3 full time).....	27,500
Staff (1 per cottage, part time).....	12,500

### OTHER FULL-TIME POSITIONS      SALARY

Corrections Officers.....	22,500
Department of Highways Laborers.....	20,000
Bureau of Employment Programs Laborers .....	22,500
Division of Tourism and Parks Laborers .....	20,000
Division of Motor Vehicles Laborers .....	20,000
Lottery Department Laborers .....	20,000
Division of Natural Resources Laborers.....	20,000
National Guard Private (approx. 10) .....	20,000

### PART-TIME POSITIONS – may be held in

*conjunction with another full time position*

Sheriff Deputies (20) .....	12,500
Circuit Clerk Deputies (10) .....	12,500
County Clerk Deputies (10).....	12,500
Assessor Deputies (10) .....	12,500
Magistrate Clerks (10) .....	12,500
Assistant Prosecuting Attorneys (10) * .....	12,500
Court Reporters (10) .....	25,000
Defense Attorneys (10+) *.....	5,000/case
Reporters (part time, 1 per cottage) .....	500/piece
Athletic Director .....	500
Band Member .....	100/performance
Chorus Member .....	100/performance
Athlete .....	100/event

\* - denotes a position that requires a  
passing score on bar examination

# **CONSTITUTION OF THE AMERICAN LEGION MOUNTAINEER BOYS STATE**

(ADOPTED BY CONSTITUTIONAL CONVENTION HELD JUNE 7, 1937,  
AND RATIFIED AT GENERAL ELECTION JUNE 8, 1937)

Amended June 11, 1937; June 10, 1938; June 8, 1939; June 7, 1940; June 6, 1941; June 7, 1960; June 5, 1962;  
June 15, 1963; June 12, 1964; June 30, 1967; June 22, 1973; June 22, 1979; June 20, 1980; June 18, 1982; June  
14, 1991; June 12, 1998; June 15, 2007; June 17, 2011; June 14, 2013.

We, the boys of The American Legion Mountaineer Boys State, in order to develop an interest in, and promote an understanding of, the principles of democratic government; to foster the teaching of Americanism; to inspire, educate, teach and train boys to do their best for God and Country; to learn the duties, rights, and responsibilities of American citizenship by actual participation; to study the laws of the United States of America and of the State of West Virginia; to maintain law and order; to learn individual obligation to the community, state and nation; to accept discipline; to assume responsibility; to maintain steadfastness of purpose and ideals, and to cooperate with The American Legion, Department of West Virginia, in the promotion of these axioms, do ordain and establish this Constitution for The American Legion Mountaineer Boys State.

## **ARTICLE I The State**

1. The American Legion territory of the following counties, located within Jackson's Mill, shall constitute and form The American Legion Mountaineer Boys State, namely, Barbour, Braxton, Calhoun, Lewis, Marion, Kanawha, Monroe, Randolph, Upshur, Webster, Gilmer, Monongalia, and Panhandle.

2. All powers of government remain in the Citizens of the State, and can be exercised by them only during the period of the annual encampment.

3. All persons residing in this State, under the supervision of The American Legion, Department of West Virginia, and subject to the Jurisdiction thereof, shall be Citizens of the State.

4. Every Citizen shall be entitled to equal representation in the government, and shall have equal right in the acquisition, tenure, and disposition of property.

5. The Great Seal of the State, shall be as follows: Facsimile of "Stonewall" Jackson, with the motto "Build for Citizenship"; and its flag shall be as follows: A white flag with a blue border and a gold star for each of the original nine counties organized at the first Boys State in the year one thousand, nine hundred, thirty-six, such stars to be in a circle around the great seal in the Center, with the motto below.

6. Writs, grants, and commissions, issued under the authority of this State shall run in the name of, and official bonds shall be made payable to The American Legion Mountaineer Boys State. Indictments and warrants shall conclude, "Against the peace and dignity of The American Legion Mountaineer Boys State."

7. The official song of The American Legion Mountaineer Boys State shall be "Men of Tomorrow".

## **ARTICLE II Bill of Rights**

1. All power is vested in, and consequently derived from, the people, and all officers are entrusted servants of, and responsible to, the people.

2. The privilege of the writ of habeas corpus shall not be suspended. No person shall be held to answer for treason, felony, or other crime, except misdemeanors with a penalty of not more than one day in jail, unless on indictment of a grand jury. No bill of attainder ex post facto law, or law impairing the obligation of a contract shall be passed.

3. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. No search warrants shall be issued except on probable cause supported by an affidavit particularly describing the place to be searched or the person or thing to be seized.

4. No law abridging the freedom of speech, or of the press, shall be passed; but the Legislature may, by suitable penalties, restrain the publication, sale, or use of obscene literature, or pictures, or language.

5. No religious or political test oath shall be required as a pre-requisite to vote, serve as a juror, sue, plead, appeal, or pursue any profession or employment.

6. In suits, where the value in controversy exceeds one dollar, the right of trial by jury if demanded by either side shall be preserved.

7. Trials of crimes and misdemeanors, unless waived in writing, shall be by a jury of six men, public and without unreasonable delay, and in the county where committed, unless on petition of the accused and on good cause shown, it is removed to some other county.

8. The right of assembly in peaceable manner, and of petition to the elected representatives, shall not be abridged.

9. The court of this State shall always be open, and all persons shall have a remedy by due course of law for redress of injuries; and justice shall be administered without sale, denial, or delay.

10. No member of the Mountaineer Boys State Staff is subject to arrest or other judicial process. This provision may be waived by the Administrator of Boys State.

### **ARTICLE III**

#### **Legislature**

1. All legislative powers herein granted shall be in a Legislature consisting of a Senate and House of Delegates, each of which shall choose its own officers.

2. Until the Senatorial Districts are altered by law, the State shall be divided into thirteen senatorial districts, each consisting of one county, and the Senate shall be composed of two senators from each district.

3. The House of Delegates shall be composed of four delegates from each county, until the Legislature otherwise prescribes by law by apportionment according to population so that there shall be at least one delegate for each twenty-five persons, or fraction thereof, after a census has been duly taken.

4. No person who is a state, county, or municipal officer shall be a member of the Legislature.

5. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum for the doing of Business.

6. Each house shall form its own rules of proceedings, punish its members for disorderly behavior, and, with a concurrence of two-thirds, expel a member.

7. Each house shall keep a record of its own proceedings, but shall not adjourn during the session for more than one day without the consent of the other house.

8. No senator or delegate, during the time for which he was elected, shall be appointed to any civil office which has been created, or the emoluments for such office have been increased, during such time.

9. Every bill passed by both houses before becoming law, shall be presented to the Governor, who if he approves may sign it, or it may become a law without his signature, but if he disapproves, he shall return it within twenty-four hours from the time it is received by him, with his written objections, to the house where it originated, and if such bill is reconsidered and passed by a majority of both houses, it shall become a law.

10. The legislature shall have the power to lay and collect taxes, imposts and licenses to pay the debts and provide for the general welfare of the State, and all taxes, imposts or licenses shall be uniform; to borrow money on the credit of the State; to coin tokens; to constitute courts inferior to the Supreme Court of Appeals, to create such offices as may be necessary to carry out these powers, and to make all proper laws to carry into execution the foregoing powers, and all other powers vested in the government of this State and in any department or officer thereof.



## **ARTICLE IV**

### **Executive Department**

1. The Executive Department shall be vested in a Governor, Secretary of State, state superintendent of free schools, auditor, treasurer, commissioner of agriculture, and attorney general who ex officio, shall be reporter of the Court of Appeals. Their term of office shall be one year and until their successors are elected and qualified. They shall perform such duties as may be prescribed by law. An election for these officers shall be held at such time and place as may be prescribed by law.

2. The election or ballots of all Citizens for the above named officers shall be sealed and transmitted by the election officers to the Secretary of State, directed to the "Speaker of the House of Delegates." After the organization of the House, and before proceeding to business, the Speaker of the House of Delegates shall open and publish the same in the presence of a majority of each house of the Legislature, which for that purpose shall assemble in the hall of the House of Delegates. The person having the highest number of votes for either of said offices shall be declared duly elected thereto. If two or more have an equal and the highest number of votes for the same office, the tied candidates shall determine the winner by lot. Contested elections for the office of Governor shall be determined by both houses of the Legislature, by joint vote, in such manner as may be prescribed by law.

3. None of the executive officers mentioned in this article shall be eligible to hold any other office during the term of his service, and none shall be eligible to succeed himself in said office.

4. The chief executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.

5. The Governor shall, at the commencement of each session, give to the Legislature information by message of the condition of the State, and shall recommend such measures as he shall deem expedient.

6. The Governor shall nominate, and by and with the advice and consent of the Senate, by a majority of the total membership, appoint all officers whose offices are established by the constitution or may be created by law, and whose appointments or election is not otherwise prescribed, and no such officer shall be appointed or elected by the Legislature. During the recess of the Legislature, the Governor shall make such appointments, or fill vacancies therein by appointment, until the next session of the Legislature. No person after being rejected by the Senate shall be nominated again for the same office, during the same session, unless at the request of the Senate; nor shall such person be appointed to the same office during the recess of the Senate.

7. The Governor shall have power to remove any officer whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and fill the same as herein provided in other cases of vacancies.

8. The Governor shall have power to remit fines and penalties in such cases and under such conditions as may be prescribed by law, and to commute capital punishment.

9. The Governor shall be commander-in-chief of the military forces of the State (except when they are called into the service of the United States) and may call out the same to execute the laws, suppress insurrection, and repel invasion.

10. In case of the death, conviction or impeachment, failure to qualify, resignation, or other disability of the Governor, the President of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Delegates.

11. In case of vacancies in any other state office, supreme court or circuit court judges, members of the senate or house of delegates, they shall be filled by the Governor. In case of vacancies in any county elective office, they shall be filled by the county court. In case of vacancies in any municipal elective office, they shall be filled by the council.

12. Salaries for all elective and appointive state and county offices shall be fixed by the Legislature. Salaries for municipal elective offices shall be fixed by the municipal council.

## **ARTICLE V**

### **Judicial Department**

1 . The judicial power of the state shall be vested in a supreme court of appeals, in circuit courts and the judges thereof, and in such inferior tribunals as may be created by law, and magistrate courts.

2. The supreme court of appeals shall consist of five justices, three of whom shall be a quorum for the transaction of business. They shall be elected by the voters of the State and hold their offices for one year or until their successors are elected and qualified.

3. It shall have original jurisdiction in cases of habeas corpus, mandamus, and prohibition. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of interest, exceeds the value or amount of five dollars, in matters involving title to land, all judiciary matters, and in all cases involving freedom, or the constitutionality of a law, and also criminal cases where there has been a conviction for a felony, or misdemeanor in, or affirmed by, a circuit court and such appellate jurisdiction in civil and criminal cases as may be prescribed by law.

4. The officers of the Supreme Court of Appeals, except the reporter, shall be appointed by the court.

5. The state shall be divided into eleven circuits, as follows: First Judicial Circuit, consisting of Barbour County; Second Judicial Circuit, consisting of Braxton County; Third Judicial Circuit, consisting of Calhoun County; Fourth Judicial Circuit, consisting of Lewis County; Fifth Judicial Circuit, consisting of Marion County; Sixth Judicial Circuit, consisting of Kanawha County; Seventh Judicial Circuit, consisting of Monroe County; Eighth Judicial Circuit, consisting of Randolph County; Ninth Judicial Circuit, consisting of Upshur County; and Tenth Judicial Circuit, consisting of Webster County; Eleventh Judicial Circuit, consisting of Panhandle County; until otherwise prescribed by law. (See 7th Amendment and Chapter 1, Article 1, Section 1, of the Code.)

6. A term of circuit court shall be held in every county in the state at least once during each year until otherwise prescribed by law.

7 . The circuit court shall have original jurisdiction of all civil and criminal matters, and supervision and control of all proceedings before magistrate courts by mandamus, certiorari or prohibition, and such appellate jurisdiction as may be prescribed by law.

8. The voters of each county shall elect a clerk of the circuit court for the term of one year, and his duties and compensation shall be fixed by law.

9. There shall be in each county a county court to consist of three commissioners, who shall choose one of their number as president. They shall be elected by the voters in each county for the term of one year, and their duties, except as otherwise provided herein, and their compensation shall be fixed by law.

10. The county courts through their clerks, shall have charge of all County records, the custody of all deeds and other papers presented for recording, and the preservation thereof. They shall have jurisdiction of all matters of probate, and other fiduciary matters. They shall, in all cases of contest, judge the election, qualifications, and returns of their own members, and of all county offices, subject to such regulations, by appeal or otherwise, as may be prescribed by law. Such courts may exercise such powers and perform such other duties, not of a judicious nature, as may be prescribed by law.

11. The voters of each county shall elect a clerk of the county court for the term of one year, and his duties and compensation shall be fixed by law.

12. There shall be elected a magistrate for each magisterial district, for a term of one year and until otherwise prescribed by law there shall be only one magisterial district in each county, and his duties and compensation shall be fixed by law. He shall have jurisdiction to try all misdemeanor cases, unless otherwise specifically provided by law, and all civil matters involving ten dollars, exclusive of interest, or less; and also to hold preliminary hearings of all persons accused of a felony and of such misdemeanors as may be prescribed by law. A magistrate shall have authority to take the acknowledgment of deeds and other writings, administer oaths, and take and certify depositions.

## **ARTICLE VI**

### **County Organization**

1. The voters of each county shall elect a Sheriff, Prosecuting Attorney, and Assessor, who shall hold their respective offices for the term of one year.
2. The same person can be elected sheriff for two consecutive full terms.
3. The Legislature shall prescribe by law the duties and compensation of such officers, and may provide by general law the appointment of deputies or assistants for all county offices, including the clerks of the courts.

## **ARTICLE VII**

### **Municipal Government**

1. There shall be elected by the voters of each city one mayor and three councilmen, for the term of one year, and their duties and compensation shall be prescribed by law.
2. No local or special law shall hereafter be passed incorporating cities, towns, or villages, or amending their charters. The Legislature shall provide by general law for the incorporation and government of cities, towns, and villages and shall classify such municipal corporations, upon the basis of population, into not less than two nor more than five classes. Such general laws shall restrict the powers of such cities, towns, and villages to borrow money and contract debts, and shall limit the rate of taxes for municipal purposes. Under such general laws, the electors of each municipal corporation shall have power and authority to frame, adopt, and amend the charter of such corporation, or to amend an existing charter thereof, and through its legally constituted authority may pass all laws and ordinances relating to its municipal affairs: provided, that any such charter or amendment thereto and any such law or ordinance so adopted shall be invalid and void if inconsistent or in conflict with this constitution, or the general laws of the state then in effect, or thereafter, from time to time, enacted.

## **ARTICLE VIII**

### **Education**

1. The Legislature shall provide, by general law, for a thorough and efficient system of schools.
2. The Legislature may prescribe the duties of the State Superintendent of Free Schools, who is to have general supervision of the free schools.
3. There shall be elected by the voters of each county a county board of education, consisting of three members, who shall serve for the term of one year, and their duties and compensation shall be prescribed by law.

## **ARTICLE IX**

### **Amendments**

1. Any amendment to the Constitution of the state may be proposed in either house of the Legislature; and if the same, being read through several times after the interval of at least one hour between each reading in each house, be agreed to on its third reading by two-thirds of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journal, and it shall be the duty of the Legislature to provide by law for submitting the same to the voters of the state for ratification or rejection, as prescribed, at a special election, or at the next primary or general election, as prescribed by law, and cause the same to be published. If a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Constitution of the State. If two or more amendments are submitted at the same time, the vote on the ratification or rejection shall be taken on each separately.

#### **First Amendment (Ratified at Special Election June 11, 1937).**

“Members of the Legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during the session, and for one day before and after the same; and for words spoken in debate, or any report, motion or proposition made in either house, a member shall not be questioned in any other place.”

**Second Amendment** (Ratified at Special Election June 10, 1938)

“The Board of Directors of The American Legion Mountaineer Boys State, Inc., is authorized to appoint temporary officers who may serve each year from the beginning of The American Legion Mountaineer Boys State until the elected officers are qualified.”

**Third Amendment** (Ratified at Special Election June 10, 1938)

“The Board of Directors of Boys State, Inc., is authorized to use in all elections held at The American Legion Mountaineer Boys State either voting machines or printed ballots.”

**Fourth Amendment** (Ratified at Special Election June 8, 1939)

“The Board of Directors of The American Legion Mountaineer Boys State, Inc., is authorized to use in municipal elections held at The American Legion Mountaineer Boys State, The Proportional Representation (“P. R.”) Election Plan.

**Fifth Amendment** (Ratified at Special Election June 7, 1940)

In Article I, Section I, “Monongalia be changed to Kanawha.”

**Sixth Amendment** (Ratified at Special Election June 6, 1941)

In Section I, Article I, “Add Gilmer and Monongalia Counties.”

**Seventh Amendment** (Ratified at Special Election June 7, 1960)

“All elections for state offices which result in “tie votes” shall be resolved by the Legislature sitting in joint session as provided in the enabling legislation.”

**Eighth Amendment** (Ratified at Special Election June 7, 1960)

An amendment to make the office of State Superintendent of Free Schools appointive by the State Board of Education in the same manner as the State Superintendent of Free Schools of the State of West Virginia.

**Ninth Amendment** (Ratified General Election June 5, 1962)

Amendment to Article III, Section 4:

“No person who holds a State elective office, or any appointive State Office is eligible to be a member of The American Legion Mountaineer Boys State Legislature.”

**Tenth Amendment** (Ratified at Special Election June 15, 1963).

Amendment to Article I, Section 1 to grant Ohio County admittance to The American Legion Boys State and to change Ohio County officially to Panhandle County with Ellwood City as county seat.

**Eleventh Amendment** (Ratified at Special Election June 12, 1964).

Amendment to Article III, Section 4: “The House of Delegates shall be composed of delegates of people in each cottage with no cottage having fewer than 2 delegates and no more than 6 delegates, with one delegate for each 7 and the fraction greater than half thereof. “

**Twelfth Amendment** (Ratified at Special Election June 30, 1967)

“In general election for officers in all magisterial, senatorial and county offices “tied” candidates shall determine the winner by a run-off election, held immediately, and if said candidates are still tied, the winner shall then be decided by lot.”

**Thirteenth Amendment** (Ratified at Special Election June 22, 1973)

Amendment to Article III, Section 4: “The House of Delegates shall be composed of delegates elected from each county with one delegate for each seven (7) Citizens or major fraction thereof residing in the county.

**Fourteenth Amendment** (Ratified June 22, 1979)

“All elections which result in a tie vote shall be resolved by a run-off election between or among the tied candidates. In the event that the run-off election should also result in a tie, the winner shall be determined by some other means which shall be approved by the election board.”

**Fifteenth Amendment** (Ratified June 20, 1980).

No Boys Stater shall be a candidate for more than one state office at any election.

**Sixteenth Amendment** (Ratified by special election - June 18, 1982)

Candidates for office using campaign nicknames shall do so only during their campaigns. If a nickname is desired on the ballot, it shall be written in parenthesis immediately preceding the candidate’s preferred given name.

**Seventeenth Amendment** (Ratified by special election - June 18, 1982)

The bringing of campaign literature, cards, signs, pins, hats, or other objects that can be used for soliciting votes shall be forbidden.

**Eighteenth Amendment** (Ratified by special election - June 18, 1982)

The Bar exam will be based on a percentage grade whereby each person that passes said percentage will have passed the examination. Said percentage shall be 60% and shall not fluctuate. Each question shall be worth one point whether right or wrong.

**Nineteenth Amendment** (Ratified by special election - June 14, 1991)

“The Boys State Bar Examination’s passing score is deemed to be the % of the correct answers that allows 30%, but no more than 51 %, of the Boys State Citizens to pass. All of the examinations that contain a graded score equivalent to the lowest percentage of the correct answers required to reach the 30% threshold shall be deemed to have passed. In addition, each individual Counselor shall be required to meet with the Citizens of their particular cabin for a period of no less than twenty (20) minutes prior to the administering of the bar exam for the specific purpose of bar exam preparation.’

**Twentieth Amendment** (Ratified by special election - June 12, 1998)

**Section 1:** It is hereby declared that the construction of the county/city packets should be regulated for purposes of equality. **Section 2:** No completion of the packet will be assisted by use of any device or machine that has been brought by any Boys State Citizen, or non-member of Boys State. **Section 3:** All materials used in the construction of the packets must be provided by Headquarters.

**Twenty First Amendment** (Ratified by special election - June 15, 2007)

All populations of Boy’s State at or below 350 participants will set the number of members of the House of Delegates representatives to 1 out of every 10 Citizens. All populations at or above 351 participants will set the number of House of Delegates representatives to 1 out of every 7 Citizens.

**Twenty Second Amendment** (Ratified by special Election - June 17, 2011)

In Article 1, Section 1, “Add Harrison County”

**Twenty Third Amendment** (Ratified by special Election - June 14, 2013)

The joint session of the House of Delegates and the Senate of the American Legion Mountaineer Boys State shall have the authority of impeachment concerning both elected and appointed officials of state office level upon a two-thirds consensus of the combined chambers of the legislature. Any legislation conflicting with this bill shall be considered null and void upon its passage.



# **OFFICIAL CODE OF THE AMERICAN LEGION MOUNTAINEER BOYS STATE**

Note: For the use of members of the Legislature, the Executive and Judicial branches of the government and all Citizens, the same chapter headings that are used in the “OFFICIAL CODE OF WEST VIRGINIA, 1931” are used here.

Note: To members of the Legislature: Before preparing a BILL to introduce in the Legislature, study your Constitution and ascertain if the Legislature has power under the Constitution to legislate on the subject in mind. If you wish to amend the Constitution, study the amendment Article of the Constitution for the method of submitting an amendment to the people.

## **CHAPTER I**

### **THE STATE AND ITS SUBDIVISIONS COVERED IN THE CONSTITUTION**

#### **ARTICLE I. JUDICIAL CIRCUITS**

Section 1. Sixth Judicial Circuit shall consist of Kanawha County, (1940); Eleventh Judicial Circuit, Gilmer County; and Twelfth Judicial Circuit, Monongalia County, (1941), respectively.

## **CHAPTER II**

### **COMMON LAW, STATUTES, LEGAL HOLIDAYS AND DEFINITIONS**

ARTICLE I. GREAT SEAL OF THE STATE. Passed by the Legislature and signed by the Governor in 1936. Incorporated in the Constitution adopted and ratified by the people in 1937.

ARTICLE II. THE FLAG. Same legislation and constitutional provision as for the Great Seal. Also enactment of the legislature, “shall never be used for draping, touch the ground, or be damaged or mutilated by any person.” (1936).

ARTICLE III. STATE BIRD. The Robin (1936).

ARTICLE IV. STATE SONG. The State Song shall be sung at all general assemblies, except when in the opinion of the Administrator it shall be dispensed with, (1938).

## **CHAPTER III**

### **ELECTIONS**

ARTICLE 1: CAMPAIGN LITERATURE. (1938).

Section 1. Bringing of campaign literature, cards or signs forbidden.

Section 2. Campaign literature, cards or signs must be made by Citizens of The American Legion Mountaineer Boys State and printed on The American Legion Mountaineer Boys State machines at a time not in conflict with governmental activities.

ARTICLE II: METHOD OF VOTING.

Section 1. Board of Directors of The American Legion Mountaineer Boys State Inc., authorized to use in elections either ballots or voting machines. Constitutional Amendment.

Section 2. No voter, during the continuance of an election at which he is entitled to vote, shall be subject to arrest upon civil process. (1937).

ARTICLE III. VOTING PROCESS FOR STATE.(2011)

A bill to allow photographs to accompany with names of candidates to be posted when voting for State Elected Officials, whereas this bill would eliminate blind voting at the polls at Mountaineer Boys State. Whereas elected officials at Boys State would be a true representation of the Citizen’s standpoints, whereas Citizens will recognize the faces of the candidates at the polls and the preceding votes will be based on speeches the candidate gave, campaigning performed, and views stood for; whereas votes will not be solely based on names recognition or an attractive nickname; whereas this bill would further educate voters on their candidates; therefore it be resolved that the bill regarding photographs accompanied with names of the candidates be posted at polls when voting at the same elections be amend as Article III, Chapter III of the Official Code of The American Legion Mountaineer Boys State.

## **CHAPTER IV**

### **THE LEGISLATURE**

ARTICLE I: COMMISSION ON INTERSTATE CO-OPERATION

Section 1. There is hereby established The American Legion Mountaineer Boys State Commission on Interstate Cooperation, which shall encourage and arrange conferences with officials of The American Legion Mountaineer Boys State, and carry forward the participation of this State as a member of the Council of The American Legion Mountaineer

Boys State Governments.

Section 2. There is hereby established a standing committee of three Senators, appointed by the President of the Senate.

Section 3. There is hereby established a standing committee of three members of the House of Delegates, appointed by the Speaker of the House.

Section 4. The said Commission on Interstate Cooperation shall be composed of twelve members, namely:

The three members of the committee on Interstate Cooperation of the Senate;

The three members of the committee on Interstate Cooperation of the House of Delegates;

Three private Citizens of the state named by the Governor and;

Three officials of The American Legion Mountaineer Boys State, Inc., named by the Governor, one of whom shall be designated by him as Chairman of the commission.

The Governor shall be an honorary member of the Commission. (1938).

## **CHAPTER V**

### **GENERAL POWERS AND DUTIES OF THE GOVERNOR AND OTHER OFFICERS, APPOINTMENTS OF BOARDS. COMMISSIONS AND OFFICERS**

#### **ARTICLE 1. LEGISLATURE AUTHORIZED OFFICERS, BOARDS AND COMMISSIONS.)**

Section 1. The Governor shall appoint, consent of the Senate not being necessary, an Administrative Assistant to the Governor.

Section 2. The Governor shall appoint with the advice and consent of the Senate the following officers. The duties of these officers shall be the same as those appertaining to the same office in the State of West Virginia.

Department Secretaries (1 each)

Education & Art

Health & Human Resources

Military Affairs & Public Safety

Revenue

Transportation

Commerce

Environmental Protection

Lottery Director

Division of Corrections Commissioner

Highways Commissioner

Motor Vehicle Director

Tourism Director

State Forestry Director

Natural Resources Director

DNR Law Enforcement Chief (Colonel)

State Unemployment Director

Supreme Court Clerk

Supreme Court Crier

Director Public Defenders Institute

Educational Broadcasting Director

State Fire Marshal

State Police Superintendent

## **CHAPTER XI**

### **TAXATION**

#### **ARTICLE I: METHOD OF COLLECTING CONSUMERS SALES TAX. (1938)**

Section 1. Method of improving the collection and reception by the state of all Consumers Sales Tax: Tax tokens consisting of a small piece of paper divided by perforation through the middle into two parts, shall be bought and prepared by each retailer, said slips to be divided into two parts upon receipt by the retailer of any sales tax, one part of which will be given to the buyer and the other kept by himself. One token shall be given for each penny of tax.

## **CHAPTER XV**

### **PUBLIC SAFETY**

#### **ARTICLE I. UNLAWFUL ACTIVITIES OF STATE POLICE. (1937)**

Section 1. State police forbidden from searching premises or detaining Citizens in their homes without warrants.

Section 2. PENALTY: Not less than one nor more than three hours hard labor, and suspension for one day.

#### **ARTICLE II. REGULATION OF STATE POLICE STOPPING VISITORS' CARS. (1937)**

Section 1. State police shall not stop visitors' cars and tell them to go ahead, provided visitors have not violated a law.

#### **ARTICLE III. FINGERPRINTING OF CitizenS. (1938)**

Section 1. Department of Public Safety shall fingerprint all Citizens.

Section 2. Fingerprints shall be filed only with the Bureau of Identification at Charleston and shall be used only for the purpose of identification.

## **CHAPTER XVI PUBLIC HEALTH**

### **ARTICLE I. SYSTEM OF PUBLIC RECREATION AUTHORIZED. (1937)**

Section 1. The American Legion Mountaineer Boys State or any local government subdivision thereof, may, upon its own motion, establish and operate a system of playgrounds, parks, recreation centers and other public recreation, and may levy funds, not exceeding three cents (3¢) on each \$100.00 of assessed valuation, or may appropriate funds from the general budget for financing a public recreation system.

Section 2. Providing further, that if 20% of the voters who voted at the last general election shall petition a government unit, then such unit shall submit the question to the voters for approval or disapproval. In this event the ballot shall read:

\_\_\_\_\_ For Public Recreation

\_\_\_\_\_ Against Public Recreation

If a majority of those voting on the issue shall vote in the affirmative, the governmental unit shall then establish a system of public recreation.

Section 3. The unit establishing a recreation system may administer same, or may delegate the administration to a Board of Recreation Commissioners. Such Board shall consist of seven members, one of whom shall also be a member of the governmental unit establishing such system, the remaining six shall be Citizen members of the governmental unit establishing the recreation system. The Recreation Commissioners shall be appointed for a term of three years except the one member representing local governmental unit, who shall be appointed annually. The six members shall be appointed in such a way that terms of two members shall expire each year on a staggered plan.

### **ARTICLE II. RECYCLING (2011)**

A resolution concerning election materials, more specifically the banners and signs, where parties should recycle all the campaign material to help preserve the world and make a solid effort to keep the environment green.

## **CHAPTER XVII ROADS AND HIGHWAYS**

### **ARTICLE I TRAFFIC LAWS**

#### **Section 1. Definitions**

**VEHICLE** - Your person. Every Citizen is considered to be in physical control of himself (his person) which is his vehicle.

**DRIVER** - Any Citizen who operates a vehicle upon any public highway and who is therefore in actual control of his vehicle.

**OPERATING** - Moving or being in actual physical control of a personal vehicle.

**HIGHWAY** - All designated walkways within the state including but not limited to sidewalks and other paved areas.

**BERM** - The grass next to a highway, roadway, or sidewalk.

**SIGNAL** - A gesture of the hand and arm, which indicates vehicle movements. Signals will be given from the left side of the vehicle in the following manner:

Left Turn Signal - Hand and arm extended horizontally.

Right Turn Signal - Upper arm extended horizontally and lower arm extended vertically (bent at elbow)

**SPEEDING** - A pace that requires both feet of a vehicle to be off the ground at any given instant in order to complete a single stride (also known as running). Movement of a vehicle is not considered excessive speed or speeding when one foot remains in contact with the ground at all times. Speeding is permitted during approved athletic and recreational events.

**UNDER THE INFLUENCE** - Consuming alcohol (liquids) or drugs (food) of any kind or form while operating a vehicle. A common example would be drinking from a soda can or eating snacks while operating a vehicle.

**DISTRACTED DRIVING** - The movement of a vehicle while at the same time operating a non-hands free mobile communications device (cell phone, tablet, etc.)

**REGISTRATION PLATE** - A Registration Plate, commonly referred to as a license plate, is identical to a Citizen's nametag.

Section 2. Driver's License Required. Every Citizen is required to obtain and maintain a valid American Legion Mountaineer Boys State Driver's License (ALBMSDL). In order to obtain an ALBMSDL, a Citizen must score seventy (70) percent or above on a Driver's License Test administered by the Division of Motor Vehicles, and pay the Driver's License Test administration fee of \$25.00. A person who fails the Driver's License Test shall be permitted to

re-take the test with no additional fee until he passes.

Section 3. Vehicle Registration Required. Every vehicle operated within the boundaries of The American Legion Mountaineer Boys State must be registered by the Division of Motor Vehicles and must display a current Motor Vehicle Registration sticker which shall be displayed on the vehicle's Registration Plate. The Registration fee for all vehicles requiring registration shall be \$100.00.

Section 4. Vehicle Registration Plate Display Required. All vehicles operated within the boundaries of the American Legion Mountaineer Boys State must display a vehicle Registration Plate (name tag) on the Driver's shirt on the right chest above the logo of the shirt and below the shoulder.

Section 5. Operating While Under the Influence. No Citizen shall operate a vehicle while under the influence of alcohol (liquid) or any drug (food) or the combined influence of alcohol (liquid) and any drug (food). Consuming from an open container or consuming matter (food) while operating a vehicle shall be considered operating under the influence.

Section 6. Speed Limit. No Citizen shall operate a vehicle at a speed which requires both feet to lose contact with the ground at any given time, during the stride of that vehicle (also known as running.)

Section 7. Passing. All vehicles must give a visible and audible signal to traffic being overtaken and subsequently pass on the left thereof. Traffic being overtaken shall give the right-of-way.

Section 8. Reckless Driving. All vehicles shall be operated in a safe manner so as to avoid any incidents such as collision with other vehicles, fixed object and/or losing control (falling, tripping, etc.).

Section 9. Drive on Right Half of Highway. All vehicles will be driven on the right half of all highways except when passing and overtaking another vehicle.

Section 10. Following Too Close. A sufficient space (at least one vehicle length) must be maintained between vehicles at all times.

Section 11. Turn and Stop Signals. All vehicles must signal an intention to turn or move right or left. No Driver shall stop or suddenly decrease the speed of his vehicle without first giving the appropriate signal.

Section 12. Stop Signs. The Driver of any vehicle shall stop at all clearly marked stop signs. After a stop, a vehicle may not be moved without due regard for the safety of crossing traffic and not before yielding the right-of-way to traffic not required to stop.

Section 13. Parking. A vehicle shall not be stopped on the traveled portion of any highway. Parking is permitted on the berm only. No vehicle travel is permitted on the berm unless said travel is during an approved athletic or recreational activity.

Section 14. Vehicle Inspection. All vehicles being operated in The American Legion Mountaineer Boys State must have a valid Safety Inspection Sticker, which will be issued by an official of the Division of Motor Vehicles after said vehicle has successfully completed the standard vehicle inspection and the owner has paid the required inspection fee of \$10.00.

Section 15. Proof of Insurance. A driver must maintain valid liability insurance whenever he is in operation of a vehicle. The driver must carry in his operated vehicle proof of insurance. Proof of insurance is available for purchase at the Division of Motor Vehicles for the fee of \$350.00

Section 16. Distracted Driving. A driver shall not operate a vehicle while at the same time operating a non-hands free mobile communications device (cell phone, tablet, etc.).

Section 17. Violations and Punishment. Failure to adhere to the above traffic laws shall constitute a misdemeanor violation. Each violation, upon conviction, is punishable by a fine of not less than \$20.00 or more than \$400.00, and/or imprisonment in the Boys State Jail for a period of not less than fifteen (15) minutes nor more than thirty (30) minutes, and court costs in the amount of \$100.00.

