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The Virginia retirement system

Julian Hutson Hill Jr.

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THE
VIRGINIA RETIREMENT SYSTEM

BY

JULIAN HUTSON HILL, JR.

A THESIS
SUBMITTED TO THE FACULTY OF
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PREFACE

This thesis is written largely from knowledge obtained through two years of experience with the administration of the Virginia Retirement System. From this experience the author has attempted to provide the reader with a deeper insight into the operation of the Virginia Retirement System than otherwise might have been possible. In some instances it may appear that the treatment has become somewhat technical, but every attempt has been made to use language which is clear and non-technical and still retain the original meaning of the Act. If the interpretation of the provisions of the Act has been altered in any instance, it was unintentional.

The figures, both photostat and original, are the forms being used at the present time by the Virginia Retirement System. The monetary amounts, in most instances, are based on actual cases, but in every instance the names, retirement annuitant numbers, membership and employee numbers, and other data are fictitious.

The author wishes also to express his sincere appreciation for the assistance given him by Dr. G. H. Modlin and Dr. H. P. Thomas of the Department of Economics in the University of Richmond whose criticisms and suggestions have proved most valuable.

Julian Hartson Hill, Jr.

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CHAPTER I

THE HISTORY OF RETIREMENT LEGISLATION IN VIRGINIA 1908 - 1928

The superannuated and disabled employees of State governments have long been a problem in public administration and public legislation. Much has already been written on the history of retirement and pension legislation in the United States and in other countries. This thesis, therefore, is written with the principal objective of giving the reader an insight into retirement legislation within the State of Virginia.¹

The modern conception of the "public service retirement system," as we know it today, is distinctly different from the older gratuity or pension plan. The older idea of "pension," as contrasted to our modern conception, was purely a gift of the government for meritorious past services, or for loss or damage in the public service, and arising from the appreciation and graciousness of the sovereign.² No provisions or

¹Retirement legislation within the State of Virginia refers to legislation passed by the State Legislature. For information regarding local and county retirement systems within the State refer to Egger, R. A., Retirement of Public Employees in Virginia, D. Appleton Century Company, 1934.

²48 Corpus Juris, pp. 786-787.

plans were devised to provide for the payment of such pensions and they were in many instances an unwarranted drain on the government treasury. After a few years of operation most countries found that the liability placed upon them by pension payments had become so great that they were often unable to meet them. They were unable to secure additional revenue for pension payments because the people in general were opposed to them as being economically, financially, and socially unsound. Dr. Samuel Johnson expressed his dislike for them by defining the word "pension" thus, "In England generally understood to mean pay given to a state hireling for treason to his country."³

The modern conception of the "public service retirement system," which phraseology has tended to displace the outmoded "pension or gratuity plan," came into existence with the twentieth century. On October 11, 1907, Sweden enacted a retirement and pension law applying to all State office holders and employees provided for in the regular State budget, with certain exceptions.

Modern retirement systems are based on certain basic principles which must be observed if the systems are to be maintained on a sound basis. These principles,⁴ sixteen in number, as developed by the National Council on Teacher Retirement of the National Education Association for the establishment of a sound teachers' retirement system,

³Compton's Encyclopedia, Vol. IV, p. 1898.

⁴Report of Publications Committee, National Council On Teacher Retirement of the National Education Association, How to Establish a Sound Teachers' Retirement System (March 1938), pp. 9-16.

may be reduced to five broad policies. These same principles may be used as a test for any "public service retirement system." They are as follows:

1. Membership should be compulsory for employees entering the service after the enactment of the retirement law; optional for employees already in service.

2. The contribution by the member and the payment by the public should be stated in the act creating the system subject to adjustment in accordance with future actuarial investigation. The sums deposited by the members and by the public during the period of service should be approximately equal. These deposits should be made regularly and concurrently by both parties. Members' contributions should be returnable upon withdrawal from the system, or upon death prior to retirement.

3. Retirement ages should be defined, and rules administered, so as to retain employees rendering efficient service and provide for their retirement when old age or disability makes satisfactory service no longer possible. The retirement allowance should be sufficient to enable the retiring member to live in reasonable comfort.

4. An adequate reserve fund should be created so that the member may be guaranteed that the necessary money to pay the benefits promised is actually on hand at the time of retirement.

5. Periodic investigations by actuaries should be made of every retirement system to insure its continued financial soundness.

The principal objectives of the modern retirement system are personnel and social and can be considered from the viewpoints of the employer and the employee. The personnel objectives can be summarized thus:⁵

⁵ Publication entitled, "Retirement Provisions in Public Administration," by Raymond J. Heath as presented at a conference held at Pittsburg, Penn., June 15-17, 1943, under the auspices of the Committee on Public Employee Retirement Administration of the Municipal Finance Officers Association, pp. 2-3.

1. To eliminate from the payroll superannuated or disabled employees who are in fact hidden pensioners and thus remove employees who are no longer physically able to perform their work properly.

