WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1949

ENROLLED
SENATE BILL No. 23

(By Mr. Bean)

PASSED February 21, 1949

In Effect from Passage
AN ACT to amend and reenact section two, article one, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the public uses for which private property may be taken or damaged in condemnation proceedings.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Public Uses For Which Private Property May Be Taken or Damaged.—The public uses for which private property may be taken or damaged are as follows:

(a) For the construction, maintenance and operation of
railroad and traction lines (including extension, lateral and branch lines, spurs, switches and side tracks), canals, public landings, wharves, bridges, public roads, streets, alleys, parks and other works of internal improvement, for the public use;

(b) For the construction and maintenance of telegraph, telephone, electric light, heat and power plants, systems, lines, transmission lines, conduits, stations (including branch, spur and service lines), when for public use;

(c) For constructing, maintaining and operating pipe lines, plants, systems and storage facilities for manufacturing gas and for transporting petroleum oil, natural gas, manufactured gas, and all mixtures and combinations thereof, by means of pipes, pressure stations or otherwise, (including the construction and operation of telephone and telegraph lines for the service of such systems and plants), and for underground storage areas and facilities, and the operation and maintenance thereof, by gas public utilities selling natural gas at retail in West Virginia for the injection, storage and removal of nat-
ural gas in subterranean oil and/or gas bearing stratum, which, as shown by previous exploration of the stratum sought to be condemned and within the limits of the reservoir proposed to be utilized for such purposes, has ceased to produce or has been proved to be non-productive of oil and/or gas in substantial quantities, when for public use, the extent of the area to be acquired for such purpose to be determined by the court on the basis of reasonable need therefor. Nothing in this subsection shall be construed to interfere with the power of the state and its political subdivisions to enact and enforce ordinances and regulations deemed necessary to protect the lives and property of citizens from the effects of explosions of oil or gas;

(d) For constructing, maintaining and operating, water plants and systems, including lines for transporting water by any corporate body politic, or private corporation, for supplying water to the inhabitants of any city, town, village or community, for public use, including lands for pump stations, reservoirs, cisterns, storage dams, and other means of storing, purifying and transporting water, and the right to take and damage lands which may be
flooded by the impounded waters, and to appropriate any
spring, stream and the surrounding property necessary
to protect, preserve and maintain the purity of any such
spring, stream, reservoir, cistern and water impounded
by means of any storage dam;

(e) For the purpose of constructing, maintaining and
operating sewer systems, lines and sewage disposal
plants, to collect, transport and dispose of sewage. When
in the interest of the public welfare and the preservation
of the public health, the construction of a sewer line to
serve a single building or institution shall be deemed a
public use, and, for such purpose, the right of eminent
domain, if within a municipal corporation, may be exer-
cised in the name of the municipal corporation, and if not
within a municipal corporation, in the name of the county
court of the county in which the property is located;

(f) For the reasonable use by an incorporated com-
pany engaged in a public enterprise of which the state or
any county or municipality is the sole or a part owner;

(g) For courthouses and municipal buildings, parks,
public playgrounds, the location of public monuments, and all other public buildings;

(h) For cemeteries, and the extension and enlargement of existing cemeteries: Provided, That no lands shall be taken for cemetery purposes which lie within four hundred feet of a dwelling house, unless to extend the boundaries of an existing cemetery, and then only in such manner that the limits of the existing cemetery shall not be extended nearer than four hundred feet of any dwelling house distant four hundred feet or more from such cemetery, or nearer than it was to any dwelling house which is within four hundred feet thereof;

(i) For public schools, public libraries, and public hospitals;

(j) For the construction and operation of booms (including approaches, landings and ways necessary for such objects), when for a public use;

(k) By the State of West Virginia for any and every other public use, object and purpose not herein specifically mentioned. By the United States of America for each and every legitimate public use, need and purpose of the
government of the United States, within the purview, and
subject to the provisions of, chapter one of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within APPROVED this the 25th day of February, 1949.

[Signature]
Governor.