## **CHAPTER XX**

### **NATURAL RESOURCES**

#### **ARTICLE 3. NATURAL RESOURCES LAW**

##### **Section 1. Definitions**

Unless indicated otherwise, all definitions in effect in Chapter 17 shall also be in effect in Chapter 20.

**WATERCRAFT/BOAT** - A vehicle of which any part thereof is located in the Swimming Pool located within the American Legion Mountaineer Boys State.

**HUNTING** - Hunting is defined as passing through a grouping of seven (7) trees or more (also known as woods) or placing oneself within fifty (50) feet of a grouping of seven (7) trees or more for a period of greater than thirty (30)



seconds.

**FISHING** - Fishing is defined as placing oneself within one hundred (100) feet of a body of water.

**BODY OF WATER** - Body of Water is defined as the West Fork River, any natural or man-made pond or lake to include ornamental ponds and the Swimming Pool.

**WILDLIFE MANAGEMENT AREA** - A designated area consisting of approximately five (5) acres, located to the rear of Panhandle, Braxton, Barbour and Randolph counties. The Wildlife Management Area (WMA) has been established by the Mountaineer Boys State Division of Natural Resources in order to allow Citizens to have a place to participate in specified hunting, fishing and wildlife recreational opportunities. No area of the WMA is located within seventy five (75) feet of a dwelling, school or church.

**Section 2. Boater Education Certificate Required.** Every Citizen operating a watercraft/boat is required to obtain and maintain a valid American Legion Mountaineer Boys State Boater Education Certificate (ALMBSBEC). In order to obtain an ALMBSBEC, a Citizen must take the Boater Education Course and score 70 percent or above on the Boaters Education Test administered by the Division of Natural Resources Law Enforcement Section (Natural Resources Police Officers). There is no fee for the Boater Education Course and Test, and the test may be taken as many times as needed until a passing score is obtained.

**Section 3. Watercraft/Boat Registration Required.** Every watercraft/boat operated within the boundaries of the American Legion Mountaineer Boys State must be registered by the Division of Motor Vehicles and the assigned Watercraft/Boat Registration card must be displayed upon demand of any duly authorized law enforcement officer. The registration fee for all watercraft/boats is \$50.00.

**Section 4. Boating While Under the Influence.** No Citizen shall operate a watercraft/boat while under the influence of alcohol (liquid) or any drug (food) or the combined influence of alcohol (liquid) and any drug (food). Consuming from an open container or consuming matter (food) while operating a watercraft/boat shall be considered operating under the influence.

**Section 5. Hunting, Fishing, Hunting and Fishing License Required.** A Citizen must possess a valid American Legion Mountaineer Boys State Hunting, Fishing, or combination Hunting and Fishing License in order to hunt and/or fish within the boundaries of the American Legion Mountaineer Boys State.

- a. In order to purchase a Hunting License or Combination Hunting and Fishing License, a Citizen must take the Hunter Education Course and score 70 percent on the Hunter Education Test administered by the Division of Natural Resources Law Enforcement Section (Natural Resources Police Officers). There is no fee for the Hunter Education Course and Test, and the test may be taken as many times as needed until a passing score is obtained.
- b. The County Clerk of each, and County is authorized to issue Mountaineer Boys State Hunting, Fishing, and combination Hunting and Fishing Licenses. The fee for a Hunting License shall be \$10.00. The fee for a Fishing License shall be \$10.00. The fee for a combination Hunting and Fishing License shall be \$18.00.

**Section 6. Reckless Operation of Watercraft/Boat.** All vehicles shall be operated in a safe manner so as to avoid any incidents such as contact with other watercraft/boats and/or fixed objects.

**Section 7. Special Hunting Regulations.** The hunting of Bear, Whitetail Deer (Antlered and Antlerless) Turkey (Gobbler only), and Wild Boar is only permitted within the boundaries of the American Legion Mountaineer Boys State Wildlife Management Area (WMA) and nowhere else within the boundaries of The American Legion Mountaineer Boys State.

- a. In order to lawfully hunt the above large game animals (Bear, Whitetail Deer (Antlered and Antlerless), Turkey (Gobbler only), and Wild Boar), a Citizen must possess a valid hunting license and a WMA hunting permit. WMA hunting permit applications are available from the Division of Natural Resources Law Enforcement Section (Natural Resources Police Officers). If selected for a permit, a Citizen shall pay the permit fee of \$25.00 before the permit is issued. Maps of the WMA are available from the Division of Natural Resources Law Enforcement Section.
- b. Bear, Whitetail Deer (Antlered and Antlerless), Turkey (Gobbler only), Wild Boar hunting season is on Thursday and Friday of the Boys State week. Turkey hunting shall end at 1 p.m.. Daily limit is one (1) each of the above game animals. Season limit is one (1) each of the above game animals.
- c. Each Citizen locating and harvesting one of the above game animals must attach a completed field tag to the animal and immediately transport said animal to the Division of Natural Resources Law Enforcement Section (Natural Resources Police Officers) for checking and retagging.
- d. The hunting with the use of bait in the WMA is strictly prohibited.

**Section 8. PROTECTED SPECIES.** The Black Bellied Whitetail Deer is a rare species known to be found only



within the boundaries of the American Legion Mountaineer Boys State. This animal is recognizable by a black band around part or all of its underbelly and sometimes black markings on its legs. Otherwise, the Black Bellied Whitetail Deer resembles the common Whitetail Deer in appearance. The hunting of the Black Bellied Whitetail Deer is strictly prohibited and is a felony offense. The possession of any Black Bellied Whitetail Deer and/or any of its parts such as antlers and hooves is strictly prohibited and is a felony offense. Violations of this provision is a felony offense punishable by a fine of \$10,000 (ten thousand dollars) to \$25,000 (twenty five thousand dollars) and imprisonment in the Boys State Jail for a period of not less than thirty (30) minutes nor more than sixty (60) minutes.

Section 9. Violation(s) and Punishment. Failure to adhere to the above natural resources laws, unless otherwise indicated, shall constitute a misdemeanor violation. Each violation, upon conviction, is punishable by a fine of not less than \$20.00 nor more than \$300.00, and/or imprisonment in the Boys State Jail for a period of not less than fifteen (15) minutes nor more than thirty (30) minutes, and court costs in the amount of \$100.00.

## **CHAPTER XXII**

### **ENVIRONMENTAL RESOURCES**

#### **ARTICLE 9. LITTERING**

Section 1. The intentional discarding of paper, soda containers, refuse, trash, and unsightly materials in a location other than an approved trash receptacle shall be littering.

Section 2. The public display of campaign materials after noon on Wednesday shall be littering. The name of the person on the campaign material is prima facie evidence that he displayed said campaign material and unless proved otherwise, he shall be responsible for its display after noon on Wednesday.

Section 3. Violations and Punishment. A violation of Section 1 or 2 of Chapter 22, Article 9 (Littering) shall be punishable, upon conviction, by a fine of not less than \$20.00 nor more than \$500.00 and/or approved community service plus court costs in the amount of \$100.00. Approved community service is community service that has, prior to sentencing, been reviewed and approved by Staff Legal Advisors and generally consists of mess hall cleanup duty and/or service projects within The American Legion Mountaineer Boys State.

## **CHAPTER LXI**

### **CRIMES AND THEIR PUNISHMENT**

General: Unless indicated otherwise, all laws, rules and regulations of the State of West Virginia, as well as the "CONSTITUTION" and the "OFFICIAL CODE OF THE AMERICAN LEGION MOUNTAINEER BOYS STATE" are applicable and enforceable in the American Legion Mountaineer Boys State

#### **ARTICLE I. ABSENCE FROM THE AMERICAN LEGION BOYS STATE WITHOUT LEAVE. (1938)**

Section 1. Citizens shall not leave State without permission from GHQ. Section 2. Penalty: Prescribed by Executive Council.

#### **ARTICLE II. GAMBLING. (1938)**

Section 1. All forms of gambling are prohibited.

Section 2. All money in the game confiscated for upkeep of the State.

#### **ARTICLE III. TARDINESS AT ASSEMBLY. (1938)**

Section 1, Unexcused tardiness at assembly constitutes a misdemeanor.

Section 2. Penalty: Convicted Citizen shall reline tennis courts under the supervision of his county sheriff.

#### **ARTICLE IV. SMOKING IN ASSEMBLY HALL FORBIDDEN. (1937)**

Section 1. All Citizens, Counselors and guests forbidden to smoke in Assembly Hall, when in use as a General Assembly Hall.

#### **ARTICLE V. UNRULY CONDUCT IN MESS HALL, (1936)**

Section 1. Unruly conduct in mess hall constitutes a misdemeanor.

Section 2. Penalty: Severe toil in mess hall for remainder of week.

#### **ARTICLE VI. TENNIS PLAYING DURING RAINY WEATHER PROHIBITED. (1937)**

Section 1. Tennis playing causing damage to surface of courts prohibited.

Section 2. Section 1 shall be enforced by State Police.

#### **ARTICLE VII. RESISTING ARREST/FLEEING**

Section 1. Resisting arrest and fleeing from the law is ABSOLUTELY prohibited. This is a felony offense, punishable, upon conviction, by a fine of not less than \$20,000 (twenty thousand dollars) nor more than \$250,000

(two hundred fifty thousand dollars), and imprisonment in the Boys State Jail for at least sixty (60) minutes but no more than one hundred eighty (180) minutes plus court costs in the amount of \$100.00. ADDITIONALLY, an individual committing a violation of this provision will be reported to the Law Enforcement Program Advisors and will be subject to appropriate disciplinary action as determined by the Administrative Staff (Administrator and Director).

## THE GOVERNMENT OF THE STATE

The history of western Virginia from 1795 until 1861 is largely one of controversy with eastern Virginia, the two sections being unlike in many social, political, and economic inclinations. Nature itself had erected a barrier, having one region sloping to the ocean on the east, and the other a vast region of forest and hills that reached the waters of the Ohio on the west.

Men in public life complained that western Virginia was democratic and eastern Virginia aristocratic. In all this time, western Virginia furnished but one Governor of the State, Joseph Johnson, of Harrison County. The idea of separate States reached back to the proposed “Westsylvania”, in the days of the Continental Congress. The western counties complained that they were governed by the eastern counties, and Citizens were not satisfied with the slow building of roads across the mountains to the Ohio and the other small evidences of public works.

The crisis came with the movement in 1861 at the opening of the Civil War. The Virginia Convention, in session in Richmond, in April, 1861, passed the “ordinance of secession,” with most of the delegates from the western counties opposing, and submitting it to the people. Meetings held in the western section during this time indicated that it was not in full sympathy with the cause of the south. A convention made up of representatives from twenty-six counties in Wheeling, May 13, 1861 started a movement for a new State Government. Western Virginia counties voted forty thousand against secession and four thousand for secession. The second Wheeling Convention, made up of delegates and members of the Virginia Assembly, met June 11, 1861, and declared the “ordinance of secession” void, and likewise declared the offices of the State of Virginia vacant. They then proceeded to form a “reorganized” government of Virginia with Francis H. Pierpont as Governor.

A convention was held November 25, 1861, at Wheeling, at which forty-one counties were represented, and there a new Constitution for a new State was written, the same being ratified by the people in April, 1862. This new State was first called “Kanawha,” but later the name of West Virginia was adopted. The “reorganized” or “restored” government of Virginia consented to the forming of a new State from its own territory. On December 31, 1862, after making provision for the gradual abolition of slavery, Congress consented to the admission of West Virginia to the Union.

On April 20, 1863, President Lincoln issued a proclamation, and on June 20, 1863, West Virginia, the thirty-fifth State, was admitted to the Union.

Our form of government is known as a constitutional form of government, and the Constitution is the basic law under which all governmental functions are regulated. It provides that the government be divided into three branches, the Executive, the Judicial, and the Legislative.

The Constitution of West Virginia provides for three departments, Legislative, Executive and Judicial, and provides that they shall be separate and distinct and that none shall perform the duties or exercise the powers of the other.

This memorandum will direct your attention only to the Executive Department and others will direct your attention to the Legislative and Judicial departments.

The Executive Department of West Virginia consists of:

Governor, Secretary of State, State Superintendent of Free Schools, Auditor, Attorney General, Treasurer, Commissioner of Agriculture.

The terms of these officers are four years, beginning on the first Monday after the second Wednesday in January after their election except State Superintendent of Free Schools.

They shall reside at the seat of government, there keep all books, records, etc., of their office, and perform such duties as are prescribed by law.

None of the above officers shall hold any other office during his term. The “Governor Succession Amendment” was ratified by the voters on November 3, 1970, which permitted, if elected by the people, the Governor to serve two consecutive terms.

These same officers form the Board of Public Works of West Virginia.

## **GOVERNOR**

The Governor is the chief executive of the state who sees that all laws are faithfully executed.

The governor appoints a Director of the Budget, who under the authority of the governor, administers the Budget.

The governor is authorized to install a system of accrual accounting for the purpose of recording for each spending unit the collection of all income, the amounts available for expenditure and obligations, encumbrances and disbursements, and to prescribe uniform records, accounts and forms to be used by spending units, for the efficient administration of the budget.

He shall give to the legislature at the beginning of each session thereof a message giving the condition of the state, recommend such measures as he deems expedient, include a statement of all money expended, and an estimate of the money required by taxation for all purposes.

He may fill, by appointment, a vacancy in any office, not elective, until the next meeting of the Senate, when the appointment must be confirmed by majority of the Senate.

He may remove appointive officers for incompetency, neglect of duty, gross immorality, or malfeasance in office.

He may remit fines and penalties in such cases and in such manner as prescribed by law.

He is the commander-in-chief of the military forces of the State, except when called into Federal service, and he may call out all forces to execute laws, suppress insurrection, and repel invasion.

He must consider all bills passed by the Legislature and either approve, veto, or permit same to become a law without his signature. He shall consider all Legislative appropriations for money and may reject any of them with his reasons communicated to the Legislature.

A vacancy in this office is filled first by President of the Senate, then by Speaker of the House, third by selection of Legislature. If a vacancy occurs during the first three years of the term an election must be held for the unexpired term.

He receives reports from all subordinate heads of departments.

He is a member of other boards dealing with phases of State Administration.

He acts in all cases involving extradition of fugitives from justice.

He is a member of the West Virginia Board of Investments.

## **SECRETARY OF STATE**

The Secretary of State:

Is keeper of the seals of the state;

Shall keep a journal of executive proceedings;

Shall arrange and preserve all records and papers belonging to the executive department;

Shall perform all clerical duties of his department;

Shall render to the Governor, in the dispatch of executive business, such duties as he may require;

Issues certificates of incorporation and keeps records of same;

Records qualifications of all foreign corporations authorizing them to do business in West Virginia;

Is filing officer for all candidates for office to be voted upon by voters of more than one county;

Certifies candidates having filed with him to clerks of circuit courts of counties thirty days before the Primary.

## **ATTORNEY GENERAL**

The Attorney General:

Is the legal representative for the State;

Defends claims against State;

Renders opinions to State and County officers and Department heads, President of Senate, and Speaker of the House;

Publishes reports of the Supreme Court of Appeals;

Approves all bonds, contracts, deeds, land titles, leases, etc., in which State is interested; Represents State before Supreme Court in appeals in Criminal Cases;

Approves all proceedings in the issuance of bonds by State or smaller political units;

Makes annual reports to Governor on pending causes and publishes biennial reports containing opinions, and activities of office.

## **TREASURER**

The Treasurer:

- Is primarily the custodian of all State moneys, bonds and other securities;
- Receives funds from all collecting agencies of the State; keeps accounts with these agencies or departments;
- Deposits funds collected in State depositories which have been designated by Board of Public Works and have given a satisfactory bond;
- Keeps accounts of funds on deposit in depositories;
- May, with approval of Board of Public Works, invest surplus funds in certain kinds of bonds;
- Issues checks, for all claims against State, after approval thereof by the Auditor's Office. When a warrant is presented to the Treasurer, if found to be drawn pursuant to appropriation made by law, it is directed to some depository for payment;
- Furnishes monthly statements, by funds, of all balances to the Board of Finance.
- A member of the West Virginia Board of Investments, which invests state funds in securities.

## **AUDITOR**

The Auditor:

- Audits and examines all requisitions for payments against the State of West Virginia;
- Honors requisitions for payment of claims when proper and forwards State warrants to Treasurer;
- Keeps concurrent accounts with Treasurer of accounts with State depositories; also of receipts and disbursements;
- Makes annual reports of all receipts and disbursements;
- Keeps records of all real estate returned delinquent for non-payment of taxes;
- Keeps records of all persons having pecuniary accounts with the State;
- Is attorney-in-fact for corporations for service of process;
- Is commissioner of speculative securities with power to regulate in accordance with statutes;
- Is charged with the collection of certain State license taxes;
- Has supervision and control over lands purchased by the State for non-payment of taxes.
- Is a member of West Virginia Board of Investments.

## **COMMISSIONER OF AGRICULTURE**

The Commissioner of Agriculture:

- Devises ways and means of promoting agriculture in West Virginia;
- Promotes and encourages the organization of agricultural societies;
- Conducts cooperative work with U. S. Department of Agriculture;
- Promotes capital investment in West Virginia by dissemination of information relative to soil, climate, natural resources, market advantages, etc.;
- Investigates and reports on kinds, conditions, and extent of mineral products of West Virginia;
- Establishes and builds up a museum of agriculture;
- Publishes and distributes reports and bulletins of all agricultural matters;
- Assists in establishment of markets for farm products;
- Establishes and promulgates rules for grading of fruits and vegetables;
- Apportions financial aid to fairs having agricultural exhibits;
- Prevents, suppresses, and controls communicable diseases of animals or poultry;
- Makes and enforces such rules as may be necessary to effectuate these things and to prohibit importation and exportation of diseased animals and poultry, declares and enforces quarantine, causes disinfection of premises and destruction of diseased animals and poultry, and to prevent the manufacture, preparation, storage, sale, and offering for sale of food and food products derived from such diseased animals and poultry;
- Passes upon merits of the pedigree of every animal offered for breeding purposes for consideration;
- Enforces laws relating to sale of fresh eggs and milk, and milk products;
- Lists insects and diseases dangerous to plants and plant life, and prescribes and enforces rules to eradicate or control such insects and diseases;
- Enforces provisions relative to labeling and sale of commercial feeding stuffs;



Enforces labeling and sales of commercial fertilizers, agricultural lime, and agricultural seeds.

## **BOARD OF PUBLIC WORKS**

The Board of Public Works consists of the six elective State officials and the State Superintendent of Free Schools, of which the Governor is the chairman and the Secretary of State is the Secretary.

The board hears appeals from assessments made by the State Tax Commissioner for gross sales and income taxes; and also appeals from the assessment of the Corporation license taxes made by the State Auditor.

The board approves the banks in which funds and securities of the State may be deposited; it invests the surplus, reserve or other monies belonging to the State Compensation fund.

Annually, the board determines the valuation of the property of all public service corporations for tax assessment purposes, and the State Auditor apportions to each county, in which any such property is located, the value of the property therein, and also apportions such property among the several magisterial districts and municipalities, and certifies such apportionments to the clerk of the county court of each county.

## **APPOINTIVE STATE OFFICES**

### **OFFICE OF SECRETARIES**

Appointed by the Governor with the advice and consent of the senate. Term: To serve at the will and pleasure of the Governor.

These department Secretaries are:

- (1) Education & Arts
- (2) Health & Human Resources
- (3) Military Affairs & Public Safety
- (4) Revenue
- (5) Transportation
- (6) Commerce
- (7) Environmental Protection

Note: Citizens appointed to positions by the Governor should review the relevant sections of the *West Virginia Blue Book* for more specific information related to the positions. The Citizens appointed to the Office Secretary positions will be guided by the Staff member assigned to state government and are limited in their duties only by their imagination, willingness to become involved, Boys State Rules & Regulations and Staff direction.

### **DEPARTMENT OF EDUCATION AND THE ARTS SECRETARY**

The Secretary of the Department of Education and the Arts is appointed by the Governor with the advice and consent of the Senate to serve at the will and pleasure of the Governor. The Secretary oversees the Division of Culture and History, Educational Broadcasting Director, Library Commission and Boys State Museum.

### **DEPARTMENT OF HEALTH AND HUMAN RESOURCES SECRETARY**

The Secretary of the Department of Health and Human Resources is appointed by the Governor by and with the advice and consent of the senate to serve at the will and pleasure of the Governor. The Secretary oversees the Division of Health to include the Bureau for Public Health and will work with the Chief Medical Officer and Chief Inspector to insure the sanitary conditions of all aspects of Boys State to include cottage conditions, swimming pool, eating areas, Assembly Hall, restrooms, etc.

### **DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY SECRETARY**

The Secretary of the Department of Military Affairs & Public Safety is appointed by the Governor with the advice and consent of the Senate to serve at the will and pleasure of the Governor. The Secretary oversees the Adjutant General, State Police, Division of Homeland Security and Emergency Management, Division of Corrections (Boys

State Jail/Prison), and State Fire Marshal.

### **DEPARTMENT OF REVENUE SECRETARY**

The Secretary of the Department of Revenue is appointed by the Governor with the advice and consent of the Senate to serve at the will and pleasure of the Governor. The Secretary is the Director of the state budget and his chief duty is to prepare the Governor's annual budget for state departments, boards, commissions and offices. The State Athletic Commission (Boys State Athletic staff) is part of the Department of Revenue. The Department regulates the Boys State Bank and oversees the Boys State Lottery program. The Department regulates all athletic events in Boys State. The Department also appraises all industrial and natural resource properties throughout the state for ad valorem property tax purposes and supervises the work of the county assessors.

### **DEPARTMENT OF TRANSPORTATION SECRETARY**

The Secretary of the Department of Transportation is appointed by the Governor with the advice and consent of the Senate to serve at the will and pleasure of the Governor. He oversees the Division of Highways, Division of Motor Vehicles, Driver's Licensing, Public Transit, State Rail authority, and State Aeronautics.

### **DEPARTMENT OF COMMERCE SECRETARY**

The Secretary of the Department of Commerce is appointed by the Governor with the advice and consent of the Senate to serve at the will and pleasure of the Governor. The Secretary oversees the Division of Tourism, Division of Forestry, Division of Natural Resources, and Bureau of Employment Programs.

### **DEPARTMENT OF ENVIRONMENTAL PROTECTION SECRETARY**

The Secretary of the Department of Environmental Protection is appointed by the Governor with the advice and consent of the Senate to serve at the will and pleasure of the Governor. The Secretary oversees the Department of the Environment and serves as the liaison to the Governor's office for the same.

### **BUREAU OF EMPLOYMENT PROGRAMS DIRECTOR**

The Director of the Bureau of Employment Programs (commonly referred to as the Director of Unemployment Opportunities) is appointed by the Governor, by and with the advice and consent of the Senate and works under the direct supervision of the Department of Commerce Secretary.

Term: To serve at the will and pleasure of the Governor.

Purpose is to promote social and economic security by reducing, as far as possible, the hazards of unemployment. Through compulsory system of unemployment reserves, it provides measures of security to families of unemployed persons and guards against menace to health, morals and welfare arising from unemployment. To fulfill these purposes the Director, working with the Boys State Staff Advisor, will review the list of all unemployed Boys State Citizens and will find suitable employment for them based upon their background, qualifications and other factors such as county of residency and will check on the welfare and work ethic throughout the course of their employment and resolve employment issues as they may arise. He may employ one individual, from the rolls of the unemployed, to assist him with his duties.

### **ADJUTANT GENERAL**

Appointed by and serves at the will and pleasure of the Governor, with the advice and consent of the Senate, from a list of individuals provided by the Staff Advisor to the Boys State National Guard/Homeland Security. He shall have the rank of Major General and is charged with the organization, administration, operation and training, supply and discipline of the military forces of the state. The State Unemployment Director will provide the Adjutant General with an adequate number of Citizens, from the rolls of the unemployed, so as to maintain a ready and effective National Guard/Homeland Security force. The Adjutant General is directly supervised by the Secretary of Military Affairs and Public Safety.

## **DIVISION OF PUBLIC SAFETY SUPERINTENDENT (State Police)**

The Superintendent is appointed by the Governor, by and with the advice and consent of the Senate from a list of qualified individuals as provided by the law enforcement advisors and will have the rank of Colonel.

Term: To serve at the will and pleasure of the Governor.

The Superintendent of The Division of Public Safety is in charge of a state police division with state-wide general police power, created to preserve the peace, protect life and property, prevent crime and apprehend criminals. With at least one detachment in each county and a fleet of two-way radio equipped vehicles, the state police handle a large share of the investigation of major crime and apprehension of dangerous criminals, and take primary responsibility for patrolling the highways, enforcing the traffic laws and preventing motor vehicle accidents, besides many miscellaneous services in the public interest, including duty at the scene of emergencies, riots or disaster. The Superintendent is directly supervised by the Secretary of the Department of Military Affairs and Public Safety.

## **DIVISION OF NATURAL RESOURCES LAW ENFORCEMENT CHIEF**

The Division of Natural Resources Law Enforcement Chief is appointed by the Governor with the advice and consent of the Senate from a list of qualified individuals as provided by the law enforcement advisors and will have the rank of Colonel.

Term: To serve at the will and pleasure of the Governor.

The Division of Natural Resources (DNR) Law Enforcement Chief is in charge of the DNR Law Enforcement Section. The DNR Law Enforcement Section has primary jurisdiction to enforce all fish and game laws, littering laws and when necessary will assist other law enforcement agencies in the enforcement of all Boys State laws. With at least one Natural Resources Police Officer assigned to each county, the DNR Law Enforcement Section takes primary responsibility for patrolling the state's waterways and may be called to duty at the scene of emergencies, riots or disaster.

## **DIVISION OF CORRECTIONS COMMISSIONER**

The Commissioner is appointed by the Governor, by and with advice and consent of Senate from a list of qualified individuals provided by the Director of Employment Programs. Term: To serve at the will and pleasure of the Governor.

The Commissioner of Corrections manages, directs and controls The Mountaineer Boys State Jail and Prison under strict supervision of the Staff Advisor to the Division of Corrections and the Secretary of the Department of Military Affairs and Public Safety. The Commissioner will be provided at least one and possibly more Corrections Officer(s) to assist him in his duties by the Director of Employment programs (from the rolls of unemployed individuals). He is directly supervised by the Secretary of the Department of Military Affairs and Public Safety.

## **DEPARTMENT OF NATURAL RESOURCES DIRECTOR**

The Director is appointed by the Governor, with advice and consent of the Senate, to serve at the will and pleasure of the Governor.

Duties of Director: To oversee and manage the American Legion Mountaineer Boys State Wildlife Management Area (WMA), study administrative methods concerning forests and their maintenance and development, protection of fish and game, beautification of the State and its highways and development of lands and natural resources; to make recommendations to the Governor relative to conservation policy; to oversee the operations of all Division of Natural Resources personnel.

## **DIVISION OF TOURISM AND PARKS**

The Director is appointed by the Governor, by and with advice and consent of Senate.

Term: To serve at the will and pleasure of the Governor.

The Director of Tourism is directly supervised by the Secretary of the Department of Commerce and is responsible for promoting tourism throughout Boys State and is also responsible for establishing a network of parks and maintaining the same. The Division of Tourism will be provided with at least one, and possibly more, individuals from the rolls of the unemployed, as determined by the State Unemployment Director, in order establish and maintain the state park system and promote tourism.

## **STATE FORESTRY DIRECTOR**

The State Forestry Director is appointed by the Governor with the advice and consent of the Senate.

Term: To serve at the will and pleasure of the Governor.

He is directly supervised by the Secretary of the Department of Commerce and he shall promote Boys State Forestry products; promote new forest products industries, develop existing forest product industries; advise the Governor and Legislature on all aspects of forestry; manage state forests for conservation and preservation of wildlife, fish, forest species, natural areas, aesthetic and scenic values; and provide developed and undeveloped recreational opportunities and hunting and fishing for the Citizens of the state and its visitors.

## **DIVISION OF MOTOR VEHICLES**

The Commissioner, commonly referred to as the Motor Vehicle Director, is appointed by the Governor, with the advice and consent of the Senate.

Term: To serve at the will and pleasure of the Governor.

The Division of Motor Vehicles is charged with the duty, authority and power to regulate vehicle registrations, certificates of title, protection against operation of motor vehicles (financial responsibility of owners and operators) and licensing of chauffeurs and the other motor vehicle operators. The Commissioner works under the direct supervision of the Department of Transportation Secretary and shall ensure that and adequate supply of vehicle registrations are available to Boys State Citizens. Additionally, the Commissioner shall maintain a data base or repository of all active vehicle registrations and shall make same available upon a request from any duly authorized Boys State law enforcement officer. The Commissioner may be provided one employee, to assist him with his duties, from the rolls of the unemployed, as provided by the State Unemployment Director. The Commissioner is directly supervised by the Department of Transportation Secretary.

## **HIGHWAYS COMMISSIONER**

The Highways Commissioner is appointed by the Governor, by and with the advice and consent of the Senate.

Term: To serve at the will and pleasure of the Governor.

The Commissioner works directly under the Department of Transportation Secretary and Department of Transportation jurisdiction extends to the construction, reconstruction and maintenance of all Mountaineer Boys State designated primary roads, and designated secondary roads, and the Highway Commissioner is empowered by law to supervise the fiscal affairs of the Commission to provide for such construction, reconstruction and maintenance. In addition, the Commission regulates traffic on state roads, and outdoor advertising contiguous to its roads, operates state-owned toll bridges, engages in roadside development and maintains a department to supply highway information. The Commissioner will be provided at least one and possibly more Department of Highways workers by the Director of Employment programs (from the pool of unemployed individuals) to carry out the duties of the Department of Highways.

## **EDUCATIONAL BROADCASTING DIRECTOR**

The Educational Broadcasting Director is appointed by the Governor with the advice an consent of the Senate.

Term: Serves at the will and pleasure of the Governor.

The Educational Broadcasting Director is directly supervised by the Secretary of the Department of Education and the Arts. The Educational Broadcasting Director is charged with making all public announcements at Boys State, to include announcements before all meals, assemblies, gatherings, etc.

## **LOTTERY DIRECTOR**

The Lottery Director is appointed by the Governor with the advice and consent of the Senate.

Term: Serves at the will and pleasure of the Governor

The Lottery Director is directly supervised by the Secretary of the Department of Revenue. The Lottery Director shall develop, promote and operate a series of games of chance, such as the daily number drawing, and others, in order to generate revenue for the State. The Lottery Director shall work with the Boys State Operations Director who may, if available, provide prizes of value, such as Boys State t-shirts, hats, and other items, to be given to winning participating Citizens in addition to winnings of Boys State currency. All monies collected and paid out by the Lottery Director will be in Boys State currency. The Lottery Director may be provided one and possibly more employees, from the rolls of the unemployed, as determined by the State Unemployment Director, to assist with the staffing of lottery sales offices.

## **SUPREME COURT CLERK**

The Supreme Court Clerk is appointed by the Chief Justice of the Supreme Court, with the advice and consent of the other Justices of the Supreme Court, from the rolls of the unemployed as provided by the State Unemployment Director. The Supreme Court Clerk serves at the will and pleasure of the Chief Justice of the Supreme Court and upon his selection will report to the Supreme Court on Wednesday morning in order to receive training and further instruction regarding his duties.

## **SUPREME COURT CRIER**

The Supreme Court Crier is appointed by the Chief Justice of the Supreme Court, with the advice and consent of the other Justices of the Supreme Court, from the rolls of the unemployed as provided by the State Unemployment Director. The Supreme Court Crier serves at the will and pleasure of the Chief Justice of the Supreme Court and upon his selection will report to the Supreme Court on Wednesday morning in order to receive training and further instruction regarding his duties.

## **FIRE MARSHAL**

The State Fire Marshal is appointed by the Governor with the advice and consent of the Senate from a list of three individuals as provided by the Boys State Office of Emergency Services Directors.

Term: The State Fire Marshal serves at the will and pleasure of the Governor.

The State Fire Marshal is responsible for the implementation of state wide fire safety programs, and under the guidance of and in coordination with the Staff Fire Marshal and Cottage Senior Counselors will conduct emergency evacuation drills and fire safety classes throughout the state. The Fire Marshal will, in coordination with the Educational Broadcasting Director and the Editor of the "Mountaineer" newspaper, arrange for a series of Public Safety Announcement, in furtherance of the state wide fire safety programs. Additionally, the State Fire Marshal will conduct investigations of all fires of potential suspicious origin; in coordination with other appropriate law enforcement officials.

## **PUBLIC DEFENDERS INSTITUTE**

Each county will send one (1) Defense Attorney to the specialized legal instruction on Wednesday morning. It is recommended that the losing Prosecuting Attorney candidate be considered for this position. These attorneys will comprise the Public Defender's Institute and will provide a list of three from their ranks to the Governor, of which one will be appointed by the Governor, with the advice and consent of the Senate, to serve as the Public Defender Institute Director. The Director will serve at the will and pleasure of the Governor. The Public Defenders Institute (comprised of the 10 members mentioned above) exist to provide representation to those charged with criminal offenses at Boys State and will assist other attorneys, retained by Boys State Citizens, in criminal cases.



## **WEST VIRGINIA BOARD OF EDUCATION**

The West Virginia Board of Education consists of eleven members, including the State Superintendent of Schools, an ex-officio member and not entitled to vote. The other ten members must be Citizens of the state; appointed by the Governor, by and with the consent of the Senate, for overlapping terms of nine years. No more than five of the appointed members may belong to the same political party and at least two, but no more than three, members shall be appointed from each Congressional District. No person shall be eligible for appointment to membership who is a member of any political party executive committee or holds any other public office or public employment under the federal government or under the government of the state or any of the political subdivisions, or who is an appointee or employee of the Board. No member of the Board may be removed from office except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for removal by the Governor of State elective officers. At least six meetings shall be held each year upon its own resolution or at the call of the president.

Subject to and in conformity with the constitution and laws of West Virginia, the Board of Education determines the educational policies of the State in relation to primary and secondary education, selects the State Superintendent of Free Schools, and makes rules for carrying into effect laws and policies of the state relating to education.

Acting as the State Board of Vocational Education, the State Board of Education administers and controls the state plans for vocational rehabilitation.