2. To aid recruitment by making the public service more attractive to high-grade persons, who might otherwise seek employment in private industry or in other governmental agencies that provide retirement protection.

3. To make the public service sufficiently attractive so that experienced persons of character and ability, already in the service, will not seek employment elsewhere.

4. To keep avenues of advancement open by eliminating superannuated persons, and thus improve employee morale.

To the employee, therefore, the retirement plan is a procedure under which promotion is made possible by the retirement of employees no longer able to perform satisfactorily the duties of their jobs. He also considers the benefits of the plan as an addition to his stated compensation and as insurance against adversity and death. It is argued that this cloak of protection serves to attract capable employees and to retain them in service. It has been demonstrated that better work will be performed and employee morale will be higher under a well-organized retirement system. Employees are obviously not willing to discard the estate they have accumulated in terms of prior service or to jeopardize their rights to a pension which serves substantially the same purpose as annuity insurance.

The social objectives may be briefly summarized as follows:⁶

1. To protect a group of citizens from insecurity in old age and disability in the most economical manner.

⁶Ibid.

2. To obviate the need for relief grants, particularly to persons of low incomes.

Having considered the meaning of "pension," the basic principles necessary to insure a sound retirement system, and the objectives of the modern retirement system, we turn to the history and development of retirement legislation in the Commonwealth of Virginia.⁷

Acts of Assembly of 1908

The State of Virginia was a pioneer in the establishment of a State-wide retirement system for public school employees. On March 14, 1908, the General Assembly approved an act⁸ providing for a retirement fund for public school teachers. It was very crude and in later years proved to be unsound.⁹

This act provided that whenever any person, not including superintendents, had taught in the public schools of this State an aggregate of twenty years, if this person had maintained a good record and by reason of physical or mental infirmity or old age was incapable of rendering efficient service as a teacher, or if this person had taught for twenty-five years in this State, and desired to be retired, he could make application to the State Board of Education to be retired and

⁷It is not certain that all legislative enactments between the years 1908-1928 are embodied within this paper. It is believed, however, that legislation of any consequence passed during those years has been included.

⁸See Appendix A.

⁹See Appendix L, Exhibit A.

pensioned. If the State Board of Education found the applicant eligible for retirement, the applicant's name was placed upon a list known as "the retired teachers' list." The State Board of Education was also empowered to retire any teacher who had served for twenty years if the board deemed it best for the good of the school system to take such action.

All persons placed upon "the retired teachers' list" were to receive a pension provided as follows:

The State Board of Education was required to pay from the fund all persons, whose names had been placed on "the retired teachers' list," a yearly retirement allowance equal to one-half of their annual salary earned at the time of retirement. This allowance was paid in quarterly installments. In no event, however, could any quarterly pension exceed the sum of one hundred dollars, with the exception that principals of schools could receive a quarterly pension of as much as one hundred and twenty-five dollars.

The Act further provided that in the event the available funds should be insufficient to pay all pensions due, then the pensions should be paid pro-rata, according to the amount of money available.

According to this the State Board of Education was relieved of any obligation to the pensioners on the "retired teachers' list" if funds were not available to pay them, and the pensions were guaranteed only so long as funds were available to cover them. It appears that, in actual experience, the pro-rating provision was utilized only twice prior to 1930; in 1912 when the teachers received only 70% of the full pensions, and in 1915, when they received but 40%.¹⁰ Since 1930, however,

¹⁰Report of the Commission on Retirement and Pension of Public School Teachers, Judges, and Other Employees of the Government," embodied in the House Journal and Documents (1932), p. 5.

the State Board of Education made the following reductions in teachers' pensions:

<u>Pension Payable</u>	<u>Reduction</u>
July 1, 1933	20% out
October 1, 1933 through July 1, 1934	50% out
October 1, 1934 through July 1, 1935	50% out
October 1, 1935 through July 1, 1936	50% out
July 1, 1937	31% out
July 1, 1938	68 2/3% out

The Act further provided that in order to accumulate a fund to pension all retired teachers there should be deducted monthly from the salary of each teacher in the State a sum equal to one per cent of his salary. Each teacher was to be furnished with a statement showing the amount so deducted. The officers deducting the same were required to remit the sum deducted promptly to the State Board of Education, which immediately deposited it with the State Treasurer. The Treasurer was required to credit the amounts received to the credit of a fund which was called "the retired teachers' fund."

The sum of five thousand dollars per annum, or so much thereof as was necessary to carry out the purposes of this act, was appropriated out of any moneys in the State treasury not otherwise appropriated. The appropriated money was to be turned over to the State Board of Education and deposited with the State Treasurer to be placed to the credit of the "retired teachers' fund."

The State Board of Education was authorized to invest the capital and unappropriated income of the "retired teachers' fund." This board was also charged with the responsibility of seeing that proper arrangements were made for keeping an accurate account of all moneys

received, invested or disbursed under this act.

Acts of Assembly of 1910

The General Assembly convening in 1910 was faced with the imperfections of the Act of 1908 and, therefore, amended and re-enacted it. While the new Act¹¹ retained most of the provisions of the Act of 1908, certain important changes should be noted.