## **STATE DEPARTMENT OF EDUCATION**

The salary of the State Superintendent of Free Schools is established by State Board of Education. By ratification of an amendment to the Constitution of West Virginia in the General Election on November 4, 1958, the office of State Superintendent of Free Schools was changed from an elective position to appointment by the West Virginia Board of Education. The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools who shall serve at its will and pleasure. He shall be the chief school officer by the State and shall have such powers and shall perform such duties as prescribed by law. The State Superintendent of Free Schools shall be a member of the Board of Public Works as prescribed by law. The State Superintendent of Free Schools shall be a member of the Board of Public Works as prescribed by Subsection B, Section 51, Article 6 of the Constitution. In accordance with the newly adopted constitutional amendment, the West Virginia Board of Education appointed the State Superintendent of Free Schools on December 10, 1958.

Each of the 10 counties will elect 3 members to the Board of Education (BOE). These members are elected Monday night since this is a non-partisan election. The first meeting of the BOE will be Tuesday at 3:45 in the WV Building. At this meeting the three members of each county BOE will elect one member to be a representative to the State Board of Education. This one member will then remain for the rest of the meeting while the other two are dismissed. The charge of the selected representatives is to act as the State BOE for this meeting only, in the way of hiring the State Superintendent of Schools. The State BOE will hire the State Superintendent of Schools (SSS). Any Citizen can fill out an application for this position, and it must be turned into the BOE Advisors after the conclusion of the evening assembly on Monday. From there, the pool of applicants will be narrowed down to three by the advisors. These three people will be announced at breakfast on Tuesday, and they are to report to the meeting at 3:30. Each of these three will be interviewed by the State BOE for a period of approximately 10 minutes. At the conclusion of the interviews, the State BOE will debate and hire the SSS. The Superintendent that is hired will be announced prior to the evening meal on Tuesday.

## **DUTIES OF STATE SUPERINTENDENT OF FREE SCHOOLS**

Has general supervision of free schools and performs such other duties as may be prescribed by law;  
Acts upon an appeal to him by teachers for dismissal by County Boards;  
Issues teachers certificates and keeps records thereof;  
May renew and revoke teachers certificates;  
Promulgates rules and holds examinations for teachers, grades, manuscripts, and issues certificates;  
Enforces in his name the school laws of West Virginia;  
Is a member of the Board of Public Works, Board of School Fund and State Board of Education;  
Makes reports to Governor;  
Allocates and distributes state aid.

## **THE WEST VIRGINIA LEGISLATURE**

The legislative power of the State of West Virginia is vested in the legislature, consisting of a Senate and House of Delegates. Regular sessions convene annually second Wednesday of January of each year except for nineteen hundred seventy-three and every fourth year thereafter they shall adjourn until the second Wednesday of February following. Regular sessions continues for a period of sixty days. Regular sessions may be extended by the concurrence of two-thirds of the members elected to each house. Under the constitution the Governor is authorized to convene the legislature in extraordinary session whenever in his opinion the public welfare or safety shall require it. It is his duty to convene it on the application in writing of three-fifths of the members elected to each house.

A majority of the members elected to each house constitutes a quorum. During regular and extraordinary sessions neither house may adjourn for more than three days without the consent of the other.

### **THE SENATE AND HOUSE OF DELEGATES**

The Senate now consists of thirty-four members, two being elected from each of the seventeen senatorial districts. The House of Delegates consists of one hundred members, there being at least one delegate from each of the thirty-six delegate districts. Kanawha county, largest in population in the state, has a representation of thirteen delegates, and comprises the seventeenth delegate district.

### **REAPPORTIONMENT**

The Constitution provides that the legislature shall alter the senatorial districts and reapportion the membership in the House of Delegates after each federal census. The senatorial districts are supposed to be formed of contiguous territory, bounded by county lines, and as nearly as practical, equal in population. The ratio of representation for the House of Delegates is based upon the population of counties.

### **ELECTION AND QUALIFICATION OF MEMBERS**

Senators are elected for a term of four years and members of the House of Delegates for two years. The terms of the members begin on the first day of December next succeeding their election. All vacancies are filled by the Governor and are for the unexpired term. All members of the legislature receive six thousand five hundred dollars per annum for their services during the regular sixty day session. Each day of an extraordinary session each member receives fifty dollars per day and twenty cents per mile for each mile traveled going to and returning from the seat of government. Each member is allowed one round trip per week during each session. The president of the senate and the Speaker of the House each receive an additional compensation of fifty dollars per day for serving as presiding officers. The majority and minority leaders of each house receive an additional twenty-five dollars per day for serving as the selected legislative leaders. One senator is elected biennially from each of the seventeen senatorial districts so there are always seventeen so-called hold-over members of that body.

In the event of the death, resignation, failure to qualify, removal, or other disability of the Governor, the president of the Senate serves in that capacity until the vacancy is filled or the disability removed. If the president of the Senate, for any of these causes, cannot qualify, then the duties devolve upon the Speaker of the House of Delegates.

No person may serve as a senator or member of the House of Delegates who has not for one year next preceding his election been a resident within the district or county from which he is elected. If a senator or delegate removes from his district or county, his seat is vacated.

No person who holds a lucrative office or employment under this State, the United States, or any foreign government, no member of Congress, and no person who is a sheriff, constable, or clerk of any court of record, is eligible to a seat in the legislature; likewise, no person who has been convicted of bribery, perjury, or any other infamous crime is eligible to a seat.

No senator or delegate, during the term for which he shall have been elected, may be elected or appointed to any civil office of profit under this State which has been created or the emoluments of which have been increased during such term, except offices to be filled by election by the people. No other member of the legislature may be interested in any contract with the State or any county which has been authorized by any law passed during the term for which he shall have been elected.

Each house is the sole judge of the qualifications of its own members. They may be punished for disorderly behavior,

and, with the concurrence of two-thirds of the members elected, may be expelled. Members of the legislature are in all cases except treason, felony, and breach of peace privileged from arrest during the session and for ten days before and after the same. And for words spoken in debate in either house a member may not be questioned in any other place.

Each house has the power to provide for the undisturbed transaction of business and may punish by imprisonment any person not a member for disrespectful behavior in its presence, for obstructing any of its proceedings or interfering with any of its officers in the discharge of his duties or for any assault, threat, or abuse of a member for words spoken in debate. But such imprisonment may not in case extend beyond the termination of the session.

## **ORGANIZATION**

Each house determines the rules of its own proceedings. The Senate chooses from its body a president, and the House of Delegates from its body a speaker. The president of the Senate may appoint a president pro tempore, who presides during the absence of the president and performs all the duties of that office.

At the beginning of each regular session the Clerk of the Senate calls to the chair the oldest member of the Senate present, who presides until the president of the Senate is chosen and takes his seat. Likewise, the clerk of the House of Delegates calls to the chair the oldest member of the House present, who presides until the speaker is chosen and takes his seat. At the beginning of each regular session each house elects, besides the presiding officers, a clerk, sergeant-at-arms, and doorkeeper, and each house appoints attaches necessary to conduct the business of the body.

After each house is organized and the oath of office administered to the officers and members, a message is sent to the house informing the members of that body of such organization. A concurrent resolution is then adopted directing that a committee composed of members of the Senate and House of Delegates be appointed to wait upon the Governor to inform that the legislature is in session and ready for the transaction of business.

It is the duty of the Governor to send a message to the legislature at the beginning of each session, but, in most instances, he delivers the address in person before a joint session of the legislature.

## **STANDING COMMITTEES**

The presiding officer of each body chooses the members of the various standing committees, naming the chairman of each committee. There are twenty standing committees in the Senate and eighteen committees in the House. Committees usually meet during the morning hours, although toward the latter days of the session meetings are arranged for late afternoon and early evening.

## **SESSIONS**

Unless some other specific time agreed to by motion, both houses usually meet in the afternoon. There is a prayer by the chaplain, followed by the reading of the journal for the previous day. The order of business in the houses varies slightly, but before bills are taken up on third, second and first readings, communications from the executive and from the other house are disposed of, reports from standing and select committees received, bills and resolutions introduced, and petitions received.

## **JOURNALS**

The journal of each house has printed therein all messages from the Governor and messages from the other House, the title of all bills and the title and text of all resolutions, every vote taken by yeas and nays in each house, and a true and accurate account of the proceedings of each house.

## **RESOLUTIONS**

Resolutions requiring concurrent action may originate in either house. There are two kinds of resolutions: Joint resolutions, which are used for proposing amendments to the state constitution and for ratifying amendments to the federal constitution, and concurrent resolutions, which are used for all purposes not covered by joint resolutions.

## **ENACTMENT OF LAWS**

Bills may originate in either house, but may be passed, amended, or rejected by the other. No bill may become a law until it has been read on three different days in each house unless this constitutional rule is dispensed with by a vote

of four-fifths of the members present. Each bill becomes effective ninety days from the date of passage. To make the effective date different, it is necessary that both houses agree thereto by a vote of two-thirds of the members elected to each body. No act may embrace more than one object, and that must be expressed in the title.

After a bill is passed by the legislature it is enrolled, signed by the presiding officer and the clerks of the two houses and then presented to the Governor. If he approves the bill, he signs it and it becomes law. If he vetoes it, he returns the bill, with his objections, to the house in which it originated. A bill which has been vetoed becomes a law notwithstanding such veto if both houses repass it by a majority of the members elected to each body. If a bill is not returned by the Governor within five days (Sundays excepted) after it has been presented to him, it then becomes a law.

## **LEGISLATIVE PROCEDURE**

The procedure in the two houses is substantially the same.

When a bill is introduced, it is referred by the presiding officer to the proper committee. The committee considers the bill and may report it out without recommendation, or with the recommendation that it does or does not pass. If the bill is reported out adversely, then the presiding officer immediately puts the question: "Shall the bill be rejected?" This question has precedence over all motions, except a motion to adjourn.

If the bill is reported out favorably it is on the calendar on first reading the following day. The next day it is on second reading, the amendment stage, and then the next day on third reading.

A motion may be made at any time after a bill is introduced that it may be taken up for immediate consideration, reference to committee dispensed with and that the rule which requires a bill to be read on three separate and distinct days be dispensed with and that the bill be read the required number of times and placed upon its passage. To dispense with the rule four-fifths of the members present must vote in the affirmative.

When a bill is passed it is automatically sent to the other house with the request for concurrence. If the other house passes the bill, it then goes to the Governor.

If one house amends a bill passed by the other house, the bill is returned for reconsideration by the house in which it originated. If the amendment is not accepted, then finally a conference is requested for the purpose of endeavoring to reconcile the points in difference between the two houses. A conference committee consists of like members from each house.

If a bill is signed by the Governor, two copies are retained in the office of the clerk of the house where it originated, one copy in the office of the Governor, one in the office of the Secretary of State, one in the Department of Archives and History and one in the office of the clerk of the other house.

All Senate bills must be introduced twenty days before the end of the session: House bills must be introduced ten days before the end of the session (this rule cannot be broken without a concurrent resolution, except in case of appropriation bills).

## **EXECUTIVE NOMINATIONS**

When nominations are made to the State by the Governor to fill offices established by the constitution or created by law, a future day is assigned for their consideration by the Senate.

All nominations are considered at the time designated. All information and remarks touching the character or qualification of any person nominated by the Governor is reported at that time.

## **PARLIAMENTARY PRACTICE**

Where the rules of the Senate or House of Delegates do not cover specific cases the two bodies are governed by the practice in the House of Representatives of the United States.

# REVIEW OF STATE GOVERNMENT/LEGISLATURE

## STATE GOVERNMENT

### Legislative Department

The Legislative Department consists of a Senate and House of Delegates.

The Senate has 34 members, elected from Senatorial Districts, for four year terms.

The House is composed of 100 members, apportioned according to population, with each of thirty-six delegate districts having at least one member, elected for two-year terms.

Each member of the Legislature shall receive for his service the sum of six thousand five hundred dollars a year, and expenses for one round trip per week in connection with any session, at a rate of twenty cents a mile traveled going to and returning from the seat of government by the most direct route.

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. "Extraordinary" sessions may be called when needed, except during 1973 and every fourth year thereafter. The session convenes the second Wednesday in February.

When the Legislature meets each House elects officers President for the Senate, Speaker for the House. Both have Clerks, Door Keepers and Sergeants at Arms.

### How a law is passed:

It must be **introduced** by a regularly elected member of one of the houses.

It must be written and signed by at least one member of the House.

It must be given to the Clerk on the day previous to its introduction.

It may be introduced simultaneously in both Houses or it may be acted upon in one House and then sent to the other for consideration.

The Clerk gives the bill a number and a name then presents it by name, at the proper time on the calendar or agenda for the day.

The presiding officer then refers the bill to the committee best fitted to consider it.

No bill, other than an appropriation bill, may be introduced in the Senate after the fortieth day of the sixty day session, and in the House after the fiftieth day of the session, unless permission be given and a concurrent resolution adopted by a two-thirds vote of all the members of each House present and voting.

The committee may: **Report the bill out**, and recommend that it do pass. It may make changes in the bill, in which case all changes must be printed in the **Journal**.

Report the bill out with recommendations that it do not pass.

Report the bill out with no recommendations.

After the bill is reported it is taken up for consideration. All bills must be read three times, on three different days, unless **rules are suspended**.

First reading: When bill appears on the calendar it is said to be up for 1st reading.

Second reading: This is after the bill is printed and delivered to each member of House. Here it is now discussed, it **may be amended**, then a vote is taken on "Shall this bill be **engrossed** and ordered to its third reading."

Third reading: On third reading a bill (already engrossed) must be read in full. No amendments may be added at this point. If the bill receives a majority of the votes it is said to have passed.

Such a bill then is sent to the other House where it goes through the same procedure. If it is amended or changed in any manner it must again go back to the first House for consideration. After having been passed by both Houses it goes to the Governor. The Governor may: Sign it and return.

Return without his signature, stating his objection.

Veto it.

Hold it for five days, and if the Legislature is still in session, it becomes a law without his signature.



A bill may be passed over the Governor's veto by a majority vote in each house.

Resolutions: Three kinds: Joint Resolution,  
Concurrent,  
House or Senate

Joint Resolution: Is used only for proposing amendments to the State Constitution or for ratifying amendments to the Federal Constitution. This resolution must be read on three successive days, go through much the same procedure as bill and on final day must receive a two-thirds vote.

Concurrent resolution is used to express some sentiment of the whole body, also used to legalize minor matters.

House or Senate Resolution is used to express most any sentiment and needs only a majority.

If you do not know the answers to these questions, I suggest that you find the answers.

### WEST VIRGINIA STATE GOVERNMENT

1. The basic law under which our State government functions is the \_\_\_\_\_
2. Is the constitution of our State the same as the constitution of other states? \_\_\_\_\_
3. If the Governor of our State should die or resign who would take his place? \_\_\_\_\_
4. How often does the State Legislature meet in our state? When? \_\_\_\_\_
5. Can our State Constitution be amended? How? \_\_\_\_\_
6. What department of the state government does the governor especially represent? \_\_\_\_\_
7. What are the qualifications of voters in this state as to age, citizenship and residence in the state, county and precinct? \_\_\_\_\_
8. President \_\_\_\_\_ issued the proclamation making West Virginia a separate state on \_\_\_\_\_
9. The Board of Public Works is composed of \_\_\_\_\_
10. How is the membership of each house of the Legislature determined? What are the qualifications for membership? \_\_\_\_\_
11. Vacancies which occur in the Legislature are filled by the \_\_\_\_\_
12. The presiding officer of the Senate is called the \_\_\_\_\_
13. A true and accurate account of the proceedings of the Legislature is printed in the \_\_\_\_\_
14. Nominations made by the Governor are considered by the \_\_\_\_\_
15. How and when is the number of legislators changed? \_\_\_\_\_
16. List all the state taxes which the Citizens of our State pay. \_\_\_\_\_
17. List ten services that you receive in return for the State taxes you and your parents pay? \_\_\_\_\_
18. What is the difference between an engrossed and an enrolled bill? \_\_\_\_\_
19. What is original jurisdiction and appellate jurisdiction? \_\_\_\_\_
20. What is a regular session of the Legislature? An extraordinary session? \_\_\_\_\_
21. How many senatorial districts are there in West Virginia? \_\_\_\_\_
22. The Great Seal of the State is in the custody of the \_\_\_\_\_
23. Does our State have a state income tax? \_\_\_\_\_
24. What is an interim committee? \_\_\_\_\_

## **STATE FINANCES AND BUDGETING**

### **FISCAL STRUCTURE OF THE STATE GOVERNMENT**

The basis of the administrative structure for the management and control of the finances of the State of West Virginia is found in the State's Constitution and various statutory provisions. The constitution does not prescribe the details of fiscal organization, thus affording the Legislature considerable latitude in determining the State's fiscal structure through enactment of laws as the social and economical conditions require.

The State Constitution provides that the Legislature shall not appropriate any money out of the treasury except in accordance with the provisions of Article VI, Section 51 of the Constitution which sets out the basis of our modern Budget System which was ratified Nov. 5, 1968. Under this system the Governor submits to the Legislature a budget setting forth proposed governmental expenditures for the ensuing fiscal year. The budget also states the revenues which will be needed to finance the proposed expenditures.

The Legislature may amend the budget bill by increasing or diminishing the items therein, but may not amend the bill so as to create a deficit.

#### **Budget Administration**

The 1969 Legislature passed legislation where the "Budget Office" is to act as staff agency for the governor in the exercise of his powers and duties under the aforementioned section of the Constitution.

The first formal step in the development of the budget plan is to call for departmental estimates of expenditures for the current year and of the work to be performed and expenditures required for the ensuing fiscal year. All spending units of the state are required to submit expenditure estimates or budget requests for appropriations for the ensuing fiscal year. Such requests are required to be itemized in accordance with provisions of the Budget Act and such detail itemization as may be specified by the Director of the Budget.

The preliminary analysis and revision of budget requests is made by the Budget Office. This entails first, studying individual requests and next, to compile an aggregate of all requests to compare with total estimated revenues and receipts in order to get a preliminary view of the entire budget.

Revision of expenditure estimates must be made on the basis of actual needs and the available resources of the state. Available resources are estimated by the Director of the Budget, in cooperation with the State Tax Commissioner and other revenue collecting agencies. Sound practice requires that the revised estimates be based not only on data submitted by the spending agencies, but also on office and field studies conducted by the Budget Office.

The revisions made by the "Director of the Budget are entirely preliminary and are submitted to the governor, together with the original estimates or requests from the spending units, in the form of a tentative budget document.

The budget document presents the detailed plan as formulated by the governor and transmitted to the Legislature. It is completed during the month of December, at which time a draft of the appropriation bill is prepared also for submission to each branch of the Legislature. The Constitution provides that the budget shall be submitted to the Legislature on the opening day unless such time is extended by the Legislature.

#### **Execution of the Budget Plan**

Control of the budget, as adopted by the Legislature, is a function of the governor, performed through the Director of the Budget. It is accomplished through a system of encumbrance control accounts, under which the spending units forecast the yearly expenditures by quarterly periods and then are required to observe the limitations of these quarterly estimates, as approved by the governor. The statute also provides that authorizations to spend shall be scaled downward on a pro-rata basis, if it is determined that the expenditures of all appropriations will create a deficit.

After quarterly allotments and an expenditure schedule for a fiscal year are approved, control is maintained through encumbrance of all requisitions for purchase of commodities, supplies, equipment, etc., and requisitions for payment of invoices, payrolls, etc. Purchase requisitions are transmitted to the Department of Purchases for processing after encumbrance by the Budget Office. Requisitions for payment are forwarded to the State Auditor for issuance of state warrants.

### **STATE REVENUES**

Since the passage of the tax limitation amendment to our Constitution, it has been necessary for the state to raise practically all its revenues from indirect sources, such as: taxes on business, consumers' sales tax, inheritance tax, liquor profits and taxes for the privilege to do business in the state.

## COUNTY GOVERNMENT

### General:

As the Federal Government comprises fifty states banded together for the welfare of each, with the authority vested in the Federal Government as it is contained in the constitution, so is the State of West Virginia comprised of fifty-five different subdivisions created by the Legislature and known as “counties”, the difference being that the fifty states created the government of the United States by their written act as set in the constitution of the United States, whereas the State of West Virginia has created the fifty-five counties which comprise the State. These counties were originally created for the better administration of local government, and for the furtherance of this idea each county must be divided by the County Court into not less than three nor more than ten divisions known as “magisterial districts”. Each county is a separate unit of the State government in which the taxes are levied and collected for the use of the County, and the laws of the State are administered by the officials, duly elected, within the county. The county seat is the location of the county court house and is the place in the county designated where the business of the County is officially conducted. Numerous officials for the County are elected or appointed who have charge of different phases of the County government.

### COUNTY GOVERNMENT AN OVERVIEW

County government as we know it today in West Virginia originated with the passage of the Judicial Amendment of 1880. The Amendment provided for a three-member, elective body; removed most of the county commissioners’ judicial functions except limited ones as in settlement of accounts and appointment of guardians and committees; and retained the county court (now commission) with central authority in fiscal matters as its primary function.

West Virginia’s counties do not possess inherent rights of self government. They are under the State’s complete control as its creation; and their authority to perform even local functions is spelled out in the Constitution or by legislative enactments. In addition to members of the county commission, the elective officials are sheriff, assessor, prosecuting attorney, surveyor, county clerk and circuit clerk.”

By Richard Shelton, 1913-2000

Founder of the West Virginia Association of Counties

### COUNTY COMMISSION

**TERM: 6 years RESIDENCE: County**

The county commission is the governing body of a county. Fifty-four counties’ elect three-member commissions while Jefferson County has a five-member commission. Commissioners serve in part-time positions.

The Constitution provides certain powers to the county commission but these powers are limited to “the manner prescribed by law.” This means that the county commissions’ powers must be expressly conferred by the Constitution or by Acts of the Legislature. With respect to the powers of a county commission, the West Virginia Supreme Court of Appeals has stated that “a county court (now county commission) possesses only such powers as are expressly conferred upon it by constitutional or statutory provisions, together with such powers as are reasonably and necessarily implied in the full and proper exercise of powers expressly conferred upon it.”

The West Virginia Constitution, Section 11, Article 9, specifically grants the following powers and duties to county commissions:

- (1) The custody, through their clerks, of all deeds and other papers presented for record in their counties, with responsibility for their preservation or disposal as may be prescribed by law.
- (2) The administration of the internal police and fiscal affairs of their counties, with authority to lay county levies, under regulations as may be prescribed by law.
- (3) Serve as the judge of the election, qualification and return of their own members, and of all county and district officers, subject to regulations as may be prescribed by law.

Other duties and responsibilities are specified in Chapter 7 of the West Virginia Code, particularly in §7-1-3. These include:

- Preparation and adoption of budget for all county offices except judicial;
- Jurisdiction in all matters of probate;

- Appoint guardians for minor children, receive court settlements generally;
- Own and maintain county property;
- Sit as Board of Canvassers;
- Lay and disburse county levies based on assessed property values;
- Sit as Board of Equalization and Review in February to hear appeals on property values for assessment purposes;
- Appoint Fiduciary Commissioners to oversee and settle certain estates as required;
- Appoint members of certain county boards, authorities and public service districts, including the county Director of Emergency Services and County Surveyor;
- Adopt ordinances and orders in areas of jurisdiction as prescribed by law;
- Approve purchase orders and payment vouchers for all elected county offices except judicial.

County commissions are required by Section 9, Article 9 of the Constitution to hold four regular sessions (meetings) each year. These meetings must be held at the courthouse. Special sessions may be held throughout the year if called by the president of the Commission with the concurrence of at least one other commissioner. The number of meetings held varies from county to county, with some commissions meeting once a month and others several times a month. Notice of all meetings must be given and meetings must be public, as required by open meetings law, WV Code §6-9A-3. Executive sessions may be held as authorized by law. Two commissioners in attendance at a meeting establish a quorum. At the first session of each year, the commissioners choose one of their members to serve as president.

### **CLERK OF COUNTY COMMISSION**

**TERM: 6 Years RESIDENCE: County**

Each county elects a county whose responsibilities include the management of records of the county commission and election duties. The primary responsibilities center around two basic functions; (1) to act as clerk (fiscal officer) of the county commission, and (2) to act as the receiver of fees charged for the instruments filed and recorded within the county. To carry out the numerous duties, the county clerk may select deputies and other employees. The budget for the operation of the county clerk's office as a whole is determined by the county commission. Their duties include:

- Issuance of marriage licenses, birth and death certificates
- Record births, marriages and deaths in the county
- Serve as Chief Voter Registration Official for the county; register qualified voters
- Maintain custody and integrity of the county's voting machines, ballot boxes and other election supplies
- Conduct training sessions for poll clerks and other election officials prior to their service
- Serve as the recorder of all documents
- Keep records of County Commission transactions
- Keep minutes of all County Commission meetings
- Oversee guardianship appointments
- Prepare and send to all heirs a Notice to Redeem and take care of publications, redemptions or recording deeds with regard to delinquent property
- Responsible for the bookkeeping of the county including budget, accounting and payroll
- Assist the County Commission in preparation of the budget
- Prepare the financial statement for the county
- Set up appointments for the County Commission in their absence
- Responsible for public notice of all Commission meetings
- Serve as Secretary to the Civil Service Commissions
- Issue hunting & fishing licenses

- Provide notary services
- Issue military service discharge records
- Probate wills and assist in administration of estates
- Conduct absentee voting and early voting, prepare ballots, accept candidate filings, and other election-related duties.

**CLERK OF THE CIRCUIT COURT**  
**TERM: 6 Years RESIDENCE: County**

The Clerk of the Circuit Court is elected in each county to carry out administrative functions and to act as record-keeper for circuit court actions in that county. The office of the circuit clerk is authorized by Article 8, Section 9 of the West Virginia Constitution. The Circuit Clerk is an officer within the judicial system and plays a pivotal role in that system. The West Virginia Constitution establishes a hierarchy of administrative control that gives overall authority for the entire judicial system to the Supreme Court of Appeals. Local administrative authority lies in the circuit court, including the office of circuit clerk with regard to the clerk's judicial functions but the clerk has autonomy to establish procedures and policies necessary to carry out statutory responsibilities. In Class I-V counties, the Clerk of the Circuit Court is a full time position. Examples of the duties and responsibilities include:

- Serve as the Clerk to the Circuit and Family Court
- Issue mesne (during the progress of a case) process
- Issue final process to enforce and execute judgments
- Appoint a guardian ad litem where required
- Respond to other requests that do not require a court order
- Responsible for all papers filed in the office; serve as registrar, recorder and custodian for all pleadings, documents and funds pertaining to cases filed in circuit court and family court
- Responsible for the administration and management of the petit and grand jury systems in the county
- Create the master list of prospective jurors; select panels for attendance, qualify and summon jurors, provide juror orientation, and monitor jurors' attendance and mileage
- Serve as fee officer of the court
- Report various statistics to governmental agencies Appoint deputy clerks subject to the review of the court and/or county commission

**ASSESSOR**  
**TERM: 4 Years RESIDENCE: County**  
**Training Required After Taking Office**

The Assessor of each county is elected every four years. The position is required to be full-time in all but Class X counties. All property shall be appraised annually as of the first day of July at its true and actual value. The Assessor shall obtain from every person who is liable to assessment a full and correct description of all personal property. In most counties, this is done by mailing an assessment form to all individuals and businesses. Assessors are required to visit all real estate at least once every three years but all property is to be at market value on an annual basis. The Assessor shall finish the work of assessment and complete the land and personal property books not later than the 30<sup>th</sup> day of January.

Land and Personal Property books are to be completed in time to submit to the Board of Equalization and Review no later than the first day of February of that assessment year. The Assessor and assistants shall attend the Board of Equalization and Review and render any possible assistance in connection with the valuation of property.

The Assessor shall annually, not later than the third day of March, furnish to the Recorder or Clerk of Cities and Towns, Secretary to the Board of Education, State Board of Education and the County Commission, along with Public Utilities, certification of the assessed values for the current year. The levying bodies are required to use these values to prepare their budget estimates and lay the levies.

Once levy rates are certified to the Auditor, they are certified to the Assessor and are entered into the computer to



allow the Sheriff to print tax tickets. Assessors determine values and in turn, the levies set by levying bodies, including excess levies, determine tax revenue.

Other responsibilities include:

- List all properties exempt from taxation, such as that owned by federal, state, county or local governments; property used for public or charitable purposes, property used for schools and hospitals and property used for worship
- Collect county and local dog taxes Determine eligibility of property owners for the Homestead and Disability Exemptions
- Maintain tax maps and property records and make them available for public use
- Collect farm statistics annually and report to the Commissioner of Agriculture
- Collect farm-use decal permit fees Collect mobile home permit fees Annually complete a sales ratio analysis
- Present to the tax commissioner a list of real property transfers of the prior assessment year by December 1st annually
- Supply a list of new construction and improvements exceeding \$1,000 of the previous assessment year to the tax commissioner by December 1st annually
- Supply a list to the tax commissioner by December 1st annually of new businesses and businesses that have discontinued operations during the previous assessment year
- Assist the tax commissioner by providing information with respect to the taxation, classification, and valuation of non-utility and public utility property so that all property shall be more equally and uniformly assessed throughout the state
- Annually assist the tax commissioner in determining the current use of such real property in his/her county as the tax commissioner may require to accomplish a uniform appraisal and assessment of real property
- Prepare cost studies and update land values on an annual basis

#### Estimating Real Estate and Personal Property Tax

Appraised Value x 60% = Assessed Value

Assessed Value x Levy Rate = Tax

#### Property Tax Classifications

Class I - All tangible personal property employed exclusively in farming and livestock

Class II - All property owned, used and occupied by owner, exclusively for residential purposes, and farms used and occupied by their owners or bona fide tenants Class III & IV - All real and personal property exclusive of Class I & II situated outside a municipality (Class III) or within a municipality (Class IV) (rental and vacant), not used and occupied by the owner.

### **PROSECUTING ATTORNEY**

**TERM: Four Years RESIDENCE: State**

**Must be admitted to practice law by date term begins**

Every four years, all fifty-five counties elect a prosecuting attorney. In Class I, & II counties, the position is full-time with outside employment prohibited. Before the primary election, county commissions in Class III, IV, & V counties may require that the position be full-time beginning with the next term but they must then pay the salary of a Class II county. The prosecuting attorney is the chief legal officer of the county. They have areas of responsibility in both criminal and civil cases. In criminal cases, the prosecuting attorney assists in the investigation of all crimes and other law violations in the county. In civil cases, the prosecuting attorney acts as legal advisor to the County Commission and other county officials. They may also be called upon to assist the state Attorney General in state legal actions within the county. The prosecuting attorney's office must be kept open during elections and be available to advise election officials or answer questions from the public. Other duties and responsibilities include:

- the prosecution of all crimes, both misdemeanors and felonies, within the county
- request warrants to be issued for persons charged with felonies
- try cases before magistrate and circuit judges

- present information to the Grand Jury for indictment of persons in connection with criminal activity
- represent the Department of Health and Human Resources in child abuse and neglect cases
- represent the State in juvenile delinquency cases
- appoint and supervise assistant prosecuting attorneys
- represent all elected county officials and county agencies
- prepare contracts and other documents for the county
- file civil suits for county agencies and defend county agencies in civil actions
- serve as special prosecutors as appointed by the Prosecuting Attorneys Institute

## **SHERIFF**

**TERM: 4 Years RESIDENCE: County**

The Sheriff of the county serves as its chief law enforcement officer, charged with the responsibility of policing the county and keeping the peace, including the power to make arrests. A sheriff may not serve more than two consecutive terms. It is required to be a full-time position in all counties except Class X. In counties that operate county jails, the Sheriff has responsibility for administration of the jail and custody of the inmates. In addition to duties related to law enforcement, the Sheriff also serves as the Treasurer of the county and collects all taxes levied by the county. To assist the Sheriff in the performance of his/her duties, law enforcement deputies, tax deputies and legal process deputies may be employed. Correctional officers may also be hired in those counties which have a county jail. The Sheriff's duties include:

- Serve and execute all returns, notices and processes issued by the courts which must be served in the county
- Act as bailiff in court proceedings
- Enforce court orders
- Administer transportation of prisoners, mental patients, and extraditions
- Issue licenses to Citizens who apply for a concealed weapons permit
- Administer the financial matters of adults who are unable to do so for themselves
- Collect all state, county, municipal and school taxes; disburse money to appropriate agencies
- Maintain all tax records
- Enforce payment of delinquent taxes

## **EMERGENCY SERVICES DIRECTOR**

General duties of the Emergency Services Director:

1. Is responsible for the overall County safety with particular emphasis on Fire Safety and response.
2. Will conduct emergency evacuation drills with the approval of the Senior Counselor.
3. Will attend all meetings and training sessions of Emergency Services Directors under the direction of the Staff advisors, and will be available to serve as State Fire Marshal, if so appointed by the Governor.
4. Will work with the County Commission, City Council and Mayor to enact county ordinances relating to fire safety and emergency services, and enforce same by citation and/or arrest, if so empowered by ordinance.

## **COUNTY SURVEYOR**

The County Surveyor is the official surveyor of lands for the County, and executes, on order of any of the courts, surveys of lands for parties to a suit and makes a report thereof; it is also his duty to report to the Circuit Court any wild lands in the County which are not under claim of title or possession or upon which taxes have not been assessed for more than five years.

## **BOARD OF EDUCATION**

A. Duties in general.

1. Levies direct taxes on property for school purposes.
2. Appropriates moneys for certain purposes.

(Note: Certain moneys are paid out of school funds without appropriation by the board such as salaries fixed by law, etc. although the actual payment of these unappropriated funds must be approved by the board.)

3. Prepares an estimate and budget for each fiscal year, beginning July 1. (As the budget is being prepared, it must be made available to the public and discussed with the people of the county in a public hearing.)
4. Fixes salaries of the superintendent, assistant superintendents, teachers, service personnel, and other personnel.

B. Executive or administrative duties.

1. Employs and assigns school teachers upon the recommendation of county superintendent.
2. Appoints the county superintendent, who acts as chief executive officer of the county board of education, secretary of the county board of education, and administrator of state educational policy in the county.
3. Manages through the respective school principals, all county school buildings and other buildings used in connection with the county's schools.
4. Provides for the supervision of transportation of pupils in the county to and from the schools in school buses.
5. Exercises general supervision over all county schools through their principals.
6. Employs and, with the recommendation of the county superintendent of schools, assigns school service personnel.

C. Duties relating to grievances, hearings.

1. Hears and passes on all charges brought for the demotion, suspension, or dismissal of a teacher or service employee, the superintendent, or other school personnel for immorality, incompetency, cruelty, insubordination, intemperance or willful neglect of duty.
2. Can hear or review grievances decided by the county superintendent of schools, subject to appeal to the Education Employees Grievance Board, or can waive its own consideration of a grievance to the grievance board.

D. Other Matters

1. Each county has a county board of education consisting of five members elected for a term of six years. Members are elected in primary elections, two years apart in even-numbered years. Not more than two members may be from the same magisterial district.
2. The board meets on the first Monday in July after the election and elects a president for a two-year term.
3. At any meeting, the board may employ such qualified teachers, or those who will qualify by the time of entering upon their duties, necessary to fill existing vacancies for the current or next ensuing school year.
4. Special meetings of the board may be called by the president or three members, the president being a voting member of the board, and three members constitute a quorum.
5. The compensation paid to board members is \$80.00 (maximum) per meeting attended; however, they cannot be paid for more than fifty-two meetings each year.
6. The board of education has the right of eminent domain, and it may, by condemnation, take such property deemed necessary and desirable for school purposes for consideration deemed adequate by a court.
7. The county board of education, subject to the Policies, Rules and Regulations of the West Virginia Board of Education, has authority:
  - a. To control and manage all schools.
  - b. To establish needed high schools.
  - c. To consolidate schools and to close any school which is deemed unnecessary-after, in either event, justifying its reasons by making them available to the public for inspection and conducting a public hearing —, and to assign the pupils to other schools.
  - d. To close any elementary schools whose average daily attendance for a two-months' period falls below twenty pupils (subject to the restrictions stated in item D-7-c above.)
  - e. To provide, at public expense, adequate means of transportation for all children of school age who live more than two miles from their school or the nearest school bus route. (This includes children enrolled in non-public schools approved by the county board of education.

- f. Each county board of education must purchase for each of its schools a United States Flag, four by six feet, of regulation bunting and require the flag to be displayed during the time the school is in session, except in inclement weather. Each school day begins with a Pledge of Allegiance to the Flag of the United States.
- g. The county board of education, in accordance with the State Freedom of Information Act, must give full and complete information to anyone requesting it about its affairs and the official acts of its officers and employees.
- h. The county board of education, in accordance with the State Open Governmental Proceeding Act, must conduct its meetings in public-except where private sessions are authorized by law for discussion of certain kinds of issues and must also give any person an opportunity to address the board who registers fifteen minutes prior to the time the scheduled meeting is to commence.

## **THE CORONER**

The Coroner is an officer appointed and paid by the County Court; the fees are set by the commission on post-mortem examinations. In case of death without medical attendance, it is the duty of the undertaker, or person acting as local registrar of such death, and when so notified the registrar shall, prior to the issuance of the permit, inform the local health office or refer the case to him for immediate investigation and certification...Provided further that if the registrar has reason to believe that the death may have been due to unlawful act or neglect, he shall then refer the case to the coroner or other proper office whose duty it is to hold an inquest on the body of any deceased person; and to make the certificate of death required for a burial permit, shall state in his certificate the cause of death.

## **The Grand Jury**

The Grand Jury, under our present system of jurisprudence, is one of the most important and one of the most powerful institutions in the United States Government.

It is composed of sixteen persons selected from a list of good, substantial law-abiding Citizens by the Jury Commission. Each county has a Jury Commission composed of the clerk of the Circuit Court and two jury commissioners appointed for a term of four years by the chief judge of the Circuit Court or judge in a single judge circuit. Generally, a jury commissioner is not permitted to serve two consecutive terms.

The method of selecting a jury is as follows. The Jury Commission compiles and maintains a master list of residents of the county from which prospective jurors are to be chosen. The master list shall be a list of individuals compiled from whatever random key number system the commission may choose from not less than two of the following source lists: 1) persons who filed state income tax return for previous year 2) registered voters in the county 3) valid motor vehicle operators or chauffeurs license holders.

At the discretion of the Circuit Court, the Jury Commission maintains a jury wheel or jury box, into which the commission shall place the names or identifying numbers of prospective jurors taken from the master list. On the day appointed, the jury commissioners shall appear and draw the names of sixteen persons from the jury wheel or jury box, and the persons so drawn shall constitute the Grand Jury. At the same time, the jury commissioners shall draw the names of a number of alternate jurors as directed by the chief judge of the circuit or the judge in a single judge circuit.

At the opening day of the Criminal Court after sixteen persons making up the Grand Jury have been chosen, they take the following oath: "From among the persons so summoned, who attend, the court shall select a foreman, who shall be sworn as follows: 'You shall diligently inquire and true presentment make of all such matters as may be given you in charge or come to your knowledge touching the present service. You shall present no person through malice, hatred or ill will, nor leave any unrepresented through fear, favor, partiality or affection, but in all your presentments you shall present the truth, the whole truth and nothing but the truth. So help you God.' The other grand jurors shall afterwards be sworn as follows: 'The same oath that your foreman has taken on his part, you and each of you shall observe and keep on your part. So help you God.' "

The presiding judge next delivers a charge which instructs them as to their responsibilities, duties and authority, enumerates and defines the list of offenses for which the Prosecuting Attorney has provided indictments and, most important, informs the Grand Jury that it is an independent body which may initiate and conduct an inquiry of any alleged law violation

whether asked to do so by the court or by the Prosecuting Attorney. The Grand Jury deals with criminal matters only. It has the power after hearing witnesses testify to indict any person for the violation of any law. An indictment is a statement which sets forth in a formal charge the details of the crime the person complained of is believed to have committed. A quorum of the Grand Jury is fifteen. When at least twelve of the fifteen or sixteen vote to accuse one of a crime, they return an indictment, which is called a "True Bill." When the Grand Jury is expressing its views or taking a vote whether or not to indict a person, the proceeding is secret not even the Prosecuting Attorney or any other officials are permitted in the room.

### **The Judicial System of the County**

Each county has a Circuit Court that has jurisdiction to try all criminal and civil cases. In some circuits, however, because of the large amount of court business, more judges are required and, thus, there are varying numbers of Circuit Judges in each circuit.

Provision is made by the rules of each Circuit Court for the selection of a Chief Judge of the circuit. Each Circuit Judge is elected by the voters of the circuit, which is called a circuit because it is composed of possibly two or three counties. Vacancies in the office of judge are filled by the Governor until the next general election.

### **Public Assistance Council**

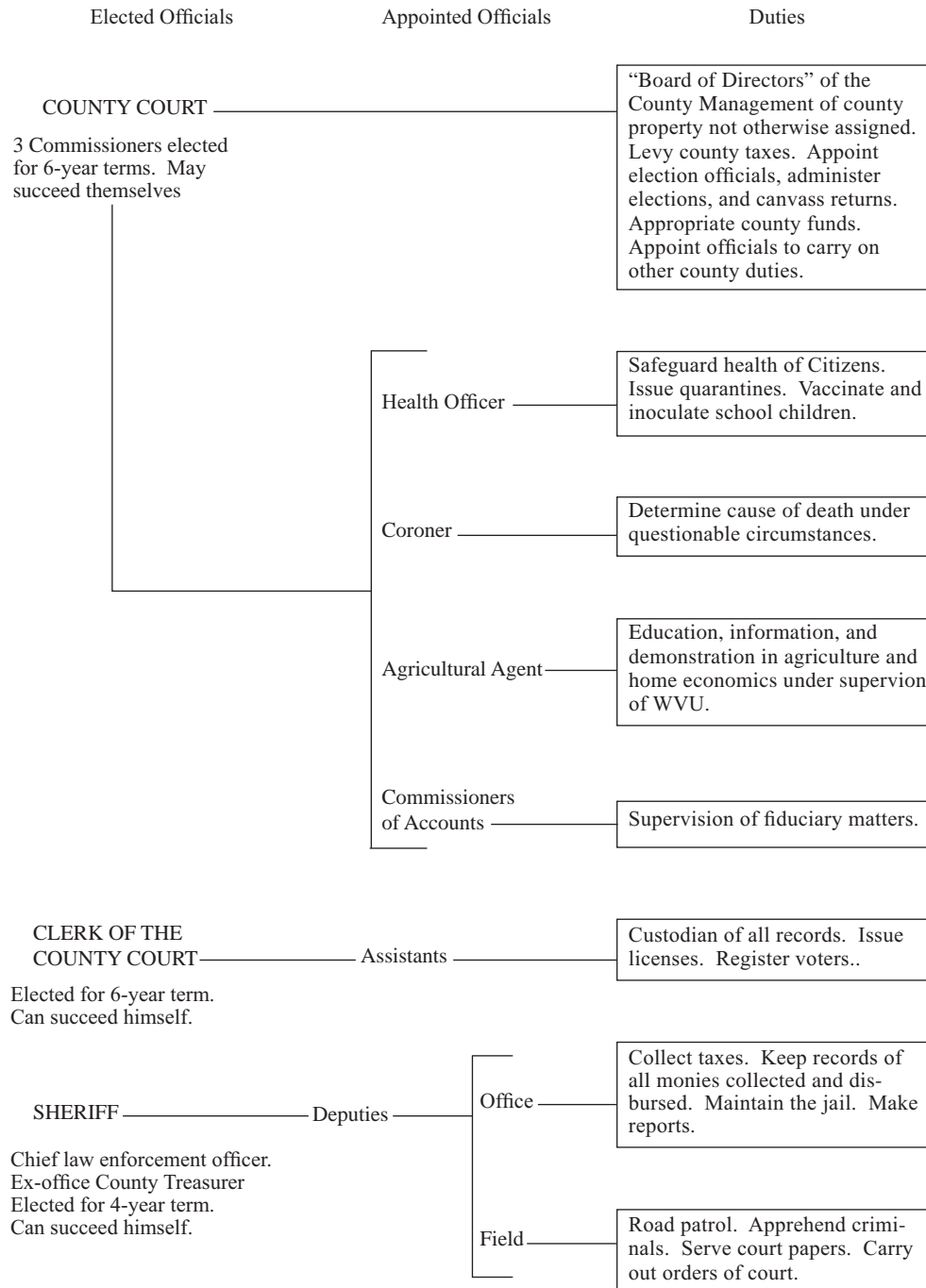
This is a recent addition to the county government created by the Legislature, which provides that the Public Assistance Council shall consist of five members, four appointed by the Governor, the fifth being the President of the County Court. This Board has charge of all matters of public assistance in the county, including the aged, the infirm, paupers, and the blind. They direct all relief measures for such Citizens.

### **Other Officers**

There are several other commissions and officers in the county, such as the mental hygiene commission, which is composed of other county officials, who determine whether a person shall be committed to a mental health facility; the County Board of Health, which is also composed of county officials, having to do with the enforcement of health laws in the county; coroners and many others about which it is believed nothing need be said here.



## COUNTY GOVERNMENT IN WEST VIRGINIA



## COUNTY GOVERNMENT IN WEST VIRGINIA

Elected Officials	Appointed Officials	Duties
<b>ASSESSOR</b> Elected for 4-year term. May succeed himself.	Deputies	
	Office	Keep records in office.
	Field	Make assessments of all real and personal property (except Public Utilities)
<b>PROSECUTING ATTORNEY</b> Elected for 4-year term. Assistants May succeed himself. Acts as state's attorney in the county.		Prosecure and defend all casses in which state or county is involved. Advisor in legal matters to county officials. Issue summons to witnesses to appear before Grand Jury.
<b>CIRCUIT JUDGE</b> Elected for 8-year term. May succeed himself.		Tries cases. Interprets the law. May Instruct the Grand Jury.
	Court Reporter	Record and report the proceed-ings of the court. Assist judge in this duties
	Probation Officers	Advises court in regard to proba-tion of prisoners.
	Two Jury Commissioners	Preparte lists of Citizens qualified to serve as jurors.
	Divorce Commissioner	Investigate divorce cases.
<b>CLERK OF THE CIRCUIT COURT</b> Elected for 6-year term. May succeed himself.	Assistants	Keeps records of Circuit Court. Collects fees and fines imposed by the court. Issue summons for jury duty. Has ballots printed for elections. Handles filing of candidates for election. Handles all absentee voting.
<b>COUNTY BOARD OF EDUCATION</b> Elected for 6-year term on non-partisan basis.. May succeed himself. Five members.		Supervision of all schools and matters pertaining to schools within the county.
	County Supt. of Schools	Executive officer for the Board of Education.

## COUNTY GOVERNMENT IN WEST VIRGINIA

Elected Officials	Appointed Officials	Duties
COUNTY SURVEYOR Elected for 4-year term. May succeed himself.		Makes county surveys for county Court on fee basis.
MAGISTRATE Elected for 4-year term. May succeed himself.		Power extends to trial of civil cases involving less than \$5,000.00; criminal cases involving misdemeanors. Magistrate Court is chief petty tribunal in the state. Paid by Salary

# **CITY GOVERNMENT**

## **PART ONE: THE CITY CHARTER**

### **What is a City Charter?**

The charter of a city is to the city what the constitution is to the state, i.e., it establishes the fundamental framework of government and outlines certain restrictions and requirements that are binding on city officials and others, and is the supreme law of the city and superior to any ordinance of the city council.

The West Virginia Home Rule Law provides four different forms of municipal government, any one of which may be included in a charter. These forms of government are discussed in Part Two of this outline. Part Three of this outline discusses the charter of the cities of the Mountaineer Boys State.

Towns and villages of less than 2,000 population which are incorporated are governed under the provisions of a state law known as Chapter Eight of the Official Code, and they are exceptions to the rule that all cities and towns have charters. In brief, Chapter Eight provides, for towns and villages of less than 2,000 population, that there be an elected mayor, recorder, sergeant and councilmen. The system of government is very much like the “weak mayor” system which is discussed in Part Two of this outline.

### **How Cities Are Incorporated**

When a town or city is “incorporated” that means it has a charter or is governed under Chapter Eight of the Code, and the people have, as a whole, certain powers prescribed by the charter or by law. Such powers include the right to have a police force, the right to levy taxes to support the police force, the right to elect councilmen, etc. “Unincorporated” towns or villages, on the other hand, have no town officers at all, and do not have any of the powers of towns or cities.

Prior to 1937 all charters were granted, and amended, by the legislature. But now West Virginia has taken a front place among her sister states by providing what is known as “municipal home rule”, which means that the people of towns and cities of more than 2,000 population may decide their own form of government and adopt and amend their charter without any intervention of the legislature. Most cities, however, still operate under charters granted to them by the legislature prior to 1937.

You have all seen signs along the state roads giving the names of “towns and saying “unincorporated”. Such towns do not have charters or local officers; they are merely spots on the map. The people of any such “unincorporated” town, if they want to incorporate, may submit a petition to the circuit court of their county, together with a survey of the territory to be included in the town and a census of its population. The circuit court then calls an election in that territory, and if the majority of the voters are in favor of becoming a town, the town comes into existence, i.e., it becomes incorporated, and is governed under Chapter Eight.

### **How A City Gets A Charter**

If the city contains more than 2,000 population, from 10% to 20% of the voters thereof, (depending on the population of the city and whether or not a special election rather than a general election is wanted), may petition the city council to have an election to determine whether or not the people want to adopt a new charter, and, in case they do, to elect members of a charter board to write the new charter. If the people vote to elect a charter board, the members of the charter board write a new charter and then submit such charter to vote of the people. If a majority of the votes are in favor of the new charter, it then becomes the charter of the city.

The charter of the city may contain any one of the four plans of government discussed in the Part Two of this outline. Note that the plans are very general, and do not go into detail. The details may be filled in by the charter board but the charter board may not insert any provisions in conflict with the plan of government which is to be followed, nor may it insert any provisions contrary to any general state law provided for the government of municipalities.

Some of the details which are not covered, and which therefore, may be determined by the charter board, are: Term of office of elective officials, whether for two or four years; salaries of elective officials; manner of voting; whether to have partisan or non-partisan elections; kind of elections; number of city departments, and their functions; etc.

### **How Charters May Be Amended**

If the city contains more than 2,000 population, from 10% to 20% of the voters thereof, (depending on the population, and whether or not a special election is wanted instead of a general election), can prepare specific amendments to one charter, and petition city council to submit such amendments to a vote of the people. If the people vote in favor, such amendments become parts of the charter.

Another method is by two-thirds of the city council writing specific charter amendments, and submitting them to a vote of the people. Still another method, if a charter board has been elected, is to have the charter board write amendments, and submit them to a vote of the people.

Charter amendments, like whole new charters, must not contain any provisions contrary to the form of government or state law.

### **The State Law For Municipalities**

Although the legislature may no longer grant or amend charters it has power to enact laws for the government of all municipalities alike, and for the government of any class of cities alike. ("Class I" cities are cities of more than 50,000; "Class II" cities are from 10,000 to 50,000; "Class III" cities are from 2,000 to 10,000; anything under 2,000 is a town or village.)

General laws provide, among other matters, for the method of levying taxes; the limit to the amount of debt that may be contracted; financial procedures of various kinds, such as the publication of an annual report; for what purposes city licenses may be required; and, in general, what cities may do and what they may not do. No charter, charter amendment, or ordinance of a city council may be in conflict with these state laws.

## **PART TWO: FORMS OF MUNICIPAL GOVERNMENT**

(Part two of this outline was prepared by the National Municipal League, whose headquarters are New York City. Part two has been copyrighted by the National Municipal League, and nothing herein may be quoted in writing without the League's permission. The League kindly consented to the inclusion of this material free of charge, as a courtesy to The American Legion and for the education of the Citizens of The American Legion Mountaineer Boys State. This material has been changed slightly, by the author of this outline, so as to make it applicable to West Virginia.)

### **The Question**

What forms of municipal government are there in the United States and how have they worked?

So many times is this question asked of the National Municipal League, in its capacity as a clearing house for information on local government, that this pamphlet has been prepared to serve as succinct reply.

The League is peculiarly qualified to report on the American experience with the forms of municipal government because of its long, unique history as an organization interested in the improvement of city government. This first Model City Charter, published by the National Municipal League in 1900, rapidly became a pattern for numbers of communities seeking structural improvement. The Model City Charter had been revised periodically through the years to bring it abreast of experiences and developing thought, and has maintained its place as the standard guide to the legal framework of good municipal government.

It is hoped that this brief summary of forms of city government may clarify thinking in a field where there has been much misinformation and misinterpretation.

### **Government For Service**

Local government exists to perform functions and render service which the people of the community demand and which can be performed more cheaply by government than any other way. The usefulness of government is limited only by the character of functions which it may adequately perform.

Thus the gross cost of government, in taxes, is beside the question of how good is government. Rather, the Citizen's question should be: (1) Am I receiving all the services which government should, by reason of economy and convenience, rightfully perform? (2) Are those services being efficiently rendered? and (3) Is government sufficiently subject to democratic control, sufficiently responsible to public opinion, in performing those services?



## **Four Forms of Government**

At the present time, four general types of government structures are in use in American cities. They are:

1. WEAK MAYOR FORM (W.Va. "Plan I, Mayor-Council Plan")
2. STRONG FORM (W. Va. "Plan II, Strong-Mayor Plan")
3. COMMISSION FORM (W. Va. "Plan III, Commission Gov't.")
4. COUNCIL-MANAGER FORM (W. Va. "Plan IV, Manager Plan")

### **Weak Mayor Form**

The weak mayor form (see Chart B) has shown itself to be the least successful of the types of municipal structure. In recent years this form has been discarded by city after city and no new adoptions are being recorded. Its early extinction should be welcomed. It was most in vogue during the nineteenth century, when a theory was current that democracy was best served by directly electing as many officials as possible.

The weak mayor plan commonly has the following characteristics:

1. A large council elected by wards, or at large, or both.
2. An elected mayor.
3. Most administrative heads elected, including treasurer, city attorney, and some or all other department heads.
4. Elected administrative boards.

The weak mayor form of government has been found undesirable because it lends itself easily to political manipulation, does not provide successfully for competent department heads or other personnel, lacks a unifying, responsible, single executive head, and is so diffused as to make effective vote control at the polls almost impossible.

### **W. Va. Plan II, Strong Mayor Plan**

The strong mayor form has been more successful than either the weak mayor or the commission form. It was embodied in the Model Charter of the National Municipal League forty years ago. But in practice it, too, developed serious weakness and in 1916 the Model Charter abandoned its recommendations. Many of the cities which formerly operated under weak mayor forms turned to the strong mayor type, largely as a result of the widespread failure of the former. Since the strong mayor form is in wide use in the United States it deserves serious attention.

The strong mayor plan commonly has these characteristics:

1. A city council elected by wards, or at large, or both.
2. A mayor elected at large.
3. The mayor has power to hire and fire most or all department heads.
4. The mayor prepares the city budget for council consideration.

The chief defects of this plan are:

1. The difficulty of electing mayors who have real executive ability and knowledge of the job.
2. The opportunity provided for the mayor to build up a powerful personal political machine.

The strong mayor form automatically corrects one of the most serious defects of the commission form lack of a single responsible executive. It also eliminates the commission plan's dangerous union of administrative and policy-making functions. The council is responsible for legislation and policy-making, while the mayor's job is administrative except in his power to veto acts of council.

But the strong mayor form does not eliminate other serious defects of the commission form.

### **A Politician-Administrator**

First of these is the lack of administrative expertness. For the same reason that trained municipal executives are not normally elected to a city commission, only by chance would a qualified administrator be elected mayor although there may be more chance of electing a single good administrator than of electing five. Nevertheless, seldom does election produce even one good administrator. It does almost invariably produce politicians.

The experience of cities operating under the strong mayor form is that occasionally a mayor is elected who is competent to direct the complicated business of the city. When this happens, the strong mayor form of government is at its best. But such mayors are rare. There are few men who are both good enough executives to run a large city organization and good enough politicians to be elected mayor. A few such strong leaders may be found in the history of some cities. But there are only isolated instances of such continuing leadership over a period of years.

Even when a strong executive does happen to be elected mayor, there are serious obstacles in the way of successful government. The tremendous political effort which must be expended to achieve election inevitably carries with it strong political obligations. The mayor's comprehensive power to make appointments to and direct the workings of city departments, provides a convenient avenue for the discharge of those obligations, and for the maintenance of the political machine which is necessary to re-election. In other words, almost any mayor is forced to play politics with the administration.

Only a man of exceptional personality, capacity, determination, and ideals could avoid this necessity. So rare is this combination that it might be called the exception that proves the rule. The extent to which the American people have taken spoils politics for granted in their local governments is sad evidence of this fact.

### **Deadlock**

Another hazard inherent in the strong mayor form is the possibility of deadlock between the mayor and the council. Since council controls the purse strings, it may stop the mayor at any point. Therefore, political differences between the mayor and the council sometimes seriously impede the day-to-day governmental functions which are so essential to the ordinary progress of city life.

In the cities where the strong mayor form is in use, it has provided good government only spasmodically. Because ways were found to correct its defects, twenty-three years ago the Model City Charter abandoned its prior recommendation of this form.

### **W. Va. Plan III, Commission Government**

The commission form of government (see Chart C) has been little more successful than the weak mayor form. It was first used in Galveston, Texas, in 1900, when a tidal wave brought the necessity for quick governmental action. A new form of government was conceived and adopted as an emergency measure. Its apparent simplicity gave the plan a quick vogue, but later, after trial, many cities discarded it. More are doing so each year.

The commission plan has the following characteristics:

1. Three or five commissioners elected at large by the majority vote to serve as legislative body.
2. While the plan sounds simple, it has been found to have most of the defects of the weak mayor form, and some others peculiar to itself. Government under this form lends itself easy to political manipulation, does not provide successfully for competent department heads or other personnel, lacks a single unifying responsible executive, provides no adequate brake on government spending, and is so conducive to buck-passing that although the voter needs to make only three or five choices at the polls he does not know whom to blame for bad government or to praise for good government.

### **Policy and Administration Fused**

The chief fault of the commission form is that it makes no organizational distinction between the policy-making function of government and the administrative function. This is not only not workable from the practical point of view but it is also contrary to firmly established American governmental tradition, which from the beginning distinguished between the executive and legislative branches of government and attempted to keep them separate.

An even more important objection to fusing in a commission both administrative and policy-making functions is that successful administrators and successful legislators need very different qualifications. Administration of a city department, especially in a large city, is a job which takes considerable executive ability plus knowledge of the particular specialized subject matter with which the department is concerned. A policy-maker, on the other hand, must be the kind of person who represents others and knows what they want government to do. Under the commission form of government, the elected commissioners are supposed to perform both functions, to legislate for the city and to administer a department.

### **Elected to the Wrong Job**

Commissioners are likely to be unfit for the administrative jobs. The process of election can seldom carry to office men who have the talent for administration. Personality, connections, backing, political organization, are the factors which produce votes. A good administrator may not and frequently does not have these attributes. Moreover, those men who have the qualities necessary to successful public administration are rarely willing to run for office under the conditions of the commission plan. A professional man is likely to refuse to face the uncertainty of tenure and possible loss of his job after two or four years for reasons which may be entirely unconnected with his ability to do his job well.

Another serious consequence of election is that commissioners inevitably have political debts to pay to the individuals or the political machine that helped elect them. This means that they may make appointments within the departments they administer, not because of the fitness of appointees for the jobs, but because of their political qualifications or relationship. The number of votes a job applicant controls becomes more important than his training. Since most commissioners look forward to re-election, after past political debts are paid they must maintain their political bridges by continuing to administer their departments on a spoils basis. Sometimes political obligations may carry even further than appointments. In awarding city contracts, in the thousand transactions connected with any city department, a commissioner can easily throw business or favors in the direction of political advantage.

A frequent result of the commissioner's free access to spoils is that one commissioner eventually succeeds in building up a personal political machine so powerful that he can dominate all the other commissioners. Many such commissioner-bosses have been produced in American commission-governed cities, their names have invariably been associated with scandal and corruption.

### **No Executive**

One of the most serious shortcomings of the commission form as an instrument of practical, democratic local government is its failure to provide an executive head for the government. History shows an impressive record of failure with the multiple executive form. Even parliamentary forms of government give one of the ministers the title and powers of executive, but while under the commission plan one official is designated mayor, he is legally no more than a chairman for the commission while it is exercising its legislative role. The mayor has no authority at all over his fellow commissioners in their administrative roles. Whatever influence he may have is moral, not legal.

The result of the lack of an executive head can be a catalogue of governmental failure. There is no brake on the activities of each department. There is no one with an over-all balanced view of the financial needs of each department. There is no one to make quick decisions, especially in an emergency. In case of some serious governmental error or misdeed, there is no one on whom the legislative body or the voters can fix blame. There is no one source of authority to whom Citizens and government employees can go with problems or complaints. There is no agent competent to devise and execute a plan for the work of the government. In short, under the commission form there is not one government but five little governments, all of which may be riding off in different directions.

### **A Spending Machine**

One of the most serious faults of commission government in these times is its failure to provide any check whatever on governmental spending. Because the men who vote the funds are the same men who spend them, there is almost no chance of government appropriations being cut down, whereas the tendency for them to rise is almost irresistible. Each commissioner is characteristically near-sighted in estimating the needs of his own department. It is inevitable that he should always ask for as much as he can possibly get. If the commissioner is trying to advance politically, he will fight for more jobs to fill and more contracts to award, in order to build up his sphere of influence. Even a politically unambitious commissioner will inevitably see the needs of his own department more clearly than those of other departments, and will fight for the aggrandizement of his division of the government. Executives everywhere recognize this characteristic short-sightedness on the part of a department head, and commonly scrutinize department budget estimates, for instance, with an eye to paring down some in order to make them more nearly comparable to the others. But the commission form provides no one to pare down, adjust, or coordinate. Spending is the commissioner's job, and there is no executive whose job is saving. The old principle of the pork barrel is always in operation. From the financial standpoint, the commission form is a motor car with an accelerator but no brake.

## **W. Va. Plan IV, Manager Plan, or Council-Manager Form**

The form of government which is usually proposed to remedy the difficulties of the other forms of government is the council-manager plan. (See Chart D.) Since 1916 this form has been recommended by the Model City Charter. The first municipal use of the title “manager” occurred in Staunton, Virginia, in 1908, where the office of “general-manager” was created and continued for several years as a novel adjunct to an otherwise old-fashioned government consisting of a two-house city council and mayor. What is now known as the council-manager plan appeared first in a draft of a charter proposed by the Board of Trade of Lockport, New York, in 1911. It was never passed by the legislature but other cities gave the plan consideration, civic organizations like the National Municipal League hailed it with approval, and the actual adoption followed in 1912 in Sumter, North Carolina. Today approximately five hundred cities and counties are operating under this form of government. All but twenty-one of these communities are in the United States and political scientists ordinarily consider the form America’s chief contribution to municipal administration.

Chief characteristics of the council-manager plan are:

1. A small council elected at large, preferably by proportional representation.
2. The council hires a professionally-trained city manager who is subject to dismissal by the council at any time.
3. All legislative and policy-making powers, including the decision as to how much money shall be spent, are centered in the council.
4. Responsibility for administration is given to manager who has power to appoint and dismiss department heads and other administrative employees, subject to civil service provisions. The manager also drafts the budget for presentation to council.

Most of the cities using the manager plan report no structural defects. In a very few cases, strong political machines have retained their hold on the council, a non-professional manager has been appointed and politics have been injected into the administration. But this is the exception, not the rule. In almost all cities the experience with the manager plan has been favorable. Manager cities report increased efficiency, better public services, and easier voter control of government at the polls.

### **Separate Policy and Administration**

The council-manager plan clearly differentiates between the policy function and the administrative function of government. The people elect the council, which makes governmental policy, controls the raising and appropriation of funds, levies taxes and contracts debts. The council also chooses the manager, whose duty it is to carry out its policies, spend the funds it has appropriated, supervise the work of the administrative departments, and make all appointments.

A distinct line is drawn between the duties of the council and the duties of the manager and it is made illegal for councilmen to interfere with administration. The Model City Charter, which embodies the council-manager form of government, states, that “Except for the purpose of inquiry the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.” The manager’s duties too are clearly defined. If the council is not satisfied with the way things are being handled, it may dismiss him.

## **CITY GOVERNMENT**

These are general directions issued to direct your attention to the usual procedures in forming a city government. Adjustments should be made to fit conditions and numbers in each (county-city) cabin.

### **I. What we are trying to do.**

1. To help Counselors to understand what must be done in the cottages and to help make the procedure fairly uniform.
2. To see that every Citizen elected or appointed has some duty to perform.
3. To stress that good government results when individuals
  - a. Give their services.
  - b. Appreciate their privileges.
  - c. Appreciate their responsibilities.

4. To have a representative city government within each cottage, city officers will be responsible for enforcement of Municipal Ordinance within the cottage.

## II. City Government

1. All cottages shall use the strong mayor system.
2. Elect a mayor and three councilmen.
3. Citizens who do not intend to run for state offices are good persons to announce themselves for mayor or councilmen.
4. Duties of city officers.
  - a. Mayor
    1. Is responsible for enforcement of city ordinances with the help of the Chief of Police and Fire Chief.
    2. Is responsible for peace and order in the city.
    3. Presides over Council Meetings.
    4. Makes appointments (Clerk, Chief of Police, Sanitary Engineer, and any other appointments the council decides upon). **Note: Police Chiefs must be appointed no later than the end of Wednesday's breakfast to allow attendance at scheduled training.**
    5. Will hold municipal (police court) and serve as presiding judge whenever necessary.
  - b. City Council (three members)
    1. With the Mayor, the council shall draw up any ordinances for the government of the city. Ordinances should go into effect by noon on Wednesday.
    2. Council shall come into session whenever public welfare demands.
  - c. Chief of Police
    1. Enforce city ordinances, which are essentially the same as all Mountaineer Boys State laws, and other laws as enacted by city ordinance. Issue citations and make arrests as necessary.
    2. Must appear in police court whenever the chief is citing and/or arresting officer to provide testimony in support of citations/arrests.
  - d. Sanitary Engineer
    1. Is responsible for sanitary conditions and overall cleanliness of the City with specific emphasis on restroom facilities.
    2. Will work with City Council and Mayor to enact city ordinances, relating to city sanitary conditions and will work with Chief of Police and Fire Chief to bring about enforcement of same.
    3. Will aid Counselors in any cases of illness or epidemic.
  - e. City Clerk
    1. Must see that ordinances are posted on bulletin board.
    2. Will keep reports of council meetings, City Charter, City Ordinances, etc. and make same available for review by the public upon demand.
    3. Will notify press as to officers elected/appointed and of items of public interest.



## FORM OF ORDINANCES

The city council at its meetings may enact any number of ordinances following the format below. An ordinance, prior to passage, must be read at two consecutive meetings of the City Council and there must be a notice of the proposed ordinance posted by the City Clerk for view by the public and allowing public comment in front of the Council and Mayor, prior to the second reading and passage.

The usual form of ordinance is as follows:

“Ordinance relating to \_\_\_\_\_ and providing for the enforcement thereof and providing penalties and fines for violation thereof.”

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF \_\_\_\_\_

Sec. 1 \_\_\_\_\_

Sec. 2 \_\_\_\_\_

Sec. \_\_\_\_\_ The provisions of the ordinance are separable and several and if any act, provision, word or clause thereof be declared invalid, the decision of the court shall not affect or impair any of the remaining provisions thereof and it is hereby declared to the intent of the Council that this ordinance would have been adopted had such invalid part not been included herein.

Sec. \_\_\_\_\_ All ordinances or parts of ordinances in conflict herewith are hereby repealed.

# THE LEGAL SYSTEM

## I. THE COURTS

NOTE: All Citizens of The American Legion Mountaineers Boys State are required to attend the delivery of the following lecture. Courts are apart of the government, and Citizens are subject to jury service in the courts, or may be called as witness, or may be parties to ligation, and should know something of the work of the courts. Those Citizens of The American Legion Mountaineer Boys State who expect to be judges, attorney general, prosecuting attorneys, or attomeys-at-law will be required also to pass the bar examination, the questions for which will be based on this lecture. It is well therefore, to read this lecture, and to be familiar with its contents, before coming to The American Legion Mountaineer Boys State.

The Judicial Department of the State of West Virginia, as with the Federal Government, and with the governments of all the other states of the United States, is one of the three separate and distinct departments of the government of the State. As you no doubt know, there are three branches or departments to the government: the executive, the legislative, and the judicial. We are concerned in this lecture with the judicial department.

“By the Constitution of West Virginia the judicial power is vested in the Supreme Court of Appeals, in such intermediate appellate courts as are authorized by law in pursuance of constitutional provisions, in circuit courts and the judges thereof, and in justices of the peace (magistrates after January 1, 1977).”