This act provided that any person, not including the division superintendents, who had taught in the public schools of this State, might make application to be retired and pensioned under the terms of this act, provided his case came under either of the two following classifications:

Class "A" should include every person who had taught in the public schools of this State twenty years or more and who had maintained a good record and by reason of physical or mental infirmity or old age was incapable of rendering efficient service as a teacher.

Class "B" should include every person who had taught in the public schools of this State thirty years or more and who had maintained a good record and had reached the age of fifty-eight years, if a man, and fifty years, if a woman.

Section two provided, however, that no applicant under Class "A" should be pensioned until his mental or physical disability was shown by evidence satisfactory to both the State Board of Health and the State Board of Education, and that either board might order a special medical examination by some physician appointed by it. The

¹¹See Appendix B.

expenses, not exceeding five dollars in each case of a special examination, were to be borne by the applicant, unless otherwise directed by the State Board of Education.

The State Board of Education was required to place upon the "retired teachers' list" and to pay a pension to any person whose case came under either classification, subject to the exceptions and restrictions mentioned within the Act.

The State Board of Education was authorized to pay to each retired person an annual pension equal to one-half of the annual salary earned by such person during the last five years he was a teacher in the public schools of this State. In no event, however, should any annual pension exceed the sum of four hundred dollars, except that any person, whose average annual salary during the last five years he was a teacher in the public schools of this State equaled or exceeded one thousand dollars, might receive an annual pension of five hundred dollars. All pensioners under this act were subject to the same pro-rata provision as was provided for in the Act of 1908 if the funds were not available to pay the pensions in full.

This act retained the provision of the Act of 1908 providing that there should be deducted monthly from the salary of each teacher in the State a sum equal to one per cent of his salary. The method of collecting the sums deducted, however, was changed in that the Act of 1910 provided the following:

To set up a convenient method of paying into the State treasury the pensions deducted from the teachers' salaries, the State Board of Education was authorized to deduct from the annual appropriation of the General

Assembly to each school board one per cent of the total amount of the salaries of the teachers of each school board for the proceeding year. These funds were to be credited by the State Treasurer to a fund called the "retired teachers' fund."

Section three provided for a permanent endowment for the retirement fund. These funds were obtained by deducting from the first year's pension of all retired persons, in either class, thirty per cent of their average annual salary during their last five years of service, less the amount of their one per cent contributions. This endowment was to be invested and only the income of the fund used to pay pensions and other current expenses. Section thirteen made section three retro-active in that it provided that section three should apply to all persons heretofore placed on "the retired teachers' list" prior to the time section three became effective.

The effect of section three of the act can best be shown by using an illustration:

A woman teacher, who has attained the minimum service retirement age of fifty years and has completed thirty years of service, has filed application for retirement. Upon investigation of her application the State Board of Education finds that she has met all the qualifications necessary to retire under classification "B" of the law. They further find that her average annual salary for the last five years was twelve hundred dollars, and that, therefore, since her average salary for the last five years exceeded one thousand dollars that she is entitled to a pension of one hundred and twenty-five dollars per quarter or five hundred dollars a year.

Her contributions at one per cent of her annual salary to the system during those years since the law went into effect total two hundred and twenty-five dollars, which is an arbitrary figure. She would be required to have deducted from her first year's pension an amount equal to thirty per cent of her average annual salary earned during the last five years or three hundred and sixty dollars ($\$1200.00 \times 30\% = \360.00), less the two hundred and twenty-five dollars

she had already contributed, leaving a net deduction to be made from her first year's pension of one hundred and thirty-five dollars ($\$360.00$ less $\$225.00 = \135.00).

Her pension for the first year would, therefore, amount to three hundred and sixty five dollars instead of five hundred dollars and her quarterly pension would be ninety-one dollars and twenty-five cents instead of one hundred and twenty-five dollars.

A fact of interest is that the thirty per cent deduction has been included in the present system in figuring the first year's retirement allowance of all teachers retiring under the present Act, provided their retirement allowances are based upon the provisions of the Act of 1906 as amended and re-enacted.

Since Section 8(c), subsection 4, of the present Virginia Retirement Act states that, "In any event, however, a teacher shall receive, upon retirement under any of the provisions of this section (Section 8), a total State annuity which shall be at least sufficient to provide, together with his employee annuity, a service retirement allowance equal to the pension which he would receive were he pensioned under the provisions of Chapter thirty-six of the Code of Virginia¹² as it existed immediately prior to the passage of this act, subject to the provisions of the following paragraph," the Board felt that in order to be just to all persons retiring and to comply with the above section of the present law, that the deduction of thirty per cent should apply to all persons retiring as teachers under the present law.

¹²The Act of 1906 and any subsequent revisions were embodied in the Code of Virginia, as Chapter thirty-six, sections 787 through 806.