**Supreme Court of Appeals:** The supreme court of appeals consists of five justices, each elected for a term of 12 years. At the beginning of each calendar year the judges themselves designate one of their number as President of the Court, and he presides over the sessions of the court for that year. Usually the designation as president follows in the order of the seniority of their commissions, and the position of president rotates from year to year among all the members of the court in the order of their seniority.

“The court appoints its own clerk, also a crier. The Attorney General is ex-officio the reporter of the court. The supreme Court of Appeals also has general supervisory control over all intermediate appellate courts, circuit courts, and magistrate courts. To aid the court in the performance of these duties, an administrative director and staff are appointed by the court.”

The Supreme Court of Appeals has two kinds of jurisdiction, that is, two classes of cases in which it can act. In one class its jurisdiction is original-that is, the cases originate in that court. In the other, its jurisdiction is appellate, that is, the cases originate in a lower court and get to the supreme court of appeals by appeals or writs of error.

“The supreme court of appeals has original jurisdiction in cases of habeas corpus, mandamus, and prohibition. It also has appellate jurisdiction in civil cases where the matter in controversy, exclusive of interest and costs, is of greater value or amount than \$300; (Boy’s State-\$5.00) in controversies concerning the title or boundaries of land, in cases of quo warranto, habeas corpus, mandamus, certiorari, and prohibition: and in cases involving personal freedom or the constitutionality of a law. In criminal cases the Supreme Court of Appeals has jurisdiction where there has been a conviction for felony or misdemeanor in a circuit court, and where a conviction has been had in any other court as provided by law. It has such other appellate jurisdiction, in both civil and criminal cases, as may be prescribed by law.”

**“Intermediate Appellate Courts:** Under the Judicial Reorganization Amendment, the Legislature is given the authority to establish such intermediate appellate courts as it shall deem necessary. No intermediate appellate courts exist in West Virginia at the present time.”

**“Circuit Courts:** There is a circuit court in each county of the State. These circuit courts are arranged into circuits, there being 31 in the State, and each circuit has one or more circuit judges. The Legislature has power under the Constitution to rearrange the circuits at the session next preceding a general election of circuit judges which comes every eight years, which is the length of the term of a circuit judge. Some circuits consist of only one county and some of several counties.”

The circuit courts are courts of general jurisdiction, that is, they have the right to entertain cases of almost every kind or nature. Except in cases confined exclusively by the Constitution to some other tribunal, they have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest and costs, exceeds \$2,500; of cases of habeas corpus, mandamus, quo warranto and prohibition and of all crimes and misdemeanors. They shall have appellate jurisdiction in ‘all cases, civil and criminal, where an appeal, writ of error or supersedeas may be allowed to

the judgment or proceedings of any inferior tribunal.

**“County Commissions:** There is in each county a county commission, except in a few counties where, under authority of a provision in the Constitution, a tribunal in lieu of the county commission has been organized to handle the fiscal and internal police affairs of the county, including the establishment and regulation of roads, ways, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. The county commissions presently have jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, and curators and the settlement of their accounts, but the Legislature may, after January 1, 1976, place these matters under the jurisdiction of the circuit courts.”

**“Officers of Circuit Courts and County Commissions:** The circuit courts are composed of one or more judges, a clerk, a sheriff or his deputy or crier, a court reporter, and a jury. The county commissions are composed of three commissioners, a clerk, a sheriff, or his deputy, when his services are needed.”

**Municipal Courts:** City charters usually provide for some court to handle the cases arising from the violation of city ordinances, usually called a police court, presided over by a police judge, or the mayor, and such courts have the same criminal jurisdiction as a justice of the peace with reference to offenses arising within the municipality, and jurisdiction to handle all violations of city ordinances, but their jurisdiction is confined to enforcement of municipal ordinances. Such courts usually have a clerk, a sergeant or chief of police or police officer to execute the judgment and orders of the court.

**Magistrate Courts:** After January 1, 1977, the justice of peace courts were replaced by magistrate courts. Each county will have at least two magistrates, and the most populous counties may be entitled to as many as ten magistrates. Magistrates will be paid set salaries based upon the size of the population he/she serves. A magistrate cannot assume his duties until he has completed a course of instruction in rudimentary principles of law and procedure. The sheriff of the county will serve the process and orders issued by a magistrate.

Magistrate courts shall have jurisdiction of all civil actions in which damages or the value of property sought is not more than \$5,000. Such courts shall have jurisdiction of matters involving unlawful entry or detainer of real estate so long as the title to such real estate is not in dispute. Magistrate courts shall not have jurisdiction of:

- (a) Actions in equity;
- (b) Matters in eminent domain;
- (c) Cases on which title to real estate is in issue;
- (d) Proceedings seeking satisfaction of liens through the sale of real estate;
- (e) Actions for false imprisonment;
- (f) Actions for malicious prosecution;
- (g) Actions for libel or slander; or
- (h) Actions for any of the extraordinary remedies.

Magistrate courts shall have jurisdiction of all misdemeanor offenses committed in the county and to conduct preliminary examinations on warrants charging felonies committed within the county. A magistrate shall have the authority to issue warrants in all criminal matters, to issue warrants for search and seizure and, except in cases involving capital offenses, to set and admit bail.

**Sittings of court to the public:** The sittings of every court within this state will be public, and every Citizen may freely attend the same, except that in all proceedings and trials in cases of divorce, on count of adultery, seduction, abortion, rape, bastardy, the court may, in its discretion, exclude therefore all persons whose morals might be impaired therein, excepting jurors, witnesses, and officers of the court. (Court Rules)

A criminal action is prosecuted in the name of the State of West Virginia, as plaintiff, against the person accused who is designated as the defendant.

## II. LAWYERS

In some of your first courses in high school, or in the note book that has been given you, or in the first part of

this lecture, you have been told about the different courts in the State of West Virginia, as well as their functions and jurisdictions. You have been told, too, about the several officials of which a court is composed, namely, the judge or judges, the clerk, the sheriff, the reporter, and the jury. These are required to organize a court, and to make it ready to do business. To conduct business through the courts other officers have become necessary. These are the lawyers, whose function is to present business to the courts and to bring it to a conclusion.

A lawyer is as much a part of the court as the judge or the clerk. He has his separate and special duties to perform. In some few, but only in an extremely few, instances courts can and do handle some kinds of business without the aid of lawyers, but for most of the matters that come up in court the assistance of lawyers, who are persons specially trained to do that sort of work, is required. It is the casual and not the regular or general thing for persons to be before the courts. They, therefore, have neither the experience nor the training to handle their own business when it gets before the courts. They cannot do it either efficiently or for their own best interests. This fact was realized many centuries ago, and as the result certain men prepared themselves for this work, and were entrusted with it. The men who did this work were soon called lawyers.

A lawyer is an officer of the court. He takes an oath to support the constitutions of the United States and of the State of West Virginia, even as the judge does. Like the judge, too, the lawyer is a part of the machinery for the administration of justice. Therefore, it is his public duty to aid in the administration of justice, which he performs by seeing that those for whom he works get what the law entitles them to have, or have imposed on them only the penalties and liabilities that the law authorizes. This public duty is superior to his private duty, to be hereafter mentioned, and the latter must yield to the former if the two come in conflict.

One who has business to present to a court, or who is called into court by another person, is a litigant. The average person does not know the rights and privileges granted him by the law, or the obligations and liabilities imposed upon him by law—at least he knows but a few of them. He does not know how to obtain his rights, if he has been deprived of them. He does not know how to protect and maintain his rights if they are interfered with by some other person. Sometimes, too, liabilities and obligations that have no sanction or authority in law are sought to be imposed on persons. To assist the litigant a profession has grown up. This profession is composed of men and women who know to what rights a person is entitled, and how to obtain, protect and maintain those rights, and also to what obligation and liabilities the law requires a person to submit. Such men and women are called lawyers, because they are versed or learned in the law.

It is no doubt evident to you that there are, in most instances, at least two litigants to every case: The one who sues, called the plaintiff, or complainant; and the one who is sued, called the defendant, or respondent.

Each litigant, in order that he may feel perfectly satisfied, and have no ground to complain of what is done or not done in his behalf, whatever may be the outcome of his case, may choose his own lawyer, either to present his case to the court, or to defend his case when he is brought into court by another person. When a litigant selects his lawyer, and the lawyer agrees to take the case, the litigant becomes the client of that lawyer. To the client the lawyer owes a duty. He must give entire devotion to the interest of his client, zealously and faithfully maintain and defend his rights, and exert to the utmost all learning and ability, to the end that nothing be taken or be withheld from the client save by the rules of law, legally applied. The client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and the lawyer is expected to make use of every such remedy or defense in behalf of his client. This is the private duty of the lawyer. This duty, however, is to be performed entirely within, and not in the slightest without, the bounds of the law. Great as is this private duty of the lawyer, nothing whatsoever requires or warrants a lawyer in going outside the law to perform this duty. If he does so, he is violating his public duty.

Part of a lawyer's work is to conduct his client's case through the court, and to see that the client receives the benefit of every remedy or defense that he is entitled to have under the law and that he is warranted by the facts of his case. To perform such work fully and well, the lawyer must, first, be able to recognize from the story that is told him by his client, that the client is entitled to a right or to have relief from some wrong that has been done to him, or to the recovery of something that he has lost, or of which he has been deprived through some other person's act, neglect or failure. Equally as important, also, the lawyer must be able to recognize, from his client's story, the legal obligations and liabilities acquired through an intensive study of law. Centuries ago these rights and liabilities were not so numerous, but as the activities of the people have increased, so have rights and liabilities increased. Consequently today more study and greater time are required to gain the knowledge of law that is now necessary.

No doubt at this point you are about to inquire what a right is, or what a liability is. A right is that which a person is entitled to have, or to do, or to receive from others, within the limits prescribed by law, something with which the law invests one person and respect to which, for his benefit, another, or perhaps all others, are required by the law to do or perform acts or to forbear or refrain from acts.

A liability is an obligation, a duty, or a responsibility, that is imposed by law, and that may be enforced by an action or suit in the courts.

When the lawyer decides what rights his clients has, or to what legal liabilities he is subject, then he must next determine how to get relief, for his client, or how to get the liability adjusted to the client's best advantage. It may be that, to get the benefit of the right, the recovery of specific property is necessary; or it may be that an adjustment in money, that is, an award of damages will be the only thing that will afford relief. Or it may be that it will require some act on the part of some other person to furnish the desired relief. Or it may be that some act then being done by a wrong-doer must be stopped. If the client is subject to a legal liability then the problem for the lawyer is to keep that liability within the bounds of law, or within limits that are justified by the facts and circumstances of the case. What step the lawyer must take to accomplish the desired result for his client is called the remedy if the client is the plaintiff, or the defense if the client is the defendant.

When the remedy or the defense is chosen, then the lawyer starts the kind of suit, or puts in the kind of defense, that is necessary to accomplish the purpose he has in mind. After starting the suit, or entering the defense, the lawyer must present or state his client's case to the court. He does this by what are called "pleadings." Pleadings are the papers that tell the court just what the controversy is about. Those on behalf of a plaintiff state what is called to be the matter, how the plaintiff has been wronged, who has done or caused the wrong, what the effect of the wrong is, what damage the plaintiff has suffered, and what is desired in order to make things right. Those on behalf of the defendant state whether any of the claims made by the plaintiff are true, and give facts and legal reasons that show why the plaintiff is not entitled to have the relief that he desires. The lawyer must know what pleadings to prepare, whether he is the lawyer for the plaintiff or for the defendant, and how to prepare them, for pleadings generally limit the proof that may be offered, or the relief that may be had.

The lawyer, too, must know how to prove his case. Sometimes the pleadings are enough without proof, but more often the other party in the case, that is, that person who is complained against, will dispute the story as set up in the pleadings of the complaining party, and will file counter pleadings, raising a question of law, or denying the facts alleged by the complainant, or giving the court additional facts, or even an entirely different set of facts. In this way, the issues are made. They may be either of law, or of act, or both. The issues are points arising in a case which the court must decide. If the issue is one of fact, then in certain kinds of cases, the matter must be submitted to a jury to decide. In certain other kinds of cases the judge may decide issues of fact. If the issue is one of law, and such an issue arises when there is no controversy of fact, or after the issue of fact has been decided by the jury, then the court decides the issue of law.

To maintain or dispute an issue of fact, each side must offer evidence to support his side of the issue. The lawyer must know what is necessary to prove or to disprove any fact asserted. He must know what his witnesses will say, and how to get them to say it. He must know what documents exist, what those documents contain, and how to get them in evidence for the consideration of the judge and jury.

Over the course of centuries, as case after case arose and was decided, certain principles or rules became established, and those principles or rules have become what we know as common law. Some principles also have from time to time been declared by acts of legislatures. These we call statutory law. Still others have been ordained by charters and constitutions. These we call constitutional law. But all are law. When any of them declare what are rights and liabilities, those declarations constitute substantive law. When any of them declare what must be done to establish rights, or to defend against liabilities, those declarations constitute adjective law. It is quite necessary for the lawyer to know both the substantive and adjective law. For the lawyer must not only know what rights the law gives, and what liabilities it imposes, but he must also know how to obtain and protect the rights given by the law, and how to defend against the liabilities imposed by law.

To have such knowledge one must have acquired a great amount of learning. For that reason every one cannot be a lawyer. Also, those with an insufficient amount of learning should, for the protection of the public, be kept from holding themselves out as lawyers. Before a person can understand law, he must have a certain amount of general knowledge



and education. Formerly, men got to be lawyers though possessed of very little general education, just enough in the real early days to be barely able to read and write. But as law deals with all the complex phases of life, it has come to be pretty generally recognized that the more education a person can get, the better he is fitted to be a lawyer. Gradually a minimum preliminary educational requirement came to be fixed. At first there was required only a common school education; later, a four-year high school education; still later, one year of college work; and now, in West Virginia, two years of college work. That is what must be acquired before the study of law may be begun.

After having acquired this amount of general education, then the prospective lawyer begins the study of law itself. In West Virginia this study must be taken as a resident student in a recognized law school-not in a lawyer's office, which once could be done, and formerly was the only method of studying law. This study may not be taken in just any law school. There are some schools whose teaching and training are not recognized as good enough. The recognized schools are those that have been approved by the Council of Legal Education and Admissions to the Bar of the American Bar Association, or those that are members of the Association of American Law Schools. Three years must be spent in the study of law. When this amount of time has been spent, then the student is prepared to apply for admission to the bar, that is, the right to be recognized by the courts as a lawyer, and to hold oneself out to the public as able to advise on matters of law, and to conduct and defend law suits for clients.

At one time in West Virginia, if a student had acquired his legal education at the College of Law of West Virginia, and had been awarded his diploma of graduation therefrom, then he could be admitted to the bar without taking the State Bar Examination. If he had not studied his law at West Virginia University and had not been graduated from its law school, then he was required to take the bar examination. However, the diploma privilege was abolished effective July 1, 1988. Any individual awarded a diploma of graduation from the College of Law of West Virginia University on or after July 1, 1988 is required to pass the State Bar Examination in order to be admitted into the State Bar of West Virginia.

"Before taking the bar examination, one desiring to be admitted to the bar must make application to the Board of Bar Examiners by filing a completed character questionnaire with the board which is then sent to the District Character Committee composed of three lawyers practicing in the bar district in which the applicant resides. The Character Committee reviews the questionnaire and then returns it along with their findings to the State Board. The rules currently require that the applicant have completed a full course of study in a law school approved by the American Bar Association or its equivalent, have been granted an A.B. or B.S. or higher degree and LL.B or JD or their equivalents from an accredited college or university or its equivalent. Upon satisfying all these requirements and upon certification of approved moral character and mental and emotional stability, the applicant may then be admitted to the examination.

The Supreme Court of Appeals of West Virginia has charge of the admission of persons to practice law. To determine the fitness of persons to practice law, the court has a board of seven practicing lawyers, appointed by the court, to perform that duty for it. These seven lawyers come from different sections of the state. They have adopted certain rules with respect to their work, and these rules have been printed and published in a pamphlet, which may be obtained from the Secretary of the Board, at the State Capitol in Charleston.

"The board conducts two examinations a year, at such time and at such place as the board in its discretion may determine. Those desiring to take the examination make written application to the board in such form and at such time as the board shall prescribe and such application shall be accompanied by a character questionnaire and proof of educational qualifications. Receipt of the character questionnaire by the board is currently required at least 4 months prior to the bar examination. The applicant must appear in person to be examined. The examination is wholly written, and lasts two and a half days. It is divided into two groups: one group embracing subjects of substantive law, such as contracts, property, torts, agency, corporations, etc.; and the other group embracing the adjective law, such as pleadings, evidence, practice and procedure, preparation of legal papers, such as contracts, wills, deeds, organization of corporations, etc. The student must pass both groups. If he passes both, he is awarded a certificate, which will entitle him to admission upon his presentation in court by an attorney admitted before such court. When he is presented to a circuit court or to the Supreme Court of Appeals, he must then take, in open court, the oath of an attorney, which is as follows: \* \* \*."

"I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia; that I will honestly demean myself in the practice of the law, and to the best of my ability execute the office of attorney at law. So help me God."

When a person has taken such oath in open court, he has been admitted to the bar, and is privileged to advise clients

on the law and to represent them in court.

No matter how learned a person may be, and no matter how much legal study he has pursued it is unlawful for him, without being admitted to the bar in one of the modes before outlined, to practice or appear as an attorney at law for another in a court of record in West Virginia, or to render legal services for another, or to hold himself out to the public in any manner as being entitled to practice law or to render legal services. This is so declared by statute. To disobey the statute makes one guilty of a misdemeanor and subject to a fine of not more than \$1,000.

The purpose of such a statute is not to make the profession of law a closed profession, but to protect the public against persons who are not prepared to render competent service.

Attorneys must properly and honestly demean themselves in the practice of law. The courts have the power to punish them for their failure to do so. For improper conduct an attorney may be deemed guilty of contempt of court and punished by fine or imprisonment; or he may be suspended or disbarred, that is, deprived of his privilege of practicing law either temporarily or permanently. The practice of law is an ancient and honorable profession, and the courts and the lawyers try to keep the profession on a high plane, so that it may be without reproach, and command from the public the greatest respect. The legal profession is a part of the system for establishing and dispensing justice, and the courts and lawyers recognize that this system must be developed to a high point of efficiency, and be so maintained that the public shall have absolute confidence in the integrity and impartiality of the administration of justices; also that justice be maintained pure and unsullied. The conduct and the motives of lawyers must be such as to merit the approval of all just men. This is the standard which the legal profession strives to attain. Those who enter this profession must be imbued with the purpose of striving for that standard, and must be determined to live up to it when it is attained. The court and the profession expect it, and endeavor, though sometimes feebly, to compel all members of the profession to measure up to that standard.

May you, if you become lawyers in The American Legion Mountaineer Boys State, emulate in every particular the conduct of the true and faithful lawyers of the real profession of the law and of those who have made that profession the greatest and most respected of all.

## **SECTION 1**

### **Criminal Law and Procedure**

As civilization has advanced people have banded together in tribes, states and nations for mutual protection. At first the protection sought was merely against other groups. As civilization progressed, however, they established from time to time among themselves certain rules to guide them in their conduct toward one another, so as to protect individuals as regards life, liberty and property. Among these rules has grown up a set of rules of conduct known as Criminal Laws. These laws, within any nation, are designed to protect individuals or groups of people, or the government, against the degradation of persons seeking to harm them, either in their person or property, through force or stealth. While these rules set forth acts that shall not be done, yet the purpose of the Code of Criminal Laws. or rules is the protection of the public against the misconduct of conscienceless individuals or groups of individuals.

In order to find whether or not a rule has been transgressed by an individual, or group of individuals, it is necessary that the individuals, or group of individuals be tried in a properly constituted court. This trial is called a Criminal Trial and follows a set course of procedure, similar to the procedure of civil trials.

The State is the plaintiff in all criminal cases, because the defendant is accused of violating the law of that governmental unit known as the State, and thereby has committed what we call an act "against the peace and dignity of the State". Before a person may be tried by any court having criminal jurisdiction there must first be a charge made against him formally and in writing. In the State of West Virginia there are two such formal charges: first, a warrant; second, an indictment.

Cases triable to final conclusion before a magistrate are tried upon a warrant, which is issued upon a complaint made under oath by some person that the law has been violated. The warrant must describe specifically the offense committed to such a certainty that the defendant is advised of the charge against which he must defend himself. If the case be not triable to final conclusion before a magistrate, the defendant is given a preliminary hearing upon the warrant and held for the action of the grand jury in the county in which the offense was committed. The grand jury, if it believes he should be tried, finds and presents against him what is known as an indictment. This also must particularly describe the violation with which the defendant stands charged.

Warrants most commonly in use combine the sworn complaint with the formal warrant. For their general form and

effect see the section on Procedure in Criminal Cases in Magistrates Court. (The judge of the court of record may not conduct a preliminary hearing, but may issue what is known as a bench warrant returnable before a magistrate of the county, who conducts the preliminary hearing thereon.)

### **Procedure Before Trial**

A magistrate to whom complaint is made that a criminal law has been violated, reduces the complaint to writing, describing the offense, causes to be sworn to, and then issues the formal warrant, or order of arrest, again describing the offense. The complaint and warrant amount to the same thing as a statement of the complaint in a civil suit. Upon the authority contained in the warrant, the defendant is arrested and brought before the magistrate. If the case is triable before a magistrate, the defendant is permitted to plead either guilty or not guilty to the warrant. If the plea be not guilty, or in the event of his refusing to plead, the magistrate enters a plea of not guilty, and proceeds to try the defendant. A jury may be had for this trial under the rules prescribed therefore, as to which see the section on Procedure in Criminal Cases in Magistrates Court. If the defendant is found guilty he is sentenced by the magistrate to an appropriate punishment, either fine or imprisonment, or both, as laid down in the law, from which trial he may appeal if the sentence be for imprisonment or fine of \$10.00 or more; and in that event his appeal is certified by the magistrate, together with the warrant and all other papers, to the court of record in the county having criminal jurisdiction, where it is tried again as if it were a new case; the legal terminology for this proceeding being a ‘Trial de Novo’.

In the event the magistrate does not have sufficient jurisdictional power to administer sentence or reach a final determination in the case, he conducts what is known as a preliminary hearing on the warrant. At this hearing the defendant may “waive to the grand jury”, by which he states that he does not want to have a preliminary hearing, in which case it becomes necessary to introduce evidence proving that he has violated the law. He has the right also to introduce evidence showing that he has not violated the law and if the magistrate believes that the law has been violated, and by the defendant, the magistrate at the conclusion of the preliminary hearing, holds the defendant for the action of the grand jury. When a defendant is convicted by a magistrate and takes an appeal, or is held to the grand jury, he is either placed in jail to await the next term of the circuit court and the sitting of the next grand jury, or may, except in capital cases, be admitted to bail by the magistrate. If the case be a capital case, by which is meant a case involving the death penalty as a maximum punishment, bail can only be granted upon a proper showing before the judge of the court of record having criminal jurisdiction of the county, by which is meant, the circuit, upon a showing that the case, if tried, would not result in a sentence involving the death penalty. Bail may be granted either with or without surety, in the discretion of the magistrate, or the judge, whoever, fixes the bail, and is executed by the signing of what is commonly called a bail bond, the form of which may be seen by referring to the Section on Procedure in Criminal Cases in Magistrate’s Court.

While it is possible, and frequently happens in the State of West Virginia, that a person is indicted by a grand jury without the preliminaries of issuing a warrant and conducting a preliminary hearing thereon, merely by placing a witness before the grand jury, this practice will not be allowed in The American Legion Mountaineer Boys State, but all cases will begin with a warrant issued by a Magistrate in the manner hereinbefore set forth.

### **Proceedings of the Grand Jury**

On the first day of a term of court or at any subsequent date designated by the judge, the grand jury, drawn by lot from a list prepared by the jury commission of the court, is convened and impaneled by the judge of the court. In the State of West Virginia the number of persons constituting a grand jury is not more than sixteen and not less than fifteen; but in The American Legion Mountaineer Boys State, due to the small population of counties, a grand jury will consist of eight. Grand jurors also have a qualification in the State of West Virginia that they may not hold any office, national, state, county or municipal, but this rule will not be observed in The American Legion Mountaineer Boys State and such office holding will not be a disqualification. At the time of opening court the judge ascertains if all of the grand jurors summoned are present, and if not, he fills the vacancies, from the pool of alternate jurors that have previously been selected by the jury commission. When sufficient persons have been procured, they are sworn to make true answers “to such questions as may be asked them on the present occasion”, and are then interrogated as to their qualifications, which are, that they must be bona fide Citizens, of good moral character, who have not been previously convicted of perjury, false swearing or other infamous crime, eighteen years of age, and a resident of the county which the grand jury is to serve. A grand juror must not have, within the preceding two years been summoned to serve as a petit juror, grand juror or magistrate court juror, must not have lost the right to vote because of a criminal conviction and must be physically and

mentally capable to serve as a juror. A prospective juror sixty five years of age or older is not disqualified from serving, but shall be excused from service by the court upon the juror's request. (In West Virginia a grand juror must hold no office or position of pay under the United States, the state or any subdivision thereof). Also, a juror is required to be able to speak and understand the English language. As soon as the jury is complete with the requisite number of qualified persons, the judge of the court appoints one of their number as foreman, who is sworn in by the clerk to the following oath:

"You solemnly swear that you will diligently inquire into and true presentment make of all such matters as may be given you in charge, or come to your knowledge touching the present service; that you will present no one through malice, hatred or ill-will, nor leave any unrepresented through fear, favor or partiality or affection, but in all your presentments you shall present the truth, the whole truth, and nothing but the truth. SO HELP YOU GOD."

After he is sworn the other members of the grand jury are sworn as follows:

"You solemnly swear that the same oath which your foreman has taken on his part, you and each of you shall observe and keep on your part. SO HELP YOU GOD."

The judge thereupon charges the grand jury; and by this is meant, he advises them of the definitions of the various offenses which he believes may come before them, and as to their conduct as a grand jury.

Then they retire to a separate room and interrogate all witnesses that may be brought before them, or such witnesses as they themselves may send for. While conducting their hearing, one of their number, other than the foreman, acts as clerk, notes the substance of the testimony of each witness appearing before them. Appearance by a witness before the grand jury renders him immune to punishment for any offense about which he may testify, unless he specifically waives his right to such immunity.

After hearing all the testimony of the witnesses the grand jury, in their secret session decide upon those against whom presentation of an indictment shall be made, and then they inform the prosecuting attorney of the county, who prepares the necessary formal indictments. The prosecuting attorney may be with the jury while witnesses are being heard but not during their deliberations. In order to return a presentment, it requires six affirmative votes among the eight grand jurors. After they have finished their hearings, and the indictments have been prepared, the foreman then signs his own name to the back of each indictment, and the grand jury returns into court and presents the indictments to the judge, informing him that they have completed their work, whereupon he is at liberty to discharge them from further service at that term.

Thereupon, if any of the various defendants are not in custody, the clerk of the court issues and delivers to the sheriff or other officer designated, what is called a "capias", which is a command by the court in the name of the state to arrest the defendant and bring his body before the court.

Forms for an indictment and capias are as follows:

### ***Indictment***

THE AMERICAN LEGION MOUNTAINEER BOYS STATE, Lewis County SS:

IN THE CIRCUIT COURT OF SAID COUNTY:

The Grand Jurors of The American Legion Mountaineer Boys State, in and for the body of the County of Lewis, and now attending the said court upon their oaths present that Carl Day on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the said County of Lewis, unlawfully and feloniously did steal, take and carry away, against the peace and dignity of the State, one bay horse, of the value of one hundred dollars, of the money, goods, effects and property of Amos Ball. Found upon the testimony of Amos Ball duly sworn in open court to testify the truth and sent before the Grand Jury this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Peter Ames

Prosecuting Attorney

of Lewis County

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On the back of the indictment must appear the following:

The American Legion Mountaineer Boys State

VS

Carl Day

Felony

Indictment for a Misdemeanor

A True Bill

Allen Ames

Foreman

Attest:

Peter Ames

Prosecuting Attorney

Found at the \_\_\_\_\_, 20\_\_\_\_, Term

CAPIAS

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THE AMERICAN LEGION MOUNTAINEER BOYS STATE

To the Sheriff of Lewis County, greetings: We command you in the name of The American Legion Mountaineer Boys State that you take Carl Day if he be in your bailiwick and him safely keep, so that you have his body before the Judge of our Circuit Court for Lewis County, at the Court House thereof forthwith, to answer us of an indictment against him for a Misdemeanor-Felony, and have then and there this writ.

WITNESS: John Clark, Clerk of our said Court at the Court House of said County, on the \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_.

TESTE: John Clark, Clerk of Circuit Court, Lewis County.

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NOTE: If the indictment is for a felony, strike out the word "misdemeanor", and if for a misdemeanor, strike out the word "felony".

It is customary in West Virginia for the judge of the court having criminal jurisdiction, immediately after the Grand Jury adjourns, to designate a definite day on which the criminal cases will be set for trial. In The American Legion Mountaineer Boys State, however, all cases will be set for trial on the same day on which the Grand Jury completes its session. On the date on which a case is set, if the defendant elects to stand trial and does not care to plead guilty, the case is called and a jury is impaneled. In West Virginia twenty jurors are placed in the box. In Boys State a panel of ten will be chosen by lot from the jurors summoned for the term and will be interrogated, under oath, as to their relationship, either by blood or marriage to the defendant, the prosecuting witness, or any other party interested in the outcome of the case; upon their knowledge of the evidence in the case, and as to whether or not they have made up any opinion as to the guilt or innocence of the accused; and in capital cases they are also interrogated as to whether or not they have any conscientious convictions against the infliction of the death penalty where the evidence warrants it. If they have any opinion as to the guilt or innocence of the accused, or are related in any way, either by blood or marriage, to the defendant or any other party interested in the outcome of the trial, they are disqualified and additional jurors are drawn to fill their places. When all jurors have been qualified the jury is "struck", by this is meant, in felony cases, that the State strikes the name of one juror from the list and the defendant then strikes the names of three jurors, leaving six jurors in the box. In misdemeanor cases the State and defendant strike alternately, each striking two.

When the jury has been reduced to six, the defendant enters his plea. In felony cases the clerk reads to him the indictment, and he pleads (not guilty), in person. In misdemeanor cases his plea (of not guilty) may be made by his attorney. The jury is then sworn by the clerk. For the form of oath see section on Forms of Oaths.

At the completion of this the witnesses for both sides are called to the bar and sworn: For the form of oath see the section on Forms of Oaths. The trial is then ready to proceed.



At the beginning of the trial it is customary for counsel, both for the State and defendant, 119 to make what is known as an opening statement to the jury. In this each outlines the evidence that will be produced by them, giving a complete statement of his theory of the case. The State then introduces its “evidence in chief”, as described in the Section on Evidence, and at the conclusion announces that the State rests; whereupon, if the defendant believes that the State has not proven a prima facie case, by which is meant, proven the essential elements of the crime charge, it is customary for the defendant to move the court to strike out the evidence and direct the jury to find a verdict of not guilty. The defense may, however, demur to the evidence. This last procedure is dangerous and is not recommended. If the court believes that the prima facie case has been made, the motion is overruled, and thereupon the defense puts before the jury its evidence in chief, at the conclusion of which the defense rests. After this if any new elements or new matters have been brought in by the defense, the State may put in rebuttal evidence on those points and those points alone, and if, in so doing, they should introduce any new matters the defense has the privilege of putting on surrebuttal evidence.

When both sides have rested and completed their evidence, it is customary to submit to the court instructions on the law governing the case, each side presenting instructions from its own viewpoint. These instructions are considered by the court, and objections thereto pointed out by opposing counsel, and such parts as should be given are then read by the court to the jury, together with such other instructions as the court may elect to give of its own motion. When the instructions are completed, opportunity is then afforded counsel for each side to argue its theory of the case to the jury. In this argument the State, as plaintiff, makes the opening and closing speeches and then, at the conclusion of the argument, the jurors are sent to their room, together with the indictment or warrant, as the case may be, to consider of their verdict. The verdict must be unanimously agreed upon, to be a verdict, and if the court feels, after a sufficient time has been given, that it is impossible for the jury to agree, he may discharge them as having disagreed.

When the jury has agreed upon a verdict it is written upon the back of the indictment, or warrant, or upon a separate piece of paper, signed by the foreman, and brought back into court by the jury, which delivers its verdict to the court. The verdict is read in open court, after which the jurors are asked if that is their verdict, and, upon their assenting thereto, the court may discharge them. However, the defendant may, in case of a verdict of guilty, demand a poll of the jury, in which case the clerk reads to the jury the verdict, and asks each juror by name if that is his verdict, and upon completion of the poll the jurors are discharged by the judge.

Jurors are not permitted to talk to anybody with reference to the case, and it is an offense for anybody to try to talk to a juror with reference to the case on trial before the verdict is rendered.

After the finding of the jury has been accepted by the court the defense may, and usually does, move the court set aside the verdict and this motion is argued, the defendant endeavoring to show to the court that prejudicial error has been committed by the court in the giving or refusing of instructions, or permitting or refusing certain evidence to the jury. If the court sustains the motion, the case must be tried again; but if the court overrules the motion, the defense has the option of appealing, within eight months in West Virginia but within one day in Boys State, to the Supreme Court of appeals for a writ of error. This is upon written petition accompanied by the evidence in the case. In The American Legion Mountaineer Boys State the record of the case will be sufficient if it is reduced to a brief narrative of the facts produced by each witness.

There are some cardinal points in the trial of criminal cases, which differ from the trial of other cases. One point to be observed is that the defendant is always presumed to be innocent of any crime and until proven guilty beyond all reasonable doubt. Another rule is that defendant’s reputation cannot be questioned by the State unless he endeavors to prove a good reputation to strengthen his case, in which event the State may introduce rebuttal testimony to prove his reputation to be bad. Based upon this, it is improper to question him with reference to any offenses with which he may have been previously charged or as to any previous actions on his part which might affect his good reputation, unless he has put his reputation in issue.

### **Orders of the Court**

When the Grand Jury finishes its session an order is entered in the Criminal Order Book of the court, listing the indictments in the names of the defendants. See the form for Law Order Book in the section on Order Book Forms.

On all actions of the court orders must be entered, showing continuance, fixing of bond, taking recognizance, or whatever the action may be. When a case is tried an order is entered, and if the case lasts longer than one day successive

orders are entered showing the several steps of the trial to its final conclusion. See the Section on Order Book Forms for samples of court orders.

## **SECTION 2**

### **Evidence**

In matters coming before a court the facts of the case are usually in dispute, and the proving of the facts is usually done by the introduction to the Court of evidence. Evidence has been defined as the means by which any matter of fact, the proof of which is permitted to go to a court for investigation, may be established or disproved. In other words, evidence is the testimony of witnesses, the documents and objects submitted to the court, from which the Court determines the true facts about a disputed matter.

There must be some rules, of course, to guide the Court and the attorneys in order that the evidence be properly and fairly presented to the Court, otherwise the trial of a case would never be finished, and these rules, which are largely based upon the decisions of courts through the years, are generally known as the law of evidence.

There must also be some order in which evidence is heard in Court, in order that the court may be conducted in an orderly manner, and the way and manner of placing the evidence before the Court is some times called the order of proof.

It is customary in our courts to pursue the following method in placing the evidence before the court, or Court and jury, after the pleadings in the case have been completed by the filing of a declaration or bill, and the making of an answer to it, so that an issue of fact, or dispute of fact, has been made to be determined.

(1) The plaintiff, by his attorney (or in a criminal case, the State, by the prosecuting attorney), does what is called putting his evidence on in chief. They do this by placing sworn witnesses upon the stand to testify to the facts within their personal knowledge, by the introduction of documents, books of account and other written matters, photographs, maps, etc., and by filing of exhibits, such as stolen articles, weapons, or anything that may have a proper place in the proving of what they believe to be the true state of facts. All documents and other exhibits are marked for identification and filed in the evidence. Each witness is examined by what is known as direct examination, by the attorney for the plaintiff, and at the conclusion of the direct examination the attorney for the defendant cross-examines the witness on the matters about which he has testified upon direct examination. The purpose of this cross-examination is to get at the actual truth, to determine the witness' interest in the case, if any, and what opportunity he has had to know that about which he has testified. In direct examination leading questions may not be asked; and by this is meant, question which put the answer, or indicate to the witness the answer which he is expected to make. On cross-examination the witness may be asked leading questions by the attorney, so long as he confines his examination within the scope of time, place and subject matter brought out by the witness in the direct examination. When the plaintiff has put on all his evidence to establish his theory, he rests.

At this time he must have proven to the satisfaction of the court what is known as a prima facie case; in other words, he must have proven and established every detail necessary to prove, if not, disputed by later evidence, that his theory of the facts is the correct theory. If the defense believes that he has not done this, it may at this time move the court to strike out all the evidence and direct a verdict for the defendant.

If the court thinks that a prima facie case not proven, the court may sustain the motion. If he believes that the plaintiffs contention has been established to a sufficient degree to require evidence to disprove it, he should overrule the motion.

(2) After all of the above acts have been done, the defendant, by his counsel, introduces his evidence in chief in the same way in which the plaintiff has done, and his witnesses may be cross-examined in the same manner. The defendant is not limited in scope to just disputing the evidence of the plaintiff, but he may prove other facts which would tend to show a different state of facts, and his evidence is introduced under the same rules as was the evidence in chief of the plaintiff.

(3) After the defense has rested from introducing its evidence in chief, the plaintiff may, if the defendant has brought in any new matter, not within the scope of the evidence of the plaintiff, introduce rebuttal evidence to meet and dispute such new matter, but is limited in rebuttal to this new matter, and may not reopen any point covered in his evidence in chief.

All of the evidence introduced and mentioned above must, of course, be properly admissible in the trial of the case. By admissible is meant, it must conform to the rules of evidence, which in The American Legion Mountaineer Boys State, will be limited to the rules set forth below. These rules are applied by the trial judge, and their application to the evidence rests within his sound discretion, subject, of course, to appeals for mistakes that he may make.

### **Instructions**

Since “instructions” have been mentioned above, but are not included in the forms, it is well to illustrate a typical one, which was given in an automobile accident case:

“The court instructs the jury that under the laws of West Virginia no person shall drive a vehicle upon a highway of this state at a speed which is greater than will permit the driver to exercise proper control of the vehicle in order to decrease the speed or to stop as may be necessary to avoid colliding with another vehicle property upon the highway, and if you believe from all the evidence in this case, and by a preponderance thereof, that the defendant was operating a taxi on U. S. Route 119 at the time of the accident at a speed that was greater than would permit him to exercise proper control of the taxi and decrease the speed or stop said taxi in order to avoid colliding with the car being driven by the plaintiff, and if you further believe that the plaintiff was himself exercising due care, and that the operation of the taxi by the defendant was the proximate cause of the accident then you are instructed to return a verdict for the plaintiff.”

Since the instructions must be presented to the court immediately after all the evidence is taken, the attorneys usually draw them up before they start the case or a night while it is being tried, and then use the ones that fit after the evidence is in.

### **Relevancy and Materiality**

All evidence must be what is known as relevant and material to the issue in the case. By relevant we mean that it is properly applicable in determining the truth or falsity of actual matters at issue in the particular case, and does not bring in matters which do not tend to prove these disputed facts. Evidence which is not so admissible is called irrelevant evidence, and should be refused. By material evidence, we mean it must have such importance and value as will affect the ultimate result of the case, and not refer to some (rival thing that does not aid the court in arriving at the truth of the disputed facts in the particular case. For example: The fact that a man ate liver and onions for supper would be irrelevant in the trial of a criminal case unless it would make clear some point of evidence, such as, in a robbery case, if the witnesses testify the robbery occurred after supper and the robber had the odor of onions on his breath, and then what he ate for supper might be relevant and also material, otherwise it would be both immaterial and irrelevant.

### **Best Evidence Rules**

By this is meant that in the trial of a case only the best and most authentic evidence available should be produced. This is the basis for the rule which will later be discussed on hearsay evidence. Under this rule the contents of a paper or document cannot be testified to if the paper or document itself is available. Another illustration is that a copy of a ‘letter may not be introduced in a case if the original is available or, can reasonably be procured, and then, before the copy can be introduced, the Court must be satisfied that the original cannot be produced. Still another illustration is a mere statement of account cannot properly be produced in a case, but, rather, the original books of accounts must be introduced, unless it is shown they cannot be procured. Furthermore, in introducing documents and books of accounts, their correctness should be testified to by the person who is responsible for keeping them, and not by some person who is just aware of their existence and where they have been kept.

### **Hearsay Evidence**

By this is meant the testimony about something not within personal knowledge, but merely something some other person has told him, or he has heard of. There are, of course, exceptions to this rule, but normally, hearsay evidence is not admissible because it is not the best evidence. The best evidence is that given by parties who know the facts of their own knowledge. Certain types that would generally be classed as hearsay evidence, such as admission and character evidence, are exceptions to the rule, and will be treated under later rules in this text.

### **Admissions and Self-Serving Declarations**

Witnesses may be introduced to prove admissions against interest. By this is meant that, if prior to the testimony,

either party to the suit has made statements contradictory to what he claims in the suit, these admissions against his interest may be proved by the other side by the testimony of persons who heard such party make them. He, however, may not prove by other witnesses that he has stated things at other times which are favorable to his theory of the case, on the ground that these statements would amount to what is called self-serving declarations, and if allowed, a clever person might build up evidence in a case by so doing. However, this rule is modified by a lighter rule known as the rule of the “res gestae”, which will be discussed later. Witnesses in the case who have, before the trial or before testifying, made statements contradictory or in conflict with their testimony on the witness stand, may be attacked by the other side by proving these conflicting statements, but this evidence can apply only to the credibility or honesty of the witnesses who have made such conflicting statements and not to the principal facts involved in the case on trial.

### **Reputation or Character Evidence**

This evidence will not be used in The American Legion Mountaineer Boys State except to a limited extent, as defined herein, in the trial of criminal cases. It will be proper in a trial of a case involving personal violence, such as assault, maiming, or homicide, to prove that the injured party, or deceased, had a bad reputation for being a trouble maker, if the defendant relies upon self-defense. The defendant may also, if he so elects, prove that he, himself, had a good reputation as a peaceable, law abiding Citizen prior to the commission of the offense charged. If the defendant proves his good reputation the State may then be properly admitted to attack the reputation of the defendant by proving that his reputation was bad but unless he so does, the State may not attack his reputation, which is presumed to be good until proven otherwise. In proving the good or bad reputation of a person, the party introducing the proof first proves by the witness that he mixes and mingles generally with the person whose reputation is sought to be proven, and then so proves whether or not the witness knows the reputation and, if he states he knows it, then asks him if it is good or bad. Proof of reputation is limited to these narrow bounds.

### **Defendant's Reputation in Criminal Cases**

The defendant is presumed to be innocent until his guilt is proven beyond all reasonable doubt, to the satisfaction of the jury, in a criminal case, and no evidence may be introduced tending to attack that good reputation unless the defendant first puts his reputation in issue by trying to bolster it up and make it stronger, by testimony of how good it was. For that reason, proof of previous offenses committed by the defendant may not be introduced by the State and, if introduced or even hinted at in testimony, there results a mistrial of the case, and there must be a new trial before a conviction will stand.

### **Res Gestae**

This rule allows relevant testimony, otherwise inadmissible under the hearsay rule, to be admissible when the evidence is about what is known as part of the res gestae; that is, concerning things said and done at the time of the commission of the act testified about, or soon thereafter, that any statements made could be classed as spontaneous exclamations, or simultaneous ejaculations, occasioned by the occurrence; also, action of not only the principals but immediate bystanders at the time of occurrence, which would throw light on the causes and reasons for the commission of the act about which the suit is brought. For example, the exclamation of a bystander, “Look at those tires sliding”, made just at the instant of collision, or just an instant before it, would be admissible to show that the car had its brakes locked and that its wheels were sliding at the time of the collision. Another example would be testimony about a woman screaming, “Don’t shoot him”, just before a man shot another one, because it would tend to show that she had seen the pistol, and had seen it pointed at the victim; and hence it would be admissible as part of the res gestae. Material and relevant matter that are a part of the immediate occurrence, and happenings simultaneously therewith are always admissible under the res gestae rule.

The above rules are the only rules that will be used in limiting testimony in The American Legion Mountaineer Boys State. While it is customary to take what is known as depositions in many civil cases by referring the case to a commissioner, or master in chancery, to hear the evidence and cause it to be reduced to writing, and to deliver to the judge to be studied by him in passing on the case, and also customary to take the evidence of absent witness in law actions triable before a jury, and the testimony of missing defense witnesses in the same manner in criminal cases, these customs will not be followed in The American Legion Mountaineer Boys State, and all testimony, whether in a jury trial or in a matter tried by the Court, as some civil suits, will be produced directly in court in the actual trial of the case. It

is, of course, always necessary for the State, in a criminal case, to have the actual witnesses in court, because under our Constitution a defendant in a criminal case is entitled to be faced by his accusers and cannot waive this right.

### **Weight of Evidence**

Another matter that might properly be considered under the rules of evidence is the weight of evidence. In all cases where a jury is involved the jurors themselves pass upon the credibility of all witnesses, and the weight to be given their testimony, and in all cases except criminal cases, the jury will decide the case in favor of the side in whose favor the evidence, in their opinion, preponderates; but in criminal cases the defendant is always presumed to be innocent until proven guilty, and therefore his guilt must be established beyond all reasonable doubt before a conviction may be had.

## **SECTION 3**

### **Court Routine**

#### **Supreme Court of Appeals**

The five justices of the Supreme Court of Appeals a few minutes before time for the opening of court appear in their robing room and don their robes, and at the time for their opening of court they march into the court room and take their places in front of their seats at the bench and remain standing until the court crier has made the opening proclamation. In entering the court room the Chief Justice leads the procession and the other justices follow in order of their seniority, that is, length of service. The Chief Justice occupies the middle seat on the bench; on his right sits the justice longest in service; on his left sits the justice next longest in service; the next place on the right of the Chief Justice is taken by the justice whose term of service is third longest; and the place on the far left is taken by the justice who has served the shortest time.

When the justices first appear in the doorway leading from the robing room the crier, who will be on the lookout for their appearance, arises and by three raps of his gavel causes the audience to arise, saying:

“Arise, Please, The Justices of the Supreme Court of Appeals.”

When the justices have taken their places at the bench, the crier then continues:

“Oyez! Oyez! Oyez! Silence is commanded under penalty of fine and imprisonment while the Honorable Justices of the Supreme Court of Appeals are sitting. All persons having motions to make and appeals and writs of error to prosecute come forward and they shall be heard. God save The American Legion Mountaineer Boy’s State, and this Honorable Court. Be seated.”

After the justices and audience are seated, the clerk reads the minutes of the proceedings of the preceding session of the court at the term then in course, and hands the record up to the Chief Justice for his signature.

If the court has any decisions to announce, they are then read briefly, the justice youngest in service speaking first, and continuing in order of their terms of service, with the Chief Justice speaking last.

Then motions for admission to the bar are received and attorneys admitted, taking oath in open court and signing the roll of attorneys.

Motions of other kinds and nature are then in order and may be made. Then come applications for writs of error and appeals, called in turn by the clerk. Parties intending to take such applications, must, before court convenes, arrange with the clerk to be listed in the call for that day, and when called make their applications by brief oral presentations and filing written petitions, accompanied by a brief or memorandum of the points of law involved.

The next business in order is the call of the docket of the cases that have been set for hearing on that day. The docket is prepared by the clerk six weeks or more in advance of the term of court, and cases are set for certain days, usually on Tuesday of each week of the term. The clerk calls for cases listed for that Tuesday, and the attorneys, as the cases are called, announce whether the cases will be argued, or continued, or otherwise disposed of, and when the call of the docket is finished, the cases that are to be argued are placed in turn, in the order in which they appear on the docket. Arguments continue from day to day throughout the week until all the cases that week are completed.

After the arguments in a particular case are completed, the case is then considered as submitted for decision, and the



court takes the same under advisement until it is ready to announce the decision and has written an opinion, and then that decision will be announced in court in the manner stated above.

The usual time allotted for the argument of a case in the Supreme Court of Appeals of West Virginia is one and one-quarter hours, the plaintiff in error or appellate having three-quarters of an hour, and the defendant in error or appellee a half hour. The former may divide his argument into two parts, that is into an opening argument, which must fairly cover his side of the case, and a reply argument, which is given after the attorney for the other side has completed his argument.

In the Supreme Court of Appeals of The American Legion Mountaineer Boys State this procedure will be followed in the main, but the time for each case will be much less, depending upon the amount of business before the court and the time available for the handling of the same.

When the court is ready to conclude its session, the President directs the crier to adjourn the court to a certain time, or to take a recess to a certain time, which he does in the following manner:

“All rise. By order this court now stands adjourned until tomorrow morning at ten o’clock.” (Or, if only a recess is taken: “All rise. By order this court will now recess until two o’clock.”)

### **Circuit Court**

At the time for the opening of a circuit court the sheriff, or one of his deputies who is assigned to attend court, will when the judge enters the court room and takes his place upon the bench, cause all in the court room to arise, and will open court with the following proclamation:

“Oyez! Oyez! Oyez! Silence is commanded under penalty of fine or imprisonment while the Honorable Judge of the Circuit Court of Lewis County is sitting. All persons having motions to make, pleas to file, or suits to prosecute, come forward and they shall be heard. God save The American Legion Mountaineer Boys State and this Honorable Court. Be seated.”

If it is the opening day of the term, a grand jury is impaneled, charged and started upon its investigation. Sixteen men are usually drawn from grand jury service, but 15 are necessary for a quorum, and the affirmative vote of 12 is necessary to indict. Because of a lack of the available number, grand juries in The American Legion Mountaineer Boys State will consist of eight, with seven as a quorum, and the affirmative vote of six will be necessary to indict.

If a sufficient number of grand jurors does not appear, the court appoints two temporary jury commissioners, who must be of opposite politics, to select a sufficient number of grand jurors to fill out the panel, and they are immediately sent for by the sheriff and brought in.

When a sufficient number of grand jurors is present the court makes a charge to them, explaining their duties and the matters that will probably be brought before them, and what will be necessary to indict. After hearing the court’s charge the grand jury retires to a room provided for it to take up its work. Its foreman is selected by the court, but it may select one of its own number to act as secretary or clerk. The prosecuting attorney is permitted to be present to assist in examining witnesses, and to prepare indictments and advise on the law, but when the grand jury is voting on whether to indict or not to indict an individual no one but members of the grand jury may be present.

Witnesses before the grand jury, after the grand jury has retired, are usually called in one group before the bar of the court and sworn, ready to go before the grand jury when called.

If it is other than the first day of the term, the clerk then reads the proceedings of the preceding court day, and hands the record to the judge to be signed.

If it is the opening day of the term, and on other days after the reading of the proceedings of the previous court day, motions are then in order, usually preceded by motions for admission to the bar.

If it is the first day of the term, then the docket for that term of court is called, and the cases are set for specific days for trial, or for other proceedings.

When a case is called, a plaintiff, if he desires a trial, will ask for a day for trial, and a day will be given him, unless the defendant can show good cause for not doing so. If the defendant has not theretofore filed his answer or other defense pleadings, he will, on call of the docket, do so or have a day prior to the trial day fixed for doing so.

After the call of the docket on the opening day of a term, any other matters that the judge may be willing to handle may be called up.

On days on which a trial may be set, the procedure is much the same. After the opening of court, the reading of the proceedings, the making of motions are more or less formal, and will require but little time for disposition, and any other

matters of a formal nature that may be presented to the court and will require but little time, the docket for the day is called, and if the parties are ready the first case on the call will go on trial.

After the parties have announced that they are ready, the judge will order the clerk to call a jury. The clerk will do this by drawing by lot from the list of names furnished by the jury commissioners ten names, and these names will be called by the sheriff, and the persons called by the sheriff, and the persons called will take seats in the jury box, and will be examined on their voir dire oaths, in the method explained elsewhere in this manual, by the judge touching upon their qualifications to sit as jurors in the case about to go on trial.

If any of the jurors are not found qualified, others are put in their places after being similarly examined, and then the list of jurors is handed to the attorneys for the parties to be reduced to the number to sit in the case, six. In The American Legion Mountaineer Boys State just half the number in actual courts is used, because of the small number of persons available for service. In felony cases the Prosecuting Attorney strikes off one name and the defendant strikes off three names. In civil and misdemeanor cases the plaintiff strikes off two and the defendant two, each striking alternately.

When the jury is thus reduced to six in number, those eliminated are excused and the six are sworn to try the case. Then the plaintiff's counsel, or the prosecuting attorney in a criminal case, makes the opening statement for his side, telling the jury what the case is about and what he expects to offer in the way of evidence to prove his side of the case. He is followed by the defendant's attorney who tells the jury what the defense is, and what evidence he will offer to prove his side of the case.

Evidence is then offered, first by the plaintiff, or the State if it is a criminal case; and then by the defendant. After each side has offered his evidence in chief, evidence in rebuttal may be offered by the plaintiff.

In offering evidence certain rules must be observed. In the section on "Evidence", in this manual, will be found a discussion of these rules, and the order of proof.

When the court is ready to adjourn or recess, the judge so instructs the sheriff or his deputy, and he causes those present all to rise, and then makes proclamation as follows:

"By order this court stands adjourned until tomorrow morning at nine thirty o'clock. (Or, if a recess: "By order this court will now recess until two o'clock.")

### **Magistrate Court**

Proceedings in magistrate courts are quite informal, though in the main they proceed along the same general lines as a trial in the circuit court. Witness must be sworn before testifying and the same order of proof is followed as prevails in the circuit court. Cases are argued by counsel the same as in the circuit court. A jury of six may be demanded but most cases are decided both as to facts and law by the magistrate himself. He may, and usually does, take the case under advisement for 24 hours.

In a Misdemeanor Case where such court has jurisdiction to hear, try and determine the case:

- (A) A complaint is made and sworn to, either through direct knowledge or (upon information), before the magistrate. Consult the Code for proper wording of the complaint for the crime to be charged. The complaint is the allegation made to a magistrate that a person is either suspected, or has been guilty of some designated crime.
- (B) A warrant of arrest, in proper form, is then issued by the Magistrate.
- (C) The officer, armed with the warrant, then proceeds to arrest the party or parties named in the warrant and bring them before the magistrate as directed in the warrant.
- (D) The peace officer then executes his return to the warrant certifying that he has complied with its command and has the defendant before the court. Should the arrest be made without warrant, as permitted in certain cases, the above is complied with in the same manner, after the defendant is before the court.
- (E) The defendant is then arraigned on the charge by the magistrate in the following manner:

The complaint is read to him.

He is informed of his rights, which are as follows:

- (1) To a speedy and public trial and a trial by jury should the defendant so elect.
- (2) To obtain counsel and to a reasonable adjournment for the purpose of procuring counsel.
- (3) To secure witnesses in his behalf and to a reasonable adjournment for the purpose of securing such witnesses.
- (4) To confront and question witnesses against him.

(5) To bail during the period of such adjournment.

- (F) The defendant is then required to plead to the charge and plea of “Guilty” or “Not Guilty” as made is entered by the magistrate.
- (G) Should be plead and waive all rights he is then sentenced by the magistrate.
- (H) Should he plead not guilty and demand a trial before the magistrate without a jury, such trial proceeds, and if the magistrate, after hearing the testimony and evidence, decides that he is guilty of the crime charged, he sentences him in accordance with the punishment prescribed. Should the magistrate decide that there is not sufficient evidence to convict him, the defendant must be discharged from custody immediately.
- (I) Should the defendant plead not guilty and demand a trial by jury, the magistrate adjourns the case for a sufficient time to permit a jury to be selected. In a Magistrate Court in a criminal case, the accused shall be entitled to a trial by six jurors, under the regulations respecting such trials in civil suits before magistrates; except that the jury shall be sworn well and truly to try the case between the State and the accused, and to give a true verdict according to the evidence, and that in drawing the names of jurors four more names shall be drawn than will be required after each side has exercised its right to two pre-emptory challenges.
- (J) Bail in misdemeanor cases is a matter of right and must be granted upon request of the defendant. In felony cases bail may be granted at the discretion of the magistrate. Bail is security in the form of money, bonds, securities or property, notes posted with a court and guaranteeing the appearing of a defendant before a court at a specified time. Should the defendant fail to appear the bail is usually declared forfeited.
- (K) Appeals in Criminal Cases: Every person sentenced to imprisonment by the judgment of a magistrate, or to the payment of a fine of ten dollars or more (and in no case shall judgment for a fine of less than ten dollars be given by a magistrate if the defendant, his agent or attorney objects thereto) shall be allowed an appeal to the circuit court of the county upon application therefore within a reasonable time after such judgment is entered. But such defendant shall not be released from custody until he shall have entered into a recognizance before the magistrate, with surety deemed sufficient, to appear before the said court on the first day of the next term, thereof, to answer the offense wherewith he is charged, and not depart thence without leave of the court.
- (L) If the defendant cannot procure bail he may be committed to jail. In taking a prisoner to jail in all cases, a commitment paper should be secured from the magistrate and delivered with the prisoner to the keeper of the jail. However, in the case of State Police delivering a prisoner to jail, the keeper of said jail is required by law to take and hold all prisoners delivered to said keeper without a commitment paper.
- (M) Should the defendant be found guilty and a fine imposed the fine is to be collected by the magistrate. When a fine is imposed, whether with or without imprisonment, the magistrate if he sees fit, may adjudge the offender to be imprisoned until such fine and all costs are paid, but not exceeding ten days for that cause: if fine and imprisonment be imposed, the offender may be imprisoned for not exceeding ten days on account of the non-payment of the fine and costs, in addition to the term of imprisonment imposed for the offense. When the offender is to be imprisoned it shall be in the county jail unless otherwise provided by law, under a warrant or commitment to be issued by the magistrate. And if he is not in custody the magistrate may issue a warrant for his arrest and commitment in such jail.

Procedure in court of magistrate in a felony case where such court has not jurisdiction to try and determine but merely, conduct a hearing, the magistrate sits as a committing magistrate rather than as a trial court, and if the magistrate decides there is reason to assume the crime as alleged was committed he is authorized to hold defendant for the action of the higher court where the case is tried by indictment.

- (A) Same as on the trial of a misdemeanor
- (B) Same as on the trial of a misdemeanor
- (C) Same as on the trial of a misdemeanor
- (D) Same as on the trial of a misdemeanor
- (E) Same as on the trial of a misdemeanor
- (F) The defendant is then arraigned on the charge by the magistrate in the following manner:

The complaint is read to him. He is informed of his rights, which are as follows:

- (1) To an examination of the charge before the magistrate to determine if there be sufficient evidence to cause such magistrate to hold the defendant for the action of the grand jury.

- (2) To obtain counsel and to a reasonable adjournment for the purpose of procuring counsel.
  - (3) To secure witnesses in his behalf and to a reasonable adjournment for the purpose of securing such witnesses.
  - (4) The right to bail (if the crime is bailable) during the period of adjournment.
  - (5) The right to waive examination before the magistrate and have the case go before the grand jury.
- (G) The defendant is then required to plead to the charge.
- (H) Should he plead guilty and waive the examination the magistrate must hold him for the action of the grand jury. If the crime charged be murder the magistrate cannot admit him to bail. The admission must be before a magistrate before whom the crime would be tried after indictment If bail is furnished the defendant is released from custody, if not he is committed to jail to await action of the grand jury.
- (I) Should the defendant plead not guilty and demand an examination, the examination must proceed. However, the examination is held before the magistrate and not before a jury. Whenever a magistrate has held a defendant for the action of the grand jury, the magistrate is required by law to turn over to the clerk of the court having jurisdiction to try the case, all papers pertaining to the facts of the case along with the name and address of the defendant and each witness.

## **SECTION 4**

### **Form For Order Book of Clerk of Supreme Court of Appeals**

#### **Supreme Court of Appeals of The American Legion Mountaineer Boys State**

A regular Term of the Supreme Court of Appeals of The American Legion Mountaineer Boys State began and held at the State Capitol in the City of Charleston, in the county of Kanawha, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and in the \_\_\_\_\_ year of The American Legion Mountaineer Boys State.

Present: The Honorable Charles H. Haden, II, Chief Justice; Fred H. Caplan, Thornton G. Berry, Richard Neely and James M. Sprouse, Justices of the Supreme Court of Appeals.

#### **Appointment of Clerk**

A vacancy having occurred in the office of clerk, it is ordered that George W. Singleton, Esq., of Charleston, be, and he hereby is, appointed Clerk of this Court; and the said Singleton appearing and taking oath prescribed by law, and filing bond as required by law, thereupon entered upon his duty as such clerk.

#### **Admission to the Bar**

On motion of James Kent, Esq., a practicing attorney before the bar of this Court, Joseph Story, Esq., who presented his certificate from the State Board of Law Examiners and a certified copy of an order from the Circuit Court of Kanawha County, showing him to be possessed of the qualifications required by law and the rules of this Court for admission to the practice of law, was admitted to practice before this court, and appeared and took the prescribed oath and signed the roll of attorneys.

Amos Ball, Plaintiff, Defendant in Error	:	On Writ of Error
	:	From the Circuit Court of
Vs.	:	Lewis County.
	:	
Carl Day, Defendant, Plaintiff in Error	:	

For the reasons stated in an opinion by Judge Browning, the other judges concurring, the judgment of the Circuit Court of Lewis County is hereby reversed, and this case is remanded to that court for further proceedings in accordance with said opinion, which is this day ordered filed.

John Jones, Plaintiff, Appellant	:	On Appeal
Vs.	:	From the Circuit Court of
Bertram Brown, Defendant, Appellee,	:	Harrison County.
	:	
	:	

This case was this day argued by counsel for appellant and for appellee and submitted for decision.  
 (Here continue with like entry for any other cases argued and submitted.)  
 Ordered that court be adjourned until tomorrow morning, June \_\_\_\_\_, 20\_\_\_\_, at 10:00 o'clock.

Charles H. Haden, II  
 Chief Justice

Present: The same judges as heretofore.  
 (Continued with an entry for each item of business or case presented.)  
 Ordered that court be adjourned until the next regular term of this court in course.

Charles H. Haden, II  
 Chief Justice

**Forms for Circuit Clerk's Order Books**

**Circuit Court of Lewis County, The American Legion Mountaineer Boys State  
 Criminal Order Book**

A regular term of the Circuit Court begun and held for the County of Lewis at the Courthouse of said County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and in the \_\_\_\_\_ year of The American Legion Mountaineer Boys State.

Present: The Honorable Charles Judd, Judge of the Circuit Court of Lewis County.

Re Grand Jury: Upon calling the list of grand jurors drawn for this term of court, it appears that Ben Brown, John Jones, and Sam Smith, had failed to appear. Therefore the court appointed James Carson and Jesse Cane, two bona fide Citizens of this county, of opposite politics, having all the qualifications of jury commissioners, who, after taking the oath required by law of jury commissioners, selected Harry Hall, Milton Mann, and Noah Noble, three duly qualified persons, to serve on the grand jury in the place and stead of those who failed to appear. Whereupon Alien Ames, Bert Barton, Carl Curtis, David Dyer, Edward Ewing, Fred Fields, George Giles, Henry Hall, John Joyce, Lee Larson, Milton Mann, Noah Noble, Otis Odell, Peter Payne, Ralph Reed, and Scott Snell were impaneled a grand jury of inquest, and after being examined and qualified were sworn as provided by law, and after being charged by the court, retired to their room to consider of their presentments and indictments, and after a time returned into court and returned the following indictments, to wit:

An indictment against Sam Smith, for a felony. A true bill. Breaking and entering. No.  
 234. Alien Ames Foreman.

(Continue with all other true bills of indictment returned.)



An indictment against Thomas Towson, for a felony. Not a true bill. Grand larceny. No.

(Continue with all other not true bills returned.)

Name	Days	Amount
Allen Ames	1	\$5.00

Allowance to Jury Commissioners: James Carson and Jesse Cane, jury commissioners, were appointed and duly sworn this day to select persons to serve on the grand jury in the place and stead of persons summoned but not attending, and after having met and made selections the court allowed them \$5.00 each for their services, the amount fixed by statute, and doth now order that said amounts be certified by the clerk of this court to the County Court of this county for payment. Also, Joel Cook and Jacob Crum, the regular jury commissioners of this court having each served at this, the \_\_\_\_\_ term, 20\_\_\_\_, of this court and also having served one day for the purpose of drawing a petit jury to serve at this, the \_\_\_\_\_ term, of 20\_\_\_\_, making a total of two days for said jury commissioners, the court allowed them the sum of \$5.00 per day, the amount fixed by statute, or a total of \$10.00 for each of said commissioners, and doth now order that said amounts be certified by the clerk of this court to the County Court of this county for payment.

Ordered that court be adjourned until \_\_\_\_\_ morning, \_\_\_\_\_, 20\_\_\_\_, at 9:30 o'clock.

The Clerk of this Court will enter the foregoing order as of the 1st day of May, 1961.

John Doe

vs.

///Civil Action No. 2

Richard Roe

At a pre-trial conference held pursuant to Rule 16, Rules of Civil Procedure for West Virginia, on the 29th day of April, 1961, at which plaintiff and defendant in the above-styled action appeared by their respective counsel, James B. Retro and L. H. Fore, the following actions were taken:

#### **Stipulation**

Plaintiff was injured on November 28, 1960 near the City of Weston, in the County of Lewis, West Virginia, on Route 19, when he was pushing the stalled car of his sister along said highway in a snowstorm to reach a filing station 1000 feet down the road, the car being a 1950 model Ford owned by the sister, Anna M. Roe. Defendant operating a 1960 pink Cadillac was traveling along the same highway toward Weston from Sutton in Braxton County, and struck the rear end of said Ford, after which the plaintiff was found in a ditch at the side of the road suffering from injuries.

#### **Issues of Fact**

1. Did the car of defendant strike plaintiff or did his foot slip.
2. Could the defendant have crossed to the left of the center line and avoided the accident or was his access thereto blocked by an approaching car as he claims.
3. Was the defendant operating his vehicle at an excessive speed as claimed by the plaintiff.
4. Was the defendant operating his car under the influence of alcohol.

#### **Issues of Law**

1. Was the defendant negligent.
2. Was the plaintiff contributorily negligent.
3. Does the doctrine of last clear chance apply since plaintiff could see the defendant's lights 1000 feet away but has no lights on the vehicle he was pushing?

#### **Matters of Evidence**

It is agreed that photographs may be offered without producing the photographer, but any objection other than the manner of taking same may still be urged. Plaintiff may file without objection, his itemized hospital bills, which defendant admits are reasonable.

#### **Summary**

This pre-trial order is approved by both parties, this the 1st day of May, 1961. Proof will be restricted to the issues listed herein.

(Continue with any other orders made on this same day)

It is hereby ordered that Court be adjourned until tomorrow morning. May 2, 1961, at 9:30 a.m.

CHARLES JUDD,

Judge of Lewis County Circuit Court

**Tuesday, May 2, 1961**

**THE AMERICAN LEGION MOUNTAINEER BOYS STATE, COUNTY OF LEWIS**

**Second Day of Regular May Term of Circuit Court**

Present: The Honorable Charles Judd, Judge of said Court.

Amos Ball, Plaintiff,

vs.

///Civil Action No. 1

Carl Day, Defendant

This day came the defendant in the above-styled action and filed therein by permission of the judge his answer to the heretofore filed complaint of the plaintiff, there being no objection to filing by the defendant who was present in court by his attorney and acknowledged receipt of a copy of said answer; and both counsel presented to said Court a signed agreement that the case be tried Monday, May 15, 1961 by leave of the Court, and the Court grants such leave and sets the case for trial on said date.

There being no other business to come before said Court, it is hereby ordered that said Court adjourn until tomorrow morning, Wednesday, May 3, 1961 at 9:30 A.M.

CHARLES JUDD,  
Judge of Lewis County Circuit Court

(\*Note: Former practice required most papers to be filed by an order. The new Rules of Civil Procedure permit them to be filed with the clerk or with the judge if he will accept them, and a notation of the date when it came into the official's hands automatically makes the paper part of the record. The above order is merely illustrative of a form that could be used where it is desired to file in Court.

Note also that generally a case not ready for jury trial on the day at which the trial calendar is made up, usually the first day of the term, would likely go over until the next term if only one party is demanding a trial. However, Rule 83 of RCP provides that local rules may be made by a court not inconsistent with the statewide rules and will be effective if approved by the Supreme Court, and since many Circuits had rules varying from others on local procedure such as how to conduct the daily operations of the court, the Supreme Court promulgated along with the state-wide rules a set of basis local rules called "Trial Court Rules" (T.C.R.) which allow agreements between counsel if reduced to writing; and Rule 40 RCP allows local courts to place cases on trial calendar "in such manner as the court deems expedient". Consequently, it may be done by agreement in most trial courts following a local rule, which above order illustrates.)