The Board felt, however, that since the one per cent contribution made under the Act of 1908 was allowed to apply as part of this thirty per cent deduction and only the difference charged against the first year's retirement allowance, that the contributions made under the present law should also be applied against the thirty per cent deduction. This would mean that virtually all persons retiring after the first year of operation of the present law would not be affected by the thirty per cent deduction, except for those few who had attained the minimum service retirement age of sixty five and have the choice of contributing or not contributing. The reason for this would be that since the contribution rates under the present law are substantially in excess of the one per cent contribution under the Act of 1908 (the minimum being five per cent for teachers), the difference between the thirty per cent deduction and the amount contributed under the one per cent deduction of the Act of 1908 would soon have been made up through the contributions under the present Act, and there would be no deficiency. This, however, would not be true in the case of those members who had attained age sixty five and elected to make no contributions, unless they had contributed enough to make up any deficiency that might exist prior to the time they elected to make no further contributions.

In Section 10 of the Act of 1910 the General Assembly embodied certain restrictions upon persons retiring under the Act. These restrictions may be summarized thus:

That no person shall be placed on the "retired teachers' list" under class "A" or class "D" unless he has taught the prescribed number of sessions since July 1, 1908, indicated in the following summary:

<u>Retiring</u>	<u>Sessions Prescribed</u>
Prior to January 1, 1911	1 session
After January 1, 1911, but prior to January 1, 1912	2 sessions
After January 1, 1912, but prior to January 1, 1913	3 sessions
After January 1, 1913, but prior to January 1, 1914	4 sessions
After January 1, 1914	5 sessions

It appears that Section 10 was inserted, primarily, to make it compulsory that every teacher retiring under the provisions of this act would have taken some active part in it prior to his retirement. Another reason for this section might be that it was to be used as a means of holding down the number of persons retiring until the system had built up an adequate fund to pay the pensions and to eliminate a heavy drain on the fund during its early years. It has also been suggested that it was a means of encouraging teachers, who were still physically and mentally able, to remain in the public schools of the State. The salary scale of teachers, however, until recent years has been so low, that the pensions provided for in this act did not serve as an inducement for retirement.

Section 10¹ provided for the pensioning of those persons who might have voluntarily, or on account of physical disability, retired from teaching subsequent to July 1, 1903. It provided that any person who would have been entitled to a pension under either class "A" or class "B" of this act had it been in force prior to July 1, 1902, and who retired prior to July 1, 1903, and subsequent to July 1, 1902, should receive a pension if he was otherwise qualified under its provisions. This pension amounted to one-fourth of the average annual salary earned during the last five years of service. It was to be

paid quarterly and was subject to those provisions of the Act affecting other pensioners.

The State Board of Education, under section 11, was required to publish annually the "retired teachers' list" in the Virginia Journal of Education, or some other paper selected by it, giving the name, age, and quarterly pension of each person on the list together with a statement of the class under which each was retired.

Acts of Assembly of 1912

The General Assembly of 1912 passed an Act¹³ to provide a method by which persons who had been placed on the "retired teachers' list" might be removed therefrom under certain circumstances and might cease to receive the pensions being paid them. This act provided that any teacher might be removed from the "retired teachers' list" for any of the following reasons:

1. He might request that his name be removed at any time.

2. The State Board of Education or the State Board of Health might upon examination find that a pensioner was no longer incapacitated and was now capable of rendering efficient service and, therefore, should no longer be pensioned under classification "A." If either board was of the opinion that the disability for which he was retired no longer existed, the State Board of Education was required after thirty days' notice to remove him from the list.

The State Board of Education and the State Board of Health were required to examine each person receiving a

¹³See Appendix C.

pension under class "A," at intervals not exceeding three years, to determine whether he was still incapable of rendering efficient service by reason of mental or physical infirmity or old age.

3. He would be removed if he engaged in teaching in any of the public schools of this State.

4. Any female teacher on this list, who at the time of retirement had taught less than thirty years in the public schools of this State or was less than fifty years of age, was to be removed if it was found that she was married at the time of her retirement or had married since her retirement.

This act further provided that any person who had been removed from this list might be restored to it at any time, either under class "A" or class "B," by making application to the State Board of Education, without regard to the number of years he may have taught since July 1, 1900, if he was otherwise eligible under the terms of the Act of 1910. It also provided that any person removed from the list was to be refunded the money which he had paid into the "retired teachers' fund" with six per cent interest, less any amounts that were paid him out of the "retired teachers' fund" while his name was on the "retired teachers' list."

When the general statutes of this State were codified in 1919, section five of the Act of 1912, relating to the removal of married female teachers from the "retired teachers' list" under certain conditions, was omitted and thereby repealed.¹⁴

No retirement legislation was enacted between the years 1912

¹⁴

Since in each instance the Code of Virginia is enacted as a new law embracing all statutes of a general nature, all such statutes as are not embraced in the Code or kept in force by some provision thereof are repealed.

and 1928, except for the regular appropriations made to the teachers' retirement fund.