**Monday, May 15, 1961**  
**THE AMERICAN LEGION MOUNTAINEER BOYS STATE, COUNTY OF LEWIS**  
**Fifteenth Day of Regular May Term of Circuit Court**

Amos Ball, Plaintiff

vs.

///Civil Action No. 1

Clay Day, Defendant

On this the 15th day of May, 1961 came the plaintiff in person and by his counsel and came the defendant in person and by his counsel, and this matter having been placed upon the trial calendar for this date by agreement of the parties, the same came on for trial upon issue joined by the plaintiffs complaint and the defendant's answer thereto.

Thereupon came a jury consisting of Minnie Dutell and eleven other good and lawful persons chosen by lot and duly sworn to well and truly try the issues raised by the pleadings herein between the plaintiff and the defendant, and the parties made opening statements before the jury and each introduced before said jury evidence to sustain his respective issues and each thereafter rested and the jury was instructed and final arguments made on behalf of the parties.

Thereupon the court directed said jury to retire to its chambers and consider of its verdict, and the jury after deliberating on the matter returned into court and rendered the following verdict:

"We the jury, upon the issues joined between the plaintiff and the defendant in this proceeding, agree and find for the plaintiff and assess his damages at \$5000.00.

MINNIE DUTELL,  
Foreman"

And the jury was thereupon discharged from further consideration of the case.

Defendant then moved to set aside the verdict of the jury and award him a new trial upon the grounds that the verdict was excessive in that the evidence 'showed the plaintiff spent one day in the hospital at a cost of \$25.00 for x-ray and adhesive tape and had no pains thereafter, which motion was argued by counsel and considered by the court and then by the court overruled, to which action counsel for the defendant takes exception.

Whereupon it is ordered and adjudged that the plaintiff do recover of the defendant the sum of \$5000.00 with interest at 6% per annum thereon from the date of the aforesaid verdict until paid and do recover of the defendant his costs of this action, to the entry of which judgment the defendant takes exception.

The defendant having announced his intention to apply to the Supreme Court of Appeals for a writ of error, upon his motion the Court doth grant a stay of execution of sixty (60) days on the judgment entered herein from the date of this order, within which period the defendant may prepare transcript of the evidence and file the same with this court to become part of the record herein. This stay shall become effective when the defendant, or someone for him, shall execute a bond with surety approved by the clerk of this court and conditioned according to law in the penalty of \$5500.00.

Dated this the 15th day of May, 1961.

Enter:  
CHARLES JUDD,  
Judge

Note on above order: The form given above combines in one order of illustration purposes several things which usually have some time elapse between them and are the subject of several separate orders. For instance, the motion to set aside the verdict would likely not be argued for days after the trial until the judge could find time to hear it, and he might not decide it for weeks, thus making the judgment order a considerable time after the verdict. If judgment order is separate or is on a matter tried by judge without jury, suggested forms will be found in Forms 30 and 31 in Appendix of Forms in Section 2 of this title on "Courts".

### **General Instructions to Clerks**

As will be seen from the samples herein, an order simply states what took place in court, and a "court of record speaks only through its orders", so care must be taken to make an order for every step taken by the court. No particular form is required, and you will note variations in language between somewhat identical matters covered in the samples given. This was done purposely to show variations that might be encountered from lawyer to lawyer and county to county. Drawing an order to cover a long process concisely without omitting some essential is a real art in the exercise of the English language. While it has the judge's name signed as if he prepared it, it is technically the duty of the clerk to record what happened. Some of the simpler ones he writes from a "library" of previous ones or consults the judge about, but the more complicated ones are usually prepared by the attorney on the winning side, presented to the judge for revision and signature, and then given to the clerk to record. Each order, except general or formal ones, is separately signed by the judge and remains in the file of the case, but the clerk usually puts in the Order Book all transactions of a given day into one continuous running account by cases of what happened, and the judge signs at the end of the day's record, thus authenticating all the items above. A careful lawyer will check the record to make sure the clerk copied the original correctly. Most courts require one or both attorneys to initial the order on the margin to show they agree that it states correctly what happened although the loser of course does not agree that the decision was right.

Limitations of space prevent giving very many orders here. See the 1960 Manual at the top of page 99 for a sample of an injunction order. An injunction is used to keep someone from violating another person's (or the state's) rights where the damage would be such that money can't pay for it, or to compel a person to do some act which he should do to avoid violating the rights of others. An example mentioned where the defendant evidentially sold his business to plaintiff and agreed not to compete with him: a "temporary injunction" may be granted in advance of trial, and then made permanent after the evidence is produced.

"Mandamus" is to make an official do something he has a legal duty to do. "Prohibition" is used against officials and judges who undertake to do something they have no right to do. "Quo warranto" is to oust someone from office he has usurped. These with injunction are all called "extraordinary remedies" and are controlled by statutes allowing speed up their application.

A great deal of the routine business of courts is handled by the clerk. He keeps record of the date every step was taken. He assigns numbers to each case and in his "civil docket" has one or more pages for each case on which he notes when each paper was filed, the nature of the paper, the substance of orders entered and the dates of returns showing papers served. When a case is finally disposed of, he issues the "execution" by which the sheriff is ordered to collect the

money due the winner. Writs similar to executions, under various names, are used to seize property, money, wages, debts due the defendant before, during, or after the trial as may be necessary to protect plaintiff and see that he collects what the courts says is due him. The clerk prepares a “trial calendar” showing cases ready for trial. RCP 77 and 79 explain the duties of the clerk, as summarized above.

## **SECTION 5**

### **Forms For Interrogation of Jurors on Voir Dire Examination**

(To be asked by the Judge)

**In a Criminal Case:**

“1. This indictment was found against John Doe at the June term, 20\_\_\_\_, of this court. Were any of you members of the grand jury when this indictment was found? (Or if the case is an appeal case from a justice of the peace court: “This is an appeal case of The American Legion Mountaineer Boys State against John Doe.) Are any of you related by blood or marriage to John Doe?”

“2. Do any of you know anything about this case as witness or otherwise?”

“3. Are any of you sensible of any bias or prejudice in this case?”

“4. Have any of you made up or expressed an opinion as to guilt or innocence of the accused?”

“5. Have any of you a case to be tried by jury at this term of court?”

“6. (If a case where capital punishment may be inflicted, add: This is a Murder case. Are your opinions such that you would not bring in a verdict of guilty if that verdict would result in the death of the prisoner, that is, where the evidence warrants it, and the law says it may be done; in other words, do you have any conscientious scruples against the infliction of the death penalty?”

### **In a Civil Case**

“1. Are you related by blood or marriage to either the plaintiff or defendant, in this case?” (Or, if one of the parties is a corporation, add: “Are you, or any of you, stockholders, bondholders or creditors of the Plaintiff corporation?”)

“2. Do you know anything about this case by having heard the evidence or otherwise?”

“3. Have you made up or expressed an opinion in this case?”

“4. Are you sensible of any bias or prejudice either for or against either party of this case?”

“5. Do you know any reason why you could not listen to the evidence and from the evidence render a fair and impartial verdict between the parties to this case?”

(To these may be added any further questions desired by the plaintiff and defendant and deemed by the judge proper to be asked.)

## **SECTION 6**

### **Forms of Oaths**

#### **Of Judge, Clerk and Sheriff**

The oaths to be taken by officials shall be as follows:

“I, James Jones, do solemnly swear that I will support the Constitution of the United States and the Constitution of The American Legion Mountaineer Boys State, and will faithfully discharge the duties of \_\_\_\_\_, to the best of my skill and judgment. So help me God.”  
Insert Appropriate Title

#### **Of an Attorney on being admitted to Practice**

“You solemnly swear that you will support the Constitution of the United States and the Constitution of The American Legion Mountaineer Boys State, and that you will honestly demean yourself at Law. So help you God.”



### **Of a Jury Commissioner**

“I, Ben Brown, do solemnly swear that I will support the Constitution of the United States and the Constitution of The American Legion Mountaineer Boys State, and will faithfully discharge the duties of jury commissioner to the best of my skill and judgment, and that I will not place any person upon the jury list in violation of law, or out of favor, or affection So help me God.”

### **Of Foreman of the Grand Jury**

(To be administered orally in open court by the Clerk.)

“You solemnly swear that you will diligently inquire into and true presentment make of all such matters as may be given you in charge, or come to your knowledge touching the present service; that you will present no person through malice, hatred or ill-will, nor leave any unpresented through fear, favor, partiality or affection, but in all your presentments you shall present the truth, the whole truth, and nothing but the truth. So help you God.”

### **Of the Other Grand Jurors**

(To be administered orally in open court by the Clerk.)

“You solemnly swear that the same oath which your foreman has taken on his part, you and each of you shall observe and keep on your part. So help you God.”

### **Of Witness Before Grand Jury**

(To be administered orally by Clerk to witness before witness is admitted to testify before the Grand Jury.)

“You solemnly swear the testimony you are about to give before the Grand Jury now in session will be the truth, the whole truth, and nothing but the truth. So help you God.”

### **Of Petit Jurors on Voir Dire Examination**

(To be administered orally by Clerk in open court.)

“You and each of you solemnly swear that you will make true and correct answers to all questions that may be propounded to you by the court or bar touching your qualifications as jurors in the case now about to come to trial. So help you God.”

### **Of Petit Jury in Felony Case**

(To be administered orally by Clerk in open court.)

“You and each of you solemnly swear that you will well and truly try, and true deliverance make, between The American Legion Mountaineer Boys State and John Doe, the prisoner at the bar, whom you shall have in charge, and a true verdict render according to the evidence. So help you God.”

### **Of Petit Jury in Misdemeanor Case**

(To be administered orally by Clerk in open court.)

“You and each of you solemnly swear that you will well and truly try the issue joined between the parties hereto, wherein The American Legion Mountaineer Boys State is the plaintiff and John Doe is the defendant, and a true verdict render according to the evidence. So help you God.”

### **Of Petit Jury in a Civil Case**

(To be administered orally by Clerk in open court.)

“You and each of you solemnly swear that you will well and truly try the issues joined between Richard Roe, the plaintiff, and John Doe, the defendant, and a true verdict render according to the evidence. So help you God.”

**Of Petit Jury in an appeal from a Magistrate's Court**

(To be administered orally by Clerk in open court.)

"You and each of you solemnly swear that you will well and truly try the matters in difference between Richard Roe, the Plaintiff, and John Doe, the defendant, and a true verdict render according to the evidence. So help you God."

**Of Witness before testifying in any case, civil or criminal**

"You (and each of you if more than one is sworn at the same time) solemnly swear that the testimony you are about to give in the case now on trial (or, if other than a trial, the matter now on hearing) will be the truth, the whole truth, and nothing but the truth. So help you God." (In Boys State change to read "will be the truth as you have been informed. So help you God.")

**Of Sheriff or his Deputy in Charge of a Jury in a Felony Case**

"You solemnly swear that you will well and truly keep this jury together during the trial of this case; that you will not converse with them touching this trial, nor permit anyone else to converse with them touching any matter relative to the trial of this case. So help you God."

**FORM OF BOND OR RECOGNIZANCE FOR APPEARANCE**

Recognizance in Criminal Cases

(To be given by the Clerk, in manner of an oath, of a defendant in a criminal case, who is executed to appear at a later time, and of his surety or bondsman at same time.)

"You John Doe, and Richard Roe, surety, each acknowledge yourself to owe and be indebted to The American Legion Mountaineer Boys State in the just and full sum of \$500.00, of your respective goods and chattels, lands and tenements to be levied and to the use of the State rendered. Yet upon this condition, that is to say, that you, John Doe, shall make your personal appearance before the Judge of the Circuit Court of Lewis County, at the Court House thereof, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, there to answer The American Legion Mountaineer Boys leave of said court, then this recognizance to be void, otherwise to remain in full force and effect."

**SECTION 7**

**PROCEDURE IN CIVIL CASES IN MAGISTRATE'S COURT**

Actions are commenced by summons, or by the appearance and agreement of the parties without summons, the former being the more common practice.

A party desiring to institute suit before a Magistrate appears before him and states verbally his claim, or files an account of claim, and the magistrate then issues a summons, which may be in form or effect as follows:

THE AMERICAN LEGION MOUNTAINEER BOYS STATE, LEWIS COUNTY, To-Wit:

To any Deputy Sheriff of said County

You are hereby commanded, in the name of The American Legion Mountaineer Boys State to summon Carl Day to appear before me, Job Pace, Magistrate for Court House District of said County at my office in Weston, in said County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, a.m., to answer the complaint of Amos Ball in a civil action for the recovery of money due on contract, (or, if the action be for injuries to person or property, of damages for a wrong, in which the plaintiff will claim judgment for \$250.00, with interest thereon until paid, and costs.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JOB PACE  
Magistrate

The deputy sheriff who receives such summons for service should note on the back thereof the time it came into his hands, and serve the same as soon as possible on the party to be summoned. In actual practice the summons must be served at least 20 days before the return day, but in The American Legion Mountaineer Boys State the summons must be served at least five hours before the time fixed for appearance. After service the deputy sheriff should make return of service by endorsement on the summons in the following form or effect:

Received this writ on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock.

Executed the within summons in Lewis County this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_, by delivering a copy thereof to the defendant, Carl Day, in person.

JOHN CARR  
Deputy Sheriff

The pleadings in a magistrate court may be oral or in writing. If oral the substance of them must be entered by the magistrate in his docket. If in writing, they should be filed by him and a reference to them noted in his docket. The usual pleadings are:

1. The complaint by the plaintiff, which should be a plain and direct statement of the facts constituting the cause of action.
2. The answer by the defendant, which should be a denial of the complaint or some part thereof, or statement of facts constituting a defense or a counterclaim.

The following are forms for these pleadings:

Amos Ball, Plaintiff,	: Before Job Pace,
	: a Magistrate for
vs.	: Lewis County, The American
	: Legion Mountaineer
Carl Day, Defendant	: Boys State.

#### COMPLAINT

The plaintiff complains that the said defendant is indebted to him in the sum of Two Hundred Fifty Dollars (\$250.00), with interest from the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on account of goods sold and delivered by plaintiff to the said defendant, and at his request, for which the plaintiff claims judgment for said amount with interest and costs.

Amos Ball, Plaintiff

Caption. Same as in complaint.

#### ANSWER

The defendant for answer says that he does not owe the amount claimed by the plaintiff because on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, defendant tendered to the plaintiff in payment one Ford automobile and plaintiff accepted same as payment in full of said account; wherefore, defendant claims judgment accordingly.

Carl Day, Defendant

(Or, if the defense is a counterclaim, the above form down to and including the word "because" and then continue in the manner following: "on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, defendant, at the request of plaintiff, sold and delivered to the latter thirty-three (33) sheep at nine dollars (\$9.00) each, amounting in all to two hundred ninety-seven dollars (\$297.00) which sum the plaintiff owes to the defendant, with interest from the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and constitutes a counterclaim to the claim of the plaintiff, wherefore, defendant claims judgment accordingly.")

#### ATTENDANCE OF WITNESSES IN CASES BEFORE MAGISTRATE

The attendance of a witness in any case, civil or criminal, may be compelled by having the magistrate issue a subpoena, and having the subpoena served on the witness by an officer authorized by law to make service, or by any other person. The subpoena may be in form or effect as follows:

THE AMERICAN LEGION MOUNTAINEER BOYS STATE, COUNTY OF LEWIS, TO WIT:

To any Deputy Sheriff of said County

You are hereby commanded, in the name of The American Legion Mountaineer Boys State, to summon Will White to appear before me at my office in Court House District in said county on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ to give evidence on behalf of the plaintiff in a certain action now pending before me, between Amos Ball as plaintiff and Carl Day as defendant, and have them there this writ.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Job Pace  
Magistrate

The subpoena in a criminal case would read practically the same except where issued on behalf of the State the words "The American Legion Mountaineer Boys State" would appear in each place where the word "plaintiff" appears in the above; and if issued on behalf of the defendant the word "defendant" would appear where the word "plaintiff" first appears and the words "The American Legion Mountaineer Boys State" would appear in place of the name "Amos Ball".

At the time appointed for the hearing, if a jury be not demanded by either party (and in magistrate trials in The American Legion Mountaineer Boys State juries will not be demanded, because of lack of numbers as well as lack of time) the magistrate hears the proofs, and renders judgment as the law and the evidence requires.

A trial before a magistrate is conducted in the same general manner as in the circuit court. Witnesses must be sworn before testifying "to tell the truth, the whole truth, and nothing but the truth" relating to the matter in difference between the plaintiff and defendant.

The rules of evidence are in general the same as in the circuit court. These rules are covered generally in the Section of "Evidence" in this manual.

The usual order of proceedings before a magistrate is for the plaintiff, or his attorney' to state briefly his claim and what proof he expects to offer to support it; for the defendant, or his attorney, to state briefly his defense and what proof he expects to offer to support it; for the plaintiff to offer his evidence; for the defendant to offer his evidence; for the parties to offer any rebutting evidence they may have; and, finally, for the plaintiff and defendant, if they so desire, to argue the case to the magistrate.

The magistrate should announce his decision and give judgment at the conclusion of the trial, but in actual practice he may, and usually does, wait 24 hours to announce his decision. In The American Legion Mountaineer Boys State the magistrate must announce his decision and give judgment not later than one hour after the conclusion of the trial.

Any party aggrieved by the decision of the magistrate may, if the amount in controversy exceeds fifteen dollars, exclusive of interest and costs, appeal the case to the circuit court. In actual practice appeals may be taken within 20 days after judgment, but in The American Legion Mountaineer Boys State the appeals must be taken not later than the next day after entry of judgment. Appeals are taken by tendering an appeal bond, with good security, to be approved by the magistrate, in a penalty double the amount of the judgment. The appeal bond should be in form or effect as follows:

THE AMERICAN LEGION MOUNTAINEER BOYS STATE, COUNTY OF LEWIS, To-Wit:

KNOW ALL MEN BY THESE PRESENTS: That we, Carl Day, PRINCIPAL, and SAUL SHAW, SURETY, are held and firmly bound unto Amos Ball in the sum of Five Hundred dollars (\$500.00), to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executor\* and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION is such that whereas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the County of Lewis, The American Legion Mountaineer Boys State, said Amos Ball obtained before Job Pace, a magistrate of said county, a judgment against the said Carl Day for the sum of Two Hundred Fifty and no/100 Dollars (\$250.00), with interest thereon, and costs of \$6.20, and the said Carl Day having obtained from said judgment to the circuit court of said county:

Now, therefore, if the said Carl Day shall perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal, then this bond to be void, otherwise to remain in full force and virtue.

Acknowledged before me and approved as sufficient this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Job Pace  
Magistrate

After the appeal bond is tendered and approved by the magistrate, the appeal is then considered as taken. Within 20 days thereafter, in actual practice, but not later than one day thereafter in The American Legion Mountaineer Boys State the magistrate must make out, certify and file with the clerk of the circuit court a complete transcript from his docket of all the proceedings before him in the case, and deliver such transcript, the bond and all papers in the case to the clerk of the circuit court of his county.

A transcript is a copy of the magistrate's docket with reference to that case. He should copy his docket accurately, and append to it a certificate as follows:

"I", Job Pace, a magistrate of Court House District, County of Lewis, The American Legion Mountaineer Boys State, do hereby certify that the foregoing is a true transcript from my docket of all the proceedings had before me in a certain civil action wherein Amos Ball was plaintiff and Carl Day was defendant."

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Job Pace  
Magistrate

#### MAGISTRATE'S CIVIL DOCKET

Case No. 234

#### THE AMERICAN LEGION MOUNTAINEER BOYS STATE COUNTY OF LEWIS, To-wit:

Amos Ball, Plaintiff

VS.

Carl Day, Defendant

#### Taxation of Costs:

Complaint and summons	\$3.00
Continuances	.20
Trial	1.00
Appeal bond	.25
Transcript	.50
Sheriff	.75
Filing Appeal	.50
Total	\$6.20

A civil action before Job Pace, a magistrate for Court House District of said county.

#### Attorneys:

Earl Fair	For Plaintiff
Gary Hunt	For Defendant

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the plaintiff filed his complaint herein in writing claiming \$250.00 and on the same day summons was issued bearing that date, returnable on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_, and delivered to John Carr, a deputy sheriff of this county.

And now on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_, the summons was returned, showing personal service thereof upon the defendant. Both parties appeared with their attorneys noted above, and defendant filed his answer in writing, and on application of the defendant, who made oath as to the grounds for a continuance, the trial of this action is continued until \_\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_.

And now on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_, being the day to which the trial of this case was continued, came against the parties with their attorneys. And having heard the evidence and arguments of counsel, and having considered the same, I am of opinion that there is due the plaintiff, Amos Ball, from the defendant, Carl Day, the sum of Two Hundred Fifty and no/100 Dollars (\$250.00).

It is therefore considered by me that the plaintiff, Amos Ball, do recover of and from the defendant, Carl Day,



the sum of Two Hundred Fifty and no/100 Dollars (\$250.00), with interest thereon from the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, till paid, and his costs about the prosecution of his action in this behalf expended.

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, defendant applied for an appeal from the judgment rendered herein, and filed an appeal bond with me in the penalty of Five Hundred and no/100 Dollars (\$500.00), with Saul Shaw as surety, which is approved by me as sufficient, and there upon an appeal is hereby awarded the said defendant.

JOB PACE  
Magistrate

#### EXECUTION

The State of West Virginia, Kanawha County, to-wit:

TO \_\_\_\_\_, Sheriff or Deputy Sheriff of said County:

JUDGMENT having been rendered by me, in my District of Charleston in the said County, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in favor of \_\_\_\_\_ against \_\_\_\_\_ for \_\_\_\_\_ Dollars, and \_\_\_\_\_ Cents, with interest thereon from \_\_\_\_\_, 20\_\_\_\_, and costs, \_\_\_\_\_ you are hereby commanded in the name of the State of West Virginia, to collect the amount due on the said judgment out of the personal property of the said \_\_\_\_\_ and return this Execution to me, with your certificate thereon, showing the manner in which you have executed the same, within sixty days from this date.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
\_\_\_\_\_, Magistrate  
District of Charleston, in said county

Received this Execution this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, M., \_\_\_\_\_, C.K.C and executed the same on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by levying on the following personal property as listed on the other side.

Judgment.....	\$ _____
Interest .....	_____
Costs Due Magistrate.....	_____
Costs Due Deputy Sheriff .....	_____
Deputy's Commissions .....	_____
Levy Fee .....	_____
Total Witness Fees .....	_____
	\$ _____

#### SECTION 8 PROCEDURE IN CRIMINAL CASES IN MAGISTRATE COURT

A magistrate has jurisdiction of the following offenses committed in his county, or of any river or creek adjoining thereto:

- In cases of assault and battery, unless the offense was committed on a sheriff or other magistrate, or riotously, or with intent to commit a felony: and no compromise with the party injured shall effect or prevent the trial of such offense by the magistrate; and if a defendant be convicted of such offense he shall be fined not less than five nor more than fifty dollars;
- In cases of trespass to property; and, if a defendant be convicted of such offense, he shall be fined not less than five nor more than fifty dollars;
- In cases for the violation of section 14, article 6, chapter 61 of the West Virginia Code, (which deals with the disturbance of schools, churches, and any other meeting;) and upon the conviction of a defendant for violation of any of the provisions of said section, he shall be punished as therein provided;
- In cases of adultery and fornication; and, if a defendant be convicted of such offense, he shall be fined twenty dollars.

- (e) In case of petit larceny; and, if a defendant be convicted of such offense, he shall be fined not less than ten nor more than thirty dollars, and may, at the discretion of the magistrate or jury trying the case, be imprisoned in the county jail not exceeding thirty days;
- (f) In cases for the violation of article 7, chapter 61 of the West Virginia Code, (which deals with the carrying and displaying of dangerous or deadly weapons;) and, upon the conviction of a defendant for a violation of any of the provisions of said section, he shall be punished as therein provided;
- (g) In any case where the punishment is limited to a fine not exceeding ten dollars, or to imprisonment for not more than ten days.

Provided, however, that wherever a person has been convicted in the municipal or police court of any incorporated town or city, such conviction shall be a bar to any criminal proceedings before a justice for the same offense.

The proceedings before a magistrate is by warrant of arrest issued on the information, under oath of some credible person, describing the offense alleged to have been committed, and commanding the officer forthwith to apprehend the accused, and bring him before the magistrate to be dealt with according to law. The information or complaint and warrant should be in form or effect as follows:

THE AMERICAN LEGION MOUNTAINEER BOYS STATE,  
COUNTY OF LEWIS, To-Wit:

Amos Ball upon oath complains that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, within the county aforesaid, Carl Day did steal, take and carry away one tire of the value of fifteen dollars of the goods and chattels of the said Amos Ball; and he the said Amos Ball therefore prays that the said Carl Day may be apprehended and held to answer the said complaint and be dealt with in relation thereto according to law.

Amos Ball

Taken, subscribed and sworn to before me by the said Amos Ball this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JOB PACE  
Magistrate

THE AMERICAN LEGION MOUNTAINEER BOYS STATE,  
COUNTY OF LEWIS, To-Wit:

To any Deputy Sheriff of said County:

Whereas, Amos Ball has this day made complaint and information on oath before me. Job Pace, a magistrate of said county, that Carl Day on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, did steal, take and carry away one tire of the value of fifteen dollars of the goods and chattels of the said Amos Ball.

These are, therefore, in the name of The American Legion Mountaineer Boys State to command you forth-with to apprehend and bring before me, or some other magistrate of said county, lation thereto according to law.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JOB PACE  
Magistrate

The deputy sheriff who receives the warrant should execute the same by making the arrest and taking the accused before the magistrate who issued the warrant. The deputy sheriff should endorse on the warrant a return, which should be in the following form:

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, executed the within warrant as therein commanded by arresting the within named Carl Day and bringing his body before Job Pace, a magistrate of the county of Lewis, The American Legion Mountaineer Boys State of his office in the City of Weston in said county.

JOHN CARR  
Deputy Sheriff of the County of Lewis

On the appearance of the accused, the magistrate may proceed to try the case, or he may grant continuance from time to time, if the circumstances of the case require it. If granted upon request of the accused, the magistrate may require him to enter into a recognizance, with surety deemed sufficient, conditioned for his appearance at the time and place fixed for trial, and if the recognizance be not given, may commit the accused to jail until the time fixed for trial, but the imprisonment shall not exceed five days. If the continuance is not at the instant of the accused, he shall be discharged from custody on his own recognizance, or without a recognizance, as the magistrate may deem proper. For forms of recognizance see Section 8.

When the penalty authorized by law is a fine exceeding \$5.00, or imprisonment, the accused shall be entitled to a trial by twelve jurors, or a less number if demanded, in actual practice, but in The American Legion Mountaineer Boys State jury trials will not be had in magistrate's cases for lack of numbers and other reasons.

The case may be tried without plea of "not guilty", but in the absence of a plea the prosecution must prove its case just as if such plea had been entered.

The magistrate tries the criminal case in the same manner as a civil one, swearing and hearing the witnesses, and determining from the testimony offered before him the guilt or innocence of the accused of the charge made against him. The order of proof is the same as in civil cases, the State or prosecution being the plaintiff and the accused the defendant.

If the judgment is against the accused, it shall be for the costs of the proceeding in addition to the fine and term of imprisonment.

Where a criminal case is tried before a magistrate and the accused is convicted, there may be an appeal to the circuit court of the county, if the accused be sentenced to imprisonment, or to be the payment of a fine of ten dollars or more (and in no case shall a judgment for a fine of less than ten dollars be given by a magistrate if the defendant, his agent or attorney, objects thereto.) The magistrate must allow the appeal if the application therefor is made within a reasonable time after the judgment or conviction is entered. To obtain the appeal the defendant must furnish bond to appear and answer for the offense before the circuit court of the county, and the defendant cannot be released from custody without giving such bond. The bond should be in form or effect as follows:

THE AMERICAN LEGION MOUNTAINEER BOYS STATE,  
COUNTY OF LEWIS, To-Wit:

KNOW ALL MEN BY THESE PRESENTS: That we, Carl Day, PRINCIPAL, and Saul Shaw, SURETY, are held and firmly bound unto The American Legion Mountaineer Boys State in the just and full sum of Five Hundred dollars, (500.00) to the payment whereof, well and truly to be made, we obligate and bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The condition of the above obligation is such that whereas on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in a certain action pending before Job Pace, a Magistrate of the County of Lewis, and The American Legion Mountaineer Boys State, the said Carl Day was found guilty of misdemeanor, to wit: Larceny, and fined \$300.00, and sentenced to the county jail of said county for the period of Thirty days, and to pay costs to the amount of \$4.50; and whereas the said Carl Day desires to appeal from the said judgment to the circuit court of the said county.

Now, therefore, if the said Carl Day shall appear before the judge of the said circuit court on the first day of the next term thereof, and well and truly perform and satisfy any judgment which may be rendered against him on such appeal, and pay the costs on such appeal, and not depart thence without leave of said court, then this obligation to be void, otherwise to remain in full force and virtue.

Carl Day	(SEAL)
Saul Shaw	(SEAL)

Acknowledged before me and approved as sufficient this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JOB PACE  
Magistrate

If such appeal be taken the warrant of arrest, the transcript of the judgment, the recognizance or bond and other papers of the case shall be forthwith delivered by the magistrate to the clerk of the circuit court, which court will proceed to try the case as upon indictment, and render such judgment as the law and the evidence may require.

The magistrate will append to his transcript of the judgment the following certificate before delivery of the same to the clerk of the circuit court:

I, Job Pace, magistrate of Court House district, county of Lewis, The American Legion Mountaineer Boys State do hereby certify that the foregoing is a correct transcript of the judgment in the case of The American Legion Mountaineer Boys State vs. Carl Day, as appears from my docket. And I do further certify that the warrant of arrest, the appeal bond and all other papers in said case are herewith returned and accompany the said transcript.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JOB PACE  
Magistrate

### **Magistrate as Examining Magistrate**

A large part of the work of a magistrate in criminal cases is that of an examining magistrate. If, when a person charged with an offense is brought before a magistrate, the case is one which the magistrate has no jurisdiction to determine, then it is the duty of the magistrate to hear the charges made against the accused, and the evidence which may be given to support them, and the evidence offered in defense, upon which the magistrate will decide not whether the accused is guilty or innocent but whether the evidence on both sides taken together is sufficient to justify holding the accused to bail, or committing him to jail, to answer the charge in the circuit court in which the charge is properly recognizable.

The procedure upon such an examination is the same as on other judicial proceedings before a magistrate.

If the magistrate holds the accused to answer an indictment in the circuit court and the accused is let out on bail, then the accused must give bond with good security in a form as follows:

### **THE AMERICAN LEGION MOUNTAINEER BOYS STATE, COUNTY OF LEWIS, To-Wit:**

KNOW ALL MEN BY THESE PRESENTS: That we, Carl Day, principal and Saul Shaw, surety, are held and firmly bound unto The American Legion Mountaineer Boys State in the just and full sum of Five Hundred Dollars (\$500.00), for the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The condition of the above obligation is such that whereas the above bound Carl Day has been arrested and brought before me, Job Pace, a magistrate of said county, charged with unlawfully and feloniously stealing, taking and carrying away five automobile tires, of the value of fifty dollars and of the goods and chattels of Amos Ball, in said county aforesaid, contrary to the laws of The American Legion Mountaineer Boys State, and upon examination of the said accused it appears that there is probably cause to believe him guilty of the offense as charged, and accordingly he has been held by me to answer any indictment therefore that may be returned by the grand jury of said county.

Now, therefore if the above bound Carl Day shall personally appear before the circuit court of said county on the first day of the next term thereof, then and there to answer The American Legion Mountaineer Boys State for the offense for which he stands charged and any indictment thereof, if one be preferred against him, and to abide by and perform the further order of said court in relation thereto, then this obligation to be void, otherwise to remain in full force and virtue.

CARL DAY                      (SEAL)  
SAUL SHAW                    (SEAL)

Entered into before, and approved, by me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JOB PACE  
Magistrate

### Search Warrant Procedure

If there be complaint, on oath, that personal property has been stolen, embezzled' or obtained by false pretenses, and that it is believed to be concealed in a particular house, or other place, the magistrate to whom complaint is made, if satisfied that there is reasonable cause for such belief, issues a warrant to search such place for the property.

Every search warrant must be directed to the sheriff of the county in which the place to be searched may be, and shall command him to search the place designated, and seize such stolen property, if found, and bring the same, and the person in whose possession it is, before a magistrate or court having cognizance of the case. Such warrant may be executed either in the day or night.

If the warrant be executed by the seizure of such property, the same shall be safely kept, by the direction of the magistrate or court, to be used as evidence; and, as soon as may be afterward, such stolen property shall be restored to its owner, or be otherwise dealt with according to law.

The party who applies for a search warrant must make complaint and information on oath, the same as one applying for a warrant of arrest, and on the basis of such sworn complaint the magistrate issues the warrant. Such complaint may be in form or effect as follows:

THE AMERICAN LEGION MOUNTAINEER BOYS STATE  
COUNTY OF LEWIS, To-wit:

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before the undersigned, a magistrate of said county, Amos Ball, who being by the undersigned first duly sworn according to law, says: That on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the said county and state, the following goods and chattels, to-wit, an automobile wheel and automobile tire, of the value of nineteen dollars, and of the goods and chattels of him, the said Amos Ball, were unlawfully stolen, taken and carried away by one Carl Day, and that he has reasonable and just cause to believe and does believe, that the said goods are concealed in the Garage building in the rear of the dwelling house known as Number 123 Pike Street in the City of Weston, in the county of Lewis, of The American Legion Mountaineer Boys State.

The said complaint therefore prays that the said premises be searched and if said property or any thereof is found that it be taken into possession, and the said Carl Day be apprehended and held to answer said complaint and be further dealt with according to law.

AMOS BALL  
Complainant

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Job Pace  
Magistrate

Note: If the value of property is \$50.00 or over, the words "and feloniously" should be added following word "unlawfully."

THE AMERICAN LEGION MOUNTAINEER BOYS STATE  
COUNTY OF LEWIS, To-wit:

To any Police Officer of said County:

Whereas, Amos Ball of said county has this day made complaint on oath, Job Pace, a magistrate of said county, that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in said county, the following goods,, to wit: an automobile wheel and automobile tire, of the value of nineteen dollars, and of the goods and chattels of the said Amos Ball were unlawfully stolen, taken and carried away from him the said Amos Ball by one Carl Day, and that he has reasonable and just cause to believe and does believe, that the said goods and chattels are concealed in the garage building in the rear of the dwelling house known as Number 123 Pike street in the City of Weston, in the County of Lewis, of The American Legion Mountaineer Boys State.