Acts of Assembly of 1928

The General Assembly of 1928 made one slight revision in the teachers' retirement legislation. It repealed section seven hundred and ninety-eight of the Code of Virginia which section of the Code embodied section eleven of the Act of 1910. This section of the Act of 1910, as heretofore stated, required the State Board of Education to publish annually the "retired teachers' list."

Retirement legislation in the Commonwealth of Virginia between the years 1903 and 1928 centered around the public school teachers of the State, with the exception of certain legislation providing for the pensioning of justices of the Supreme Court of Appeals, concerning which more will be said in the next chapter. It was not until 1930 that any legislation was proposed providing for the retirement of any other State employees.

CHAPTER II

THE HISTORY OF RETIREMENT LEGISLATION IN VIRGINIA (CONTINUED) 1930 - 1942

Since 1930 and continuing up to the present there has been a considerable amount of legislation proposed relating to the retirement of school teachers and public employees of the State of Virginia. Each piece of proposed legislation was considered by the General Assembly, but the majority of it ended with the House or Senate Committee to which it was referred. Although little of this proposed legislation was enacted, it paved the way for the present Virginia Retirement Act which became effective July 1, 1942.

In order to complete the history of retirement legislation in the State and to lay a background for the present law, it would be of interest to outline briefly the retirement legislation introduced in those General Assemblies convening between the years 1930 and 1942.

General Assembly of 1930

At the 1930 session of the General Assembly, a bill was

introduced in both the House of Delegates¹ and the Senate,² proposing amendments to sections 767 to 805 of the Code of Virginia, which related to the retirement and pensioning of teachers. This legislation was not enacted.

A bill³ was presented in the Senate at this session, which proposed the creation of a system for providing disability and retirement pensions for the employees of the Commonwealth, and its political subdivisions. This bill was designed to cover the employees of the State and its political subdivisions, and also the State teachers, through the merging of the existing teachers' retirement system with the proposed system. This legislation was referred to the Committee on Finance and was not reported out of the committee.

There arose in the House⁴ a bill⁵ to provide a retirement fund for the employees of the State who were engaged in working with State prisoners, which was referred to the Committee on Appropriations and not enacted.

This session did, however, provide for the creation of a commission to make a scientific study of the question of retirement and pensions for the public school teachers. Section five of the

¹House Journal and Documents, 1930, (H. B. 280).

²Senate Journal and Documents, 1930 (S. B. 164).

³Ibid., (S. B. 330).

⁴The House of Delegates will hereafter be referred to as the "House."

⁵House Journal and Documents, 1930, p. 267.

Act⁶ creating this commission further provided that it should likewise investigate and consider plans and systems of disability and retirement pensions for judges and for State employees and report thereon to the succeeding session of the General Assembly.

A joint resolution⁷ was introduced to provide for the appointment of a Commission to investigate the equalization and adequacy of the salaries of State employees and teachers in public and State schools. The purpose of this investigation was to recommend a plan of disability and retirement pensions for State employees. This legislation was referred to the Committee on Finance and not enacted.

General Assembly of 1932

At the 1932 session of the General Assembly, both the Senate and the House considered legislation to amend and re-enact the school teachers' retirement system.

The Senate introduced two bills, neither of which was enacted. The first bill⁸ provided for the amendment and re-enactment of sections 794 and 801 of Chapter 36 of the Code of Virginia, relating to the pensioning of public school teachers. The second bill⁹ was introduced to prohibit the deduction of any part of the salary of a teacher, supervisor,

⁶Acts of Assembly, 1930, (Chapter 190).

⁷Senate Journal and Documents, 1930, (Senate Joint Resolution No. 4).

⁸Senate Journal and Documents, 1932, (S. B. 279).

⁹Ibid., (S. B. 178).

superintendent, or principal of schools for pensions or any other purpose without his consent.

The House considered a bill¹⁰ to amend and re-enact section 790 of the Code of Virginia, relating to the fund for retired teachers. This bill was not enacted.

The Commission created by the General Assembly of 1930 presented its report¹¹ entitled, "Report of the Commission on Retirement and Pensions of Public School Teachers, Judges, and Other Employees of the Government," which was embodied within the House Journal as House Document No. 4. The Commission was not agreed upon the wisdom of the State adopting a pension and retirement system. The Commission, however, recommended that the State, when the finances of the State permitted, should put into operation a sound and adequate system which would include:

1. Teachers, supervisors, and superintendents of the public school system.

2. All other employees, including justices of the Supreme Court of Appeals and other judges; all on the basis of salaries paid by the State.

General Assembly of 1936

It was not until the General Assembly of 1936 that any new retirement legislation was proposed.

¹⁰House Journal and Documents, 1932, (H. B. 229).

¹¹Ibid., (House Document No. 4).

There was presented to the House a bill¹² to revise, amend and codify the general laws of Virginia, relating to the retirement and pensioning of teachers, and to that end to repeal Chapter 36 and sections 787 to 805 of the Code of Virginia. This proposed legislation was referred to the Committee on Appropriations and was not enacted.

General Assembly of 1936-1937

At an extra session of the General Assembly convening in 1936, there was enacted the following legislation which became known in the Acts of the General Assembly, 1936-1937, as "Senate Joint Resolution No. 3," agreed to December 18, 1936:

"Resolved by the Senate, the House of Delegates concurring, That the Commission created by the General Assembly of Virginia by an Act approved March 23, 1936, entitled 'An Act to create a commission to determine the probable cost of old age pensions or old age assistance in Virginia during each year of a ten year period beginning with the year 1938; to prescribe the rights, powers and duties of the said commission; and to appropriate to the said commission the sum of \$20,000.00; for the purpose of carrying out the provisions of this act,' shall, in addition to matters therein, consider the question of an old age assistance to State employees.

"No additional expense shall be placed upon the State of Virginia as a result of this legislation."¹³

General Assembly of 1938

The Commission established by this legislation presented its

¹²House Journal and Documents, 1936, (H. B. 150).

¹³Acts of Assembly, 1936-1937, (Senate Joint Resolution No. 3).

report¹⁴ entitled "Report on the Proposed Retirement System for Employees of the State of Virginia," which was embodied in the Senate Journal as "Senate Document No. 8." This report recommended that a retirement law be adopted by the Legislature establishing a retirement system for State employees similar to the sound governmental plans in operation in other states. The Commission also noted in its report that a retirement plan was under consideration for the teachers of the State. The plan it proposed for general State employees, therefore, was made very similar to that proposed for teachers so that the adoption of the proposal would result in generally uniform retirement provisions for all State employees.

This report gave first a summary of the benefit and contribution provisions of the proposed plan, followed by a statement of the cost of establishing the plan, and a discussion of the benefits. A report prepared by the actuary giving the information used in determining the cost was appended to the Commission's report. The report was followed by the text of the proposed legislation necessary to establish the system.

There was introduced into the Senate, as a result of the Commission's report, a bill¹⁵ to amend the Code of Virginia by adding thereto a new chapter, numbered 134-a, and seventeen new sections, numbered 3477-a to 3477-q, establishing and providing for a State Retirement System for

¹⁴Senate Journal and Documents, 1938, (Senate Document No. 8).

¹⁵Ibid., (S. D. 85).

officers and employees of the State. This proposed legislation was referred to the Committee on Finance and was not enacted. A similar bill¹⁶ was also introduced in the House which was referred to the Committee on Appropriations and was not enacted.

There was also proposed in the House a bill¹⁷ to revise, amend, and codify the general laws of Virginia relating to the retirement of teachers from the public schools, by repealing Chapter 36, and sections 787 to 805 of the Code of Virginia and adding a new chapter numbered 36, and seventeen new sections numbered 787 to 803, to provide a State-wide retirement system for all full-time professional, secretarial, and clerical employees of local public school boards, and of the State schools for the deaf and blind in the Commonwealth of Virginia. This bill was not enacted.

Another bill¹⁸ was presented in the House to amend and reenact section 805 of the Code of Virginia, relating to the refunding of money contributed to the pension fund. This bill was referred to the Committee on Claims and was not enacted.

The General Assembly of 1938 did, however, enact the following piece of legislation¹⁹ which was embodied in the Acts of the General Assembly, 1938, as "House Joint Resolution No. 44:"

¹⁶House Journal and Documents, 1938, (H. B. 143).

¹⁷Ibid., (H. B. 515).

¹⁸Ibid., (H. B. 422).

¹⁹Acts of Assembly, 1938, (House Joint Resolution No. 44).

"Resolved by the House of Delegates of Virginia, the Senate concurring, that, owing to the clear and inescapable obligation of the State to the thousands of teachers who have contributed one per cent of their annual salaries as required by the law in the amount of more than \$2,500,000 during the past thirty years toward a state fund which has been distributed to retired public school teachers, and in the interest of greater efficiency in teaching children attending the public schools of this State, and in the interest of economy and efficiency in the appropriation of State funds, the Governor be requested, in his discretion, to provide in the next biennial budget a sum of money sufficient to support an actuarially sound retirement law for teachers employed in the public school system of Virginia."

No provision was made, however, in the biennial budget presented to the General Assembly of 1940 for the money necessary to establish a teachers' retirement fund.

General Assembly of 1940

Governor James H. Price in his message²⁰ delivered before the General Assembly of Virginia, January 10, 1940, stated as follows:

"Many of our trusted and valuable employees are growing old in the service of the State, and it seems desirable to provide, if possible, some plan for retirement. The matter has been discussed from time to time without any definite results. I discussed it this year with the Virginia Advisory Legislative Council, but its agenda was so completely filled that it seemed impossible to give the subject the thorough investigation and study that it deserves. It is my purpose to request the Advisory Legislative Council to add this study to its program and to make a report at the next session of the General Assembly."