These are, therefore, to command you, in the name of The American Legion Mountaineer Boys State, with all





Day, together with Saul Shaw, his surety, entered into and filed with me an appeal bond in the penalty of \$500.00, upon condition that if the said Carl Day shall appear before said court on the first day of the next term thereof to answer for the offense wherewith he is charged, and not depart thence without leave of the court, then this recognizance is to be void, else to remain in' full force and virtue. Whereupon an appeal is allowed to said Carl Day from said judgment to the said Circuit Court.

Job Pace  
Magistrate

Note: In cases where the magistrate acts as an examining magistrate, the magistrate's criminal docket is made out in a similar form as the foregoing down to and including the arrest and bringing of the defendant before the magistrate, and then should continue in manner following:

Thereupon, having examined into the truth of the charge made against the said Carl Day, I find that there is sufficient cause to detain him further upon such charge to answer to the circuit court therefor. It is therefore ordered that the said Carl Day be conveyed to and be confined in the jail of said county, there to await the action of the circuit court touching the charge aforesaid against the said Carl Day, and for trial by the said court. (Or if the offense is bailable and the prisoner able and willing to give bond, in place of the last sentence use the following:) And the said Carl Day desiring to give bail for his appearance before the next term of the circuit court of this county, on the first day thereof, the said Carl Day on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and Saul Shaw, his surety, acknowledged themselves to owe and be indebted unto The American Legion Mountaineer Boys State in the just and full sum of \$500.00 to be made and levied of their respective goods and chattels, lands and tenements and unto the State rendered: yet upon the condition, that said Carl Day shall make his personal appearance on the first day of the next term of the circuit court of the County of Lewis, to answer to the charge of Grand Larceny, and not depart thence without leave of said court, then this recognizance to be void, else to remain in full force and virtue.

JOB PACE  
Magistrate

## PRETRIAL MOTIONS

### CIVIL

Counterclaims, Crossclaims; Third Party Claims

Assistant

Clerk

- Prepare Complaint/Summons
- Collect Fee or Affidavit
- Assign same Case Number
- Note on Daily Activity Report
- Note on Index Card →
- Record Filing on Case Number Register (Cross Reference)
- Forward Summons for Service
- Prepare Index Card
- File Documents in Back-up File
- Receive Returned Summons and forward to assistant along with Index Card

### CIVIL/CRIMINAL

Transfer to Another  
Magistrate

Transfer to Another  
Magistrate

Assistant

- Note on Daily Activity Report
- Remove Case History and Index Cards from File
- Forward to Clerk →
- Reassign
- Record on Case Number Register
- Record on Case Information Sheet in Case History and Back-up
- Forward to Reassigned Magistrate ←
- Send Notice to Appear
- File Case History and Index Cards

### CIVIL

Request for Removal to Circuit Court

Assistant

Clerk

- Record on Daily Activity Report
- Record on Case Information Sheet & Index Cards
- Forward Case History →
- Record on Case Number Register
- Record on Case Information Sheet in Backup File
- Forward Check and Case History to Circuit Court
- Keep Backup File

## PRETRIAL MOTIONS

(Continued)

### CIVIL

Request for Jury Trial  
Assistant

- Party Request Jury Trial
- Record Date of Request on Case information Sheet
- Record on Daily Activity Report
- Assign Preliminary Trial Date Pending Paliff Assignment by the Clerk
- Contact Clerk for Formal Assignment

Request for Jury Trial  
Clerk

- Assign Bailiff/Date
- Record on Bailiff Schedule
- Contact Bailiff by phone & by first class mail

- Record Date of Trial on Case Information Sheet
- Send Notice to Appear

### CIVIL/CRIMINAL

Complaint Withdrawal  
Assistant

- Complete Withdrawal Form (Magistrate/Complainant)
- Record Withdrawal Information on Case Information Sheet
- Notify Law Enforcement Agency and Defendant by Mail
- Forward Case History to Clerk

### TRAFFIC

Ticket  
Received

- Tickets Recorded on Daily Activity Report
- Forward all tickets received to Clerk Daily
- Record on Ticket Case Number Register
- Put tickets in appropriate dated folder

Ticket  
Paid

Mail

- Entered on Daily Activity Report

- Payment Recorded on Case Number Register and Ticket

Appearance

- Entered on Daily Activity Report

- Abstract Completed and forwarded

Ticket  
Contested

Handled as if Misdemeanor

Defendant  
in Custody

Handled as if Misdemeanor

## CIVIL

Magistrate  
Assistant

Magistrate  
Clerk

Complaint Filed

- Complete Complaint/  
Warrant
- Record on Daily Activity  
Report
- Forward to Clerk →

When Defendant is in  
Custody, Initial Appearance  
Activities Will Occur  
When The Complaint  
is filed

- Review Daily Activity Report
- Record Filing on Case  
Number Register and  
Assign Case Number
- Record Case Number  
on Documents
- Forward Warrant for Execution
- Prepare Index Card
- Prepare Case History
- Forward Copy of:
  - Daily Activity Report
  - Complaint/Warrant  
to Prosecutor

Initial  
Appearance

- Complete Certification Form
- Issue Plea & Trial  
Request/Waiver Form, if needed
- Financial Affidavit, if requested  
by Defendant
- Prepare Case Information Sheet
- Record on Daily  
Activity Report
- Forward to Clerk →

- Review Daily  
Activity Report
- Assign Magistrate
- Record Assignment
- Record Return Date
- Prepare Backup File
- Forward Case History  
to Assigned Magistrate

Pretrial

- File Case History ←
- File Index Cards
- Enter Judgment and  
Judgment Date on  
Case Information Sheet
- Enter Date on Each Index Card
- File Judgment Order in  
Case History
- Hold in Suspension  
File for 20 Days →
- See POST-JUDGMENT  
MOTIONS

Judgment

- Receive Case History
- Record Date of Judgment  
on Case No. Reg.
- Purge Backup File
- File Case History
- See POST-JUDGMENT  
MOTIONS



## CIVIL

Magistrate  
Assistant

Magistrate  
Clerk

Complaint Filed

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Complete Complaint/Summons</li> <li>• Collect Fees</li> <li>• Record on Daily Activity Report</li> <li>• Prepare Case Information Sheet</li> <li>• Forward to Clerk →</li> </ul> | <ul style="list-style-type: none"> <li>• Review Daily Activity Reporty</li> <li>• Record on Case Number<br/>Register and Assign Case Number</li> <li>• Record Case Number on Documents</li> <li>• Assign magistrate &amp; record on<br/>appropriate documents</li> <li>• Prepare Index Cards</li> <li>• Forward Summons to Process Server</li> <li>• Prepare Case History</li> </ul> |
|---|--|

Return to Service

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• File Case History ←</li> <li>• File Index Card</li> </ul> | <ul style="list-style-type: none"> <li>• Note Return Date on Case<br/>Information Sheet, Complaint/<br/>Summons, Case Number Register</li> <li>• Prepare Backup File</li> <li>• Mail complaint/Summons to Plaintiff</li> <li>• Forward Case History to Assistant</li> </ul> |
|--|---|

Pretrial  
Judgment

See PRETRIAL MOTIONS

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Enter Judgment and<br/>Judgment Date on Case<br/>Information Sheet.</li> <li>• Enter Date on Index Card</li> <li>• Prepare Final Case History</li> <li>• Hold in Suspension File<br/>For 20 Days →</li> <li>• See POST-JUDGMENT<br/>MOTIONS</li> </ul> | <ul style="list-style-type: none"> <li>• Receiver Case History</li> <li>• Record Date on Judgment<br/>on Case Number Register</li> <li>• Purge Backup File</li> <li>• File Case History</li> </ul> |
|---|--|

## POST-JUDGMENT MOTIONS

### CIVIL/CRIMINAL

#### Request for New Trial Assistant

- Record in Case Information Sheet
- If Request Granted. Contact clerk for Bailiff if a jury is needed.
- If Request Denied. Hold for 20 Days

#### Request for New Trial Clerk

- Receive Following 20 Days: If no appeal  
Record Date of Judgment on Case  
Number Register  
Purge Backup folder  
File Case History

### CIVIL/CRIMINAL

#### Request for Appeal

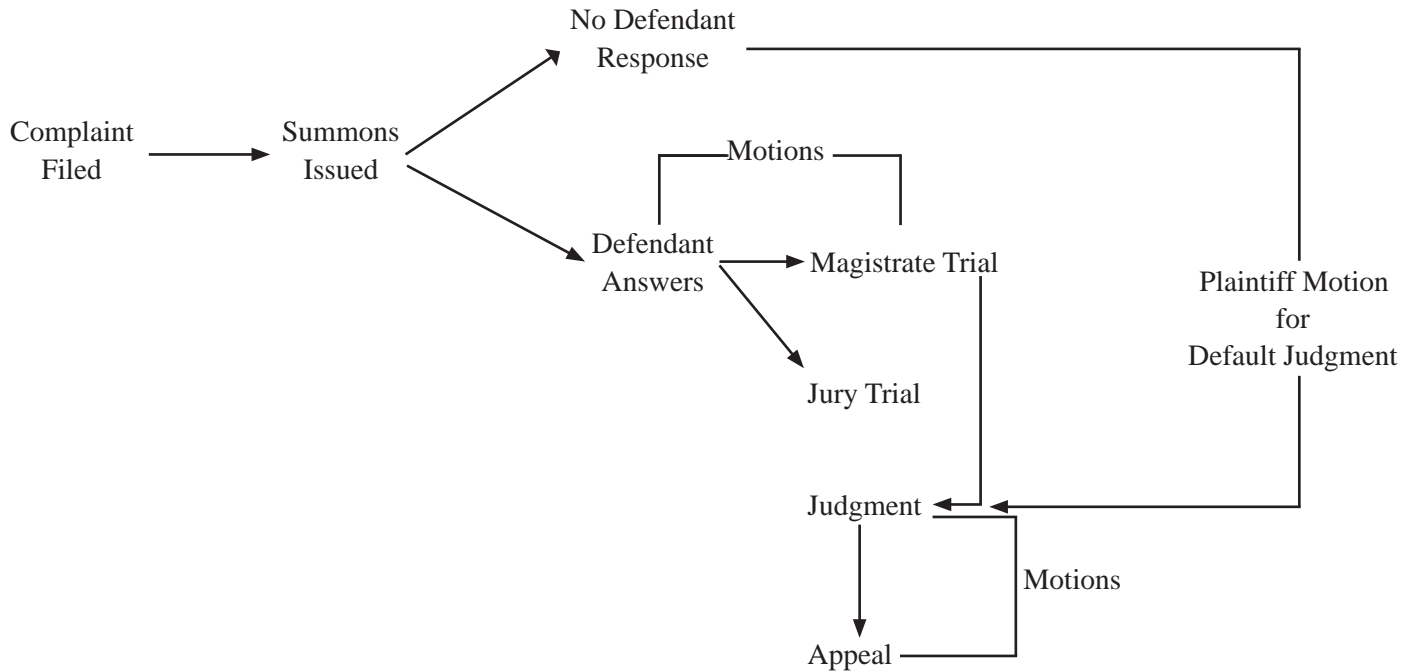
#### Assistant

- Request on Daily Activity Register and Index Cards
- Record on Case Information Sheet
- Forward Case History to Clerk

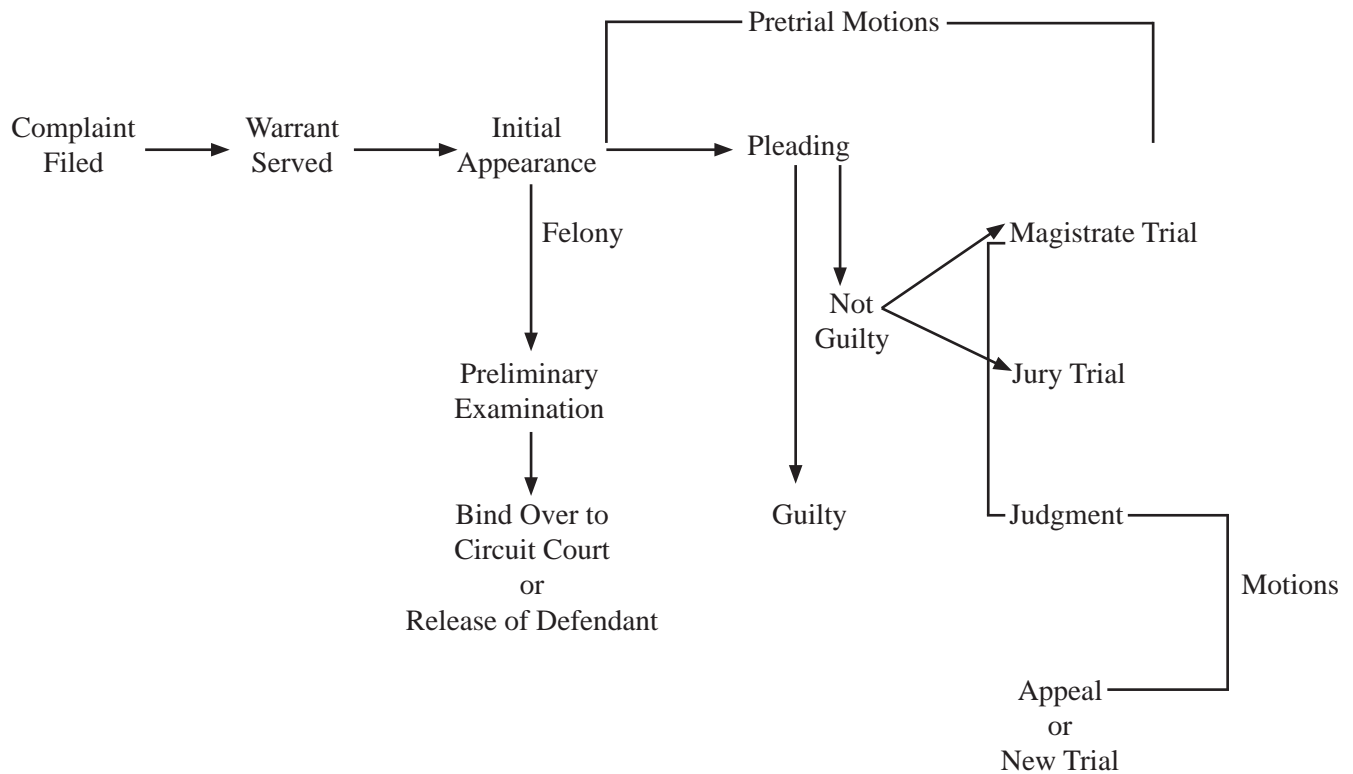
#### Clerk

- Record on Case Number Register
- duplicate Case Information Sheet and Place in Backup File
- File Backup File
- Forward Case History to Circuit Court

## CIVIL



## CRIMINAL



## Grand Jury

This is a body of sixteen in number, drawn for each term of the criminal courts in the counties, sworn to inquire concerning crimes committed or triable in their respective county. The grand jury hears evidence as to the commission of crimes and decides whether or not the defendant shall be held for trial. When the grand jury is formed the prosecuting attorney goes before them and submits, through witnesses such cases as are remitted there by committing magistrates. After the grand jurors hear the evidence they decide if there is sufficient grounds to hold the defendant for trial. If they so decide they return what is called a true bill or an indictment, directing the defendant to be tried for the offense. If they report no indictment, the defendant must be discharged from custody or bail. However, there is no rule which prohibits the same evidence being submitted to a grand jury which is drawn at a future term, if such evidence is submitted before the expiration of three terms of court. Except as specifically permitted, no evidence is receivable before the grand jury in defense of the accused.

The indictment, if found, is returned to the Circuit or Magistrate Court and the defendant, if not in custody, is arrested or rearrested on a bench warrant and brought before the court where he is required to plead to the indictment. Should he plead guilty, he is sentenced by the presiding judge, but should he plead not guilty, his case is docketed for trial, and he is tried for the offense before a judge or a jury of six or twelve persons, depending upon the court involved. If the verdict of the jury is guilty, he is then sentenced, but should the jury return a not guilty verdict, he is discharged from custody.

**DECLARATION OF POLICY.** It is the policy of the State of West Virginia that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all Citizens have the opportunity in accordance with this article to be considered for jury service and an obligation to serve as jurors when summoned for that purpose. (WV CODE 52-1-1)

**JURY COMMISSION.** A Jury Commission is established in each county to manage the jury selection process under the supervision and control of the Circuit Court. The Jury Commission shall be composed of the clerk of the Circuit Court and two jury commissioners appointed for a term of four years by the Chief Judge of the Circuit Court or judge in a single judge circuit. No jury commissioner, after having served four years, shall be eligible to serve a successive additional term unless he meets a limited and defined exception of WV CODE 52-1-4. (WV CODE 52-1-4)

**PREPARATION OF JURY LIST.** In each county, the Jury Commission shall compile and maintain a master list of residents of the county from which prospective jurors are to be chosen. The master list shall be a list of individuals compiled by whatever random key number system the commission may choose from not less than two of the following source lists:

- 1) Persons who have filed a state personal income tax return for the previous year,
- 2) Persons who are registered to vote in the county,
- 3) Persons who hold a valid motor vehicle operators or chauffeurs license as determined from the drivers license lists provided by the Department of Motor Vehicles.

The Jury Commission shall take randomly a sample of names from each source used. The same percentage of names must be selected from each list. One source list shall be designated a primary source, and the names selected from that source shall be compared with the list of names from the second source. Duplicate names shall be removed from the second source sample, and the remaining names shall be combined with the sample of names selected from the primary source to form the master list.

At the direction of the circuit court, the Jury Commission for each county shall maintain a jury wheel or jury box, into which the commission shall place the names or identifying numbers of prospective jurors taken from the master list. The choice of employing a jury wheel or jury box shall be at the discretion of the circuit court or the chief judge thereof.

In counties having a population of less than fifteen thousand persons according to the last available census, the jury wheel or jury box shall include at least two hundred names; in counties having a population of at least fifteen thousand but less than fifty thousand, at least four hundred names; a population of at least fifty thousand but less than ninety thousand, at least eight hundred names; and a population of ninety thousand or more, at least one thousand six hundred names. From time to time a larger or additional number may be determined by the jury commission or ordered by the circuit court to be placed in the jury wheel or jury box.

The names or identifying numbers of prospective jurors to be placed in the jury wheel or jury box are selected in a random fashion by the jury commission in the manner outlined in WV CODE 52-1-6, a key number system. (WV CODE 52-1-5, 52-1-6, 52-1-7)

**DISQUALIFICATION FROM JURY SERVICE.** A prospective juror is disqualified from jury service if the prospective juror

- 1) Is not a Citizen of the United States, at least 18 years old and a resident of the county;
- 2) Is unable to read, speak, and understand the English language;
- 3) Is incapable, by reason of substantial physical or mental disability, of rendering satisfactory jury service;
- 4) Has, within the preceding two years, been summoned to serve as a petit juror, grand juror, or magistrate court juror, and has actually attended sessions of the magistrate or circuit court and been compensated as a juror,
- 5) Has lost the right to vote because of a criminal conviction: or
- 6) Has been convicted of perjury, false swearing or other infamous offense.

A prospective juror sixty five years of age or older is not disqualified from serving, but shall be excused from service by the court upon the juror's request. A prospective grand juror is disqualified to serve on a grand jury if the prospective grand juror is an office holder under the laws of the United States or of the State of West Virginia. (WV CODE 52-1-8)

**SELECTION AND SUMMONING OF GRAND JURORS.** The jury commissioners of any court requiring a grand jury shall, at least thirty days before the term of the court; draw and assign persons for the grand jury, but the court, or judge thereof, may require the jury commissioners to appear forthwith, or at any specified time and draw and assign grand jurors for either a regular, special or adjourned term of court. On the day appointed, the jury commissioners shall appear and draw the names of sixteen persons from the jury wheel or jury box, and the persons so drawn shall constitute the grand jury, and, at the same time the jury commissioners shall draw the names of a number of alternate jurors as directed by the chief judge of the circuit or the judge in a single judge circuit. The jury commissioners shall enter the names of all persons so drawn in a book kept for that purpose, and they shall issue summonses to the persons so drawn. (WV CODE 52-2-3)

**QUORUM.** Of the sixteen grand jurors chosen from the grand jurors and alternate grand jurors summoned, fifteen or more of the grand jurors attending shall be a competent grand jury. WV CODE 52-2-4)

**DUTIES: PRESERVATION OF EVIDENCE.** The grand jury shall inquire of and present all felonies, misdemeanors and violations of penal laws, committed in the jurisdiction of the court wherein they are sworn, except that no presentment shall be made of a matter for which there is no imprisonment, but only a fine, where the fine is limited to an amount not exceeding ten dollars and the offense is cognizable by a magistrate. They shall appoint one of their number as clerk, who shall write down the name of each witness examined by them, and the substance of the evidence given by him, and furnish the same to the prosecuting attorney. (Code 52-2-7)

**FINDING.** At least twelve of the grand jurors must concur in finding or making an indictment or presentment. They may make a presentment or find an indictment upon the information of two or more of their own body, and when a presentment or indictment is so made, or on the testimony of witnesses called on by the grand jury, or sent to it by the court, the names of the grand jurors giving the information, or of the witnesses, shall be written at the foot of the presentment or indictment. (Code 52-2-8).

**SECOND HEARING.** Although a bill of indictment be returned not a true bill, another bill or indictment against the same person for the same offense may be sent to and acted on by the same or another grand jury. (Code 52-2-9).

**SELECTION OF TRIAL JURORS.** All jurors required for the trial of cases in any circuit court, including cases of felony, shall be selected by drawing randomly from the jury wheel or jury box. (WV CODE 52-1-7)

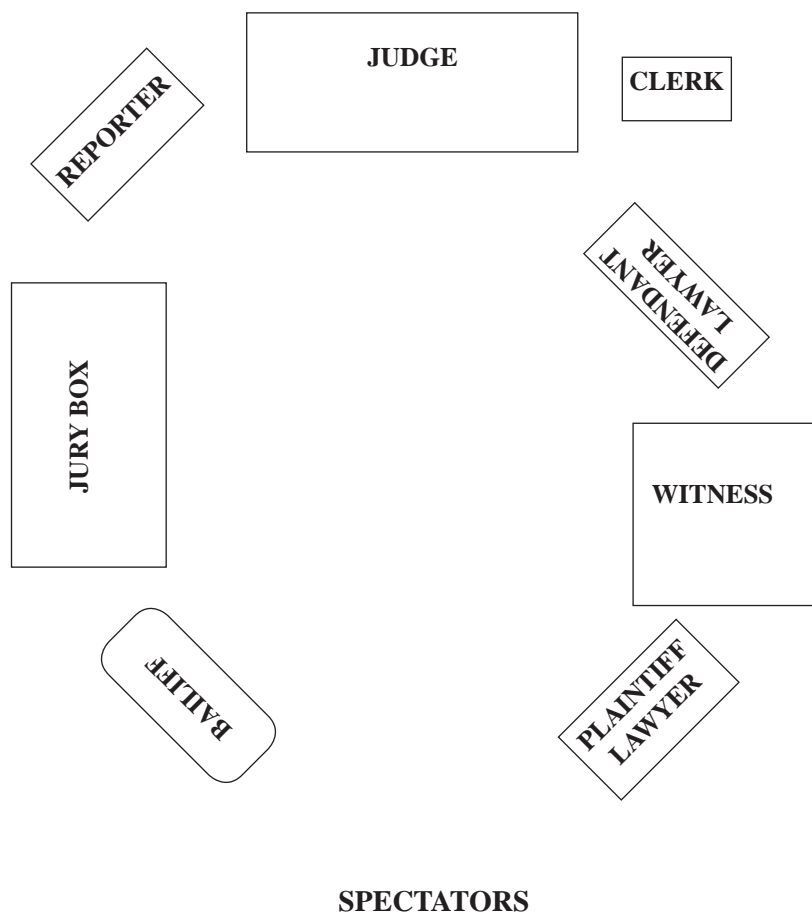
**SELECTION OF JURY IN FELONY CASES. Striking Jurors.** In a case of felony, twenty jurors shall be drawn from those in attendance for the trial of the accused. If a sufficient number of jurors for such panel cannot be procured in this way, the court shall order others to be forthwith summoned and selected, until a panel of twenty jurors, free from exception, be completed, from which panel the accused may strike off six jurors and the prosecuting attorney may strike off two jurors. The prosecuting attorney shall first strike off two jurors, and then the accused six. If the accused fails to strike from such panel the number of jurors this section allows him to strike, the number not stricken off by him shall be stricken off by the prosecuting attorney, so as to reduce the panel to twelve, who shall compose the jury for the trial of the case. (Code 62-3-3).



**CUSTODY OF JURY.** After a jury in a case of felony is impaneled and sworn, the court, in its discretion, may order the jury to be placed in the custody of the sheriff or other officer and they shall be provided with suitable board and lodging. After a jury is impaneled no sheriff or other officer shall converse with or permit any one else to converse with, a juror unless by leave of the court. (WV CODE 62-3-6)

**SELECTION OF JURY IN FELONY CASES: Striking Jurors.** In a case of felony, twenty jurors shall be drawn from those in attendance for the trial of the accused. If a sufficient number of jurors for such panel cannot be procured in this way, the court shall order others to be forthwith summoned and selected, until a panel of twenty jurors, free from exception, be completed, from which panel the accused may strike off six jurors and the prosecuting attorney may strike off two jurors. The prosecuting attorney shall first strike off two jurors, and then the accused six. If the accused fails to strike from such panel the number of jurors this section allows him to strike, the number not stricken off by him shall be stricken off by the prosecuting attorney, so as to reduce the panel to twelve, who shall compose the jury for the trial of the case. (Code 62-3-3).

**CUSTODY OF JURY: EXPENSES.** No conversation with jurors. After a jury in a case of felony is impaneled and sworn, they shall be kept together and furnished with suitable board and lodging by the Sheriff or other officer until they agree upon a verdict or number of jurors this section allows him to strike, the number not stricken off by him shall converse with, or permit any one else to converse with a juror, unless by leave of the court. (Code 62-3-6).



1. Draw panel of Jurors
2. Each side has equal number of strikes.
3. Jury of twelve.
4. Oath of Jury.
5. Plaintiff (state) presents case first.
6. Defendant presents case next.
7. Judge instructs jurors as to law of case.
8. Jury retires & reaches verdict.

## TRANSACTION REGISTER

[illegible]

## TRANSACTION REGISTER (Continued)

[illegible]

## SCHEDULE OF FILING FEES

Candidate For:	Shall pay a fee of:
Governor .....	\$900.00
Secretary of State .....	\$650.00
Auditor .....	\$700.00
Treasurer .....	\$650.00
Attorney General.....	\$750.00
Commissioner of Agriculture.....	\$700.00
Justice of Supreme Court .....	\$850.00
State Senate .....	\$150.00
Member of House of Delegates .....	\$150.00
Sheriff.....	\$325.00
Prosecuting Attorney.....	\$500.00
Circuit Clerk.....	\$375.00
County Clerk.....	\$375.00
Assessor .....	\$325.00
Board of Education .....	\$50.00
Magistrate .....	\$330.00
Any other County Office.....	\$50.00

## CANDIDATE'S CERTIFICATE OF ANNOUNCEMENT

THE AMERICAN LEGION  
MOUNTAINEER BOYS STATE

County of \_\_\_\_\_

I, \_\_\_\_\_ hereby certify that I am a candidate for the nomination for the office of \_\_\_\_\_ to represent the \_\_\_\_\_ party and desire my name printed on the official ballot of said party to be voted at the primary election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; that I am a legally qualified voter of the county of \_\_\_\_\_ The American Legion Mountaineer Boys State, that my residence is number \_\_\_\_\_ of \_\_\_\_\_ Street, in the city (or town) of \_\_\_\_\_ in \_\_\_\_\_ county in said state, that I am eligible to hold the said office; that I am a member of and affiliated with said political party; that I am a candidate for said office in good faith.

\_\_\_\_\_  
(Candidate)

Signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Fee \$ \_\_\_\_\_. My Commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Signature of Person before Whom Signed)

\_\_\_\_\_  
(Official Title)

(Fee must accompany certificate of announcement; either in cash, by certified check or money order.)

THE FEE PROVIDED BY CHAP. 3, Art. 4, Sec. 6-a (Chap. 35, Acts 1937) STATE of W. Va.) MUST BE PAID BEFORE CERTIFICATE OF ANNOUNCEMENT CAN BE RECEIVED. (See schedule of fees).

This certificate of Announcement will be filed with the Secretary of State, if it be for an office to be filled by the voters of more than one County. It will be filed with the Clerk of the Circuit Court if it be for an office to be filled by the voters of one county, or a subdivision of a county. (See Chap. 3, Art. 4, Sec. 6, Code of W. Va., 1931) (West Virginia Statutes.)

The Code requires that all Certificates of Announcement be filed \_\_\_\_\_ days before the election.

If post office address is other than that given in the body of the Certificate of Announcement, give below ADDRESS WHERE IS RECEIVED.

Name \_\_\_\_\_ Street or Box \_\_\_\_\_

City \_\_\_\_\_



The American Legion  
Mountaineer Boys State

**CERTIFICATE  
VOTER'S REGISTRATION**

No. \_\_\_\_\_

This is to certify that in accordance with the  
Permanent Registration Law of West Virginia

\_\_\_\_\_  
(First Name) (Middle Name) (Last Name)

\_\_\_\_\_  
(No. and Street or R.F.D. No.) (City) (Precinct)

has been duly registered this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Registrar (Clerk " or Deputy " sign above if registration is by either)

\_\_\_\_\_  
Registrar

**OATH OF OFFICE**

THE AMERICAN LEGION  
MOUNTAINEER BOYS STATE

COUNTY OF \_\_\_\_\_, to wit:

I, \_\_\_\_\_, do solemnly swear that I will support

the Constitution of the United States, the Constitution of The American Legion Mountaineer Boys State, and that I will  
honestly and faithfully perform the duties imposed upon me under the provisions of law as \_\_\_\_\_

\_\_\_\_\_ to the best of my skill and judgment.  
(office)

\_\_\_\_\_  
(signature)

Takes, subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

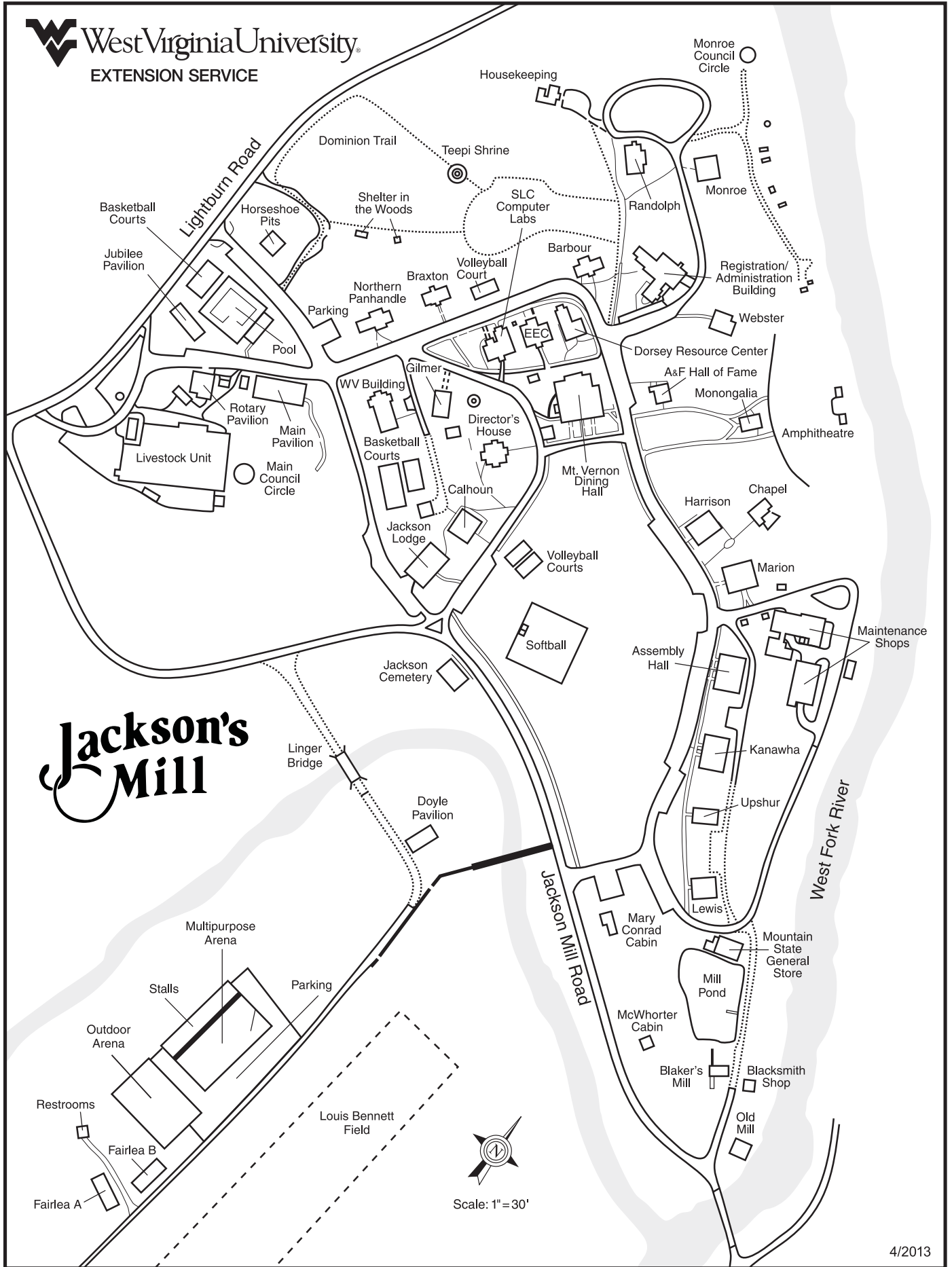
My commission expires \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_



**“We are all travelers in the wilderness of this world, and the best that we find in our travels is an honest Friend.”**

**Robert Louis Stevenson**







**WE DON'T  
JUST POWER  
THE COMMUNITY,  
WE'RE A PART OF IT.**

 **CONSOL ENERGY**  
AMERICA'S ENERGY STARTS HERE.