As a result, therefore, of official requests made by the Governor on December 16, 1940, and May 15, 1941, in letters addressed to the Chairman

²⁰Senate Journal and Documents, 1940 (Senate Document No. 1).

of the Virginia Advisory Legislative Council, in which he requested the Council to make a study of some plan for the retirement of State employees and public school teachers, the Council on December 12, 1941, submitted a report to the Governor. More will be said of this report later, for it was on the basis of the information provided in this report that the present Virginia Retirement Act was formulated.

All legislation at this session of the General Assembly regarding retirement originated in the House. Another bill²¹ was introduced to revise, consolidate, amend and codify the general laws of Virginia relating to the retirement of teachers by repealing Chapter 36 and sections 787 to 805 of the Code of Virginia, by adding a new Chapter 36, and seventeen new sections numbered 787 to 803, providing for a State-wide retirement system, to be known as "The Virginia State Teachers' Retirement System." This bill passed the House, but upon reaching the Senate was referred to the Committee on Finance and was not enacted.

The General Assembly of 1940, however, enacted a piece of legislation²² which was identical in its construction with "House Joint Resolution No. 44," of the General Assembly of 1938. This legislation which was embodied in the Acts of the General Assembly, 1940, as "House Joint Resolution No. 60," provided that the Governor be requested to include in the next biennial budget a sum of money sufficient to support a retirement law for teachers employed in the public school system

²¹House Journal and Documents, 1940, (H. B. 95).

²²Acts of Assembly, 1940, (House Joint Resolution No. 60).

of Virginia.

As a result the budget recommendations for the State Board of Education for the biennium beginning July 1, 1942, and ending June 30, 1944, provided that the general fund appropriation for the retirement of teachers be increased from \$530,000 to \$1,881,000, representing an annual appropriation for each year of the biennium of \$940,500. This increased appropriation resulted from a preliminary actuarial estimate of the State appropriation required to place the teachers' pension fund on a sound basis.

General Assembly of 1942

As a result of Governor Price's request to the Virginia Advisory Legislative Council to make a study of some plan for the retirement of State employees and public school teachers, there was presented to the Governor a report entitled "Retirement of State Employees and Public School Teachers" which was embodied within the Senate Journal as "Senate Document No. 8."

This document²³ contained the report of the Council, a copy of the proposed retirement bill, and actuarial data necessary to determine cost and appropriation figures. The Council recommended that the State adopt a retirement system at this time since it was in line with the progressive policies of the Commonwealth and also an act of elementary justice toward the personnel of the State government.

²³See Appendix D.

There was introduced in the House, as a result of this report, a bill²⁴ to establish a contributory retirement system for certain State employees, public school teachers, and certain other employees of local public school boards; and to repeal Chapter 36 and sections 787 to 805 of the Code of Virginia, relating to the retirement of teachers. This bill was passed, March 31, 1942, and was enacted as Chapter 325²⁵ of the Acts of the General Assembly, 1942.

The original bill,²⁶ as proposed by the Virginia Advisory Legislative Council in its report, was greatly modified by last-minute amendments resulting from recommendations made by various committees. The State of Virginia, as a result, adopted a system which is unique in that, if it is continued on its present basis, it will probably be the most conservatively operated system, from a financial viewpoint, in the United States. The next two chapters, therefore, will be given to a lengthy discussion of this legislation.

There were introduced two other bills, however, which were not enacted. House bill No. 38²⁷ provided that the general laws of Virginia relating to the retirement of teachers be repealed and replaced by new legislation establishing a State-wide retirement system. This bill was passed by the House, but upon reaching the Senate was referred to the

²⁴House Journal and Documents, 1942, (H. B. 102).

²⁵Acts of Assembly, 1942, (Chapter 325).

²⁶Report to the Governor of Virginia by the Virginia Advisory Legislative Council entitled, "Retirement of State Employees and Public School Teachers," pp. 6-24.

²⁷House Journal and Documents, 1942, (H. B. 38).

Committee on Finance and not enacted. Senate bill No. 156²⁸ provided for the establishment of a commission to make a study with respect to pensions and retirement for certain employees. It also was referred to the Committee on Finance and not enacted.

Other Retirement Legislation

Before turning to a discussion of the present Virginia Retirement Act some attention may be given to another phase of retirement legislation in Virginia which has been previously mentioned. There has been enacted within the State since 1914 certain specific legislation relating to the retirement of justices of the Supreme Court of Appeals and members of the Industrial and Corporation Commissions.

As a result of legislation enacted by the General Assembly of 1914, and amendments by subsequent sessions, the justices of the Supreme Court of Appeals have been provided with retirement privileges. This legislation is included within the Code of Virginia under Section 3464.²⁹ This legislation provides that any judge of the Supreme Court of Appeals may retire at any time after he has attained the age of seventy years if he has given not less than ten consecutive years of service either as a judge of the Supreme Court of Appeals or ten years of combined service as a judge of the Supreme Court of Appeals and as judge of any circuit, corporation, or city court of record of this State. Upon written notification to the Governor of his intention to retire, every justice eligible for retirement is to be paid, in monthly or semi-monthly installments by

²⁸Senate Journal and Documents, 1942, (S. B. 156).

²⁹See Appendix E.

the Comptroller, an annual amount equal to two thirds of the annual salary being received immediately prior to retirement if he has served ten or more consecutive years as a justice of the Supreme Court of Appeals. If he retires after ten or more years of combined service as a judge of the Supreme Court of Appeals and some city court of record, his retirement allowance will be based on the salaries received from both sources (see Section D).

The 1938 session of the General Assembly enacted a bill³⁰ providing for the retirement of judges of circuit, corporation and city courts. This act amended the Code of Virginia by adding a new section numbered 5978-a³¹ and repealing an earlier act entitled "An ACT to provide for the retirement of any judge of a corporation or circuit court who shall have attained the age of eighty years and who shall have served continuously as judge of said court for thirty years, and to provide for their compensation," approved March 28, 1928.

This new Code section provides that the judge of any circuit, corporation or city court of any city of the first class may retire, upon notification to the Governor, if he has attained the age of seventy years and has served not less than fifteen years as a judge of any one or more of these courts. The Comptroller is required to pay to every judge retiring under this act an annual amount equal to three fourths of the basic annual salary being received immediately prior to retire-

³⁰Acts of Assembly, 1938, (Chapter 222).

³¹See Appendix F.

mont.³² This act requires that those payments be made in monthly or semi-monthly installments. The act further provides that any city supplementing the salary of any judge may continue to pay him so long as he may live three fourths of the supplemental salary in equal monthly installments.

Members of the State Corporation Commission, who heretofore had no retirement rights as they were not included under the judges' pension system, were also granted certain retirement privileges at the 1938 session of the General Assembly. There was enacted legislation³³ which amended the Code of Virginia by adding a new section numbered 5775,³⁴ providing for the voluntary retirement of members of the Commission and for the payment of compensation to those retired.

This legislation provides that any member of the State Corporation Commission may retire at any time after having attained the age of seventy years and having served not less than ten consecutive years as a member of the Commission by giving written notification to the Governor. The Comptroller is required to pay to each retired member annual compensation equal to two thirds of the annual salary being received immediately prior to retirement. These payments are to be made in monthly or semi-monthly installments.

The members of the Industrial Commission, too, were provided

³²"Basic annual salary" means the salary paid out of the State treasury regardless of whether the State is reimbursed for any part of it or not.

³³Acts of Assembly, 1938, (Chapter 437).

³⁴See Appendix G.

with certain retirement rights at the 1938 session of the General Assembly. There was enacted a bill³⁵ amending the Virginia Workmen's Compensation Act by adding a new section numbered 52-a,³⁶ providing for the voluntary retirement of members of this Commission and for the payment of retirement compensation to those members retiring.

This act provides that any member of the Industrial Commission may retire upon written notification to the Governor if he has attained the age of seventy years and has served not less than ten consecutive years as a member of the Commission. The Comptroller is required to pay to each member retiring under the provisions of this act an annual amount equal to three fourths of the annual salary being received by him immediately prior to his retirement. These payments are to be made in monthly or semi-monthly installments. This act differs from the others in that the pension payments provided for are paid out of funds collected under the provisions of the Workmen's Compensation Act and not out of funds appropriated from the general fund of the State.

A point of interest regarding all of these acts is that none provided retirement systems, but all merely provided pension payments to those persons eligible to retire thereunder. No contributions were required of the eligible persons. Each act merely provided that certain sums would be appropriated out of the general fund or from special funds to cover the liability incurred.

³⁵Acts of Assembly, 1938, (Chapter 226).

³⁶See Appendix II.

None of these acts provided any form of disability retirement. However, any judge or commissioner who had attained the age of seventy and had served the required number of years could retire voluntarily if he should become physically or mentally incapacitated for further performance of his duties. There were no provisions in any of these acts, however, under which a judge or commissioner might retire if he became physically or mentally disabled for a further performance of his duties before he had attained age seventy or if he had attained age seventy and had not been in service the required number of years to be eligible for retirement.

The 1942 session of the General Assembly enacted two bills relating to the retirement of judges and commissioners. The first of these acts³⁷ amended the Code of Virginia by adding a new section numbered 5978-b providing certain conditions for the retirement for disability of judges of any circuit, corporation or city court of any city of the first class. This new Code section³⁸ provides that any judge of any circuit, corporation or city court of any city of the first class may retire if he becomes permanently disabled so as not to be able to perform the duties of his office if he has attained the age of sixty-five years and has served not less than seven years as judge of any one or more of these courts. The disability of every judge retiring under this act must be certified by the Supreme Court of Appeals.

³⁷Acts of Assembly, 1942, (Chapter 368).

³⁸See Appendix I.

Any judge retired under this act shall be paid by the Comptroller an annual amount equal to two thirds of the basic annual salary³⁹ being received immediately prior to his retirement. This act further provides that any city supplementing the salary of any judge may continue to pay him two thirds of the supplemental salary in equal monthly installments.

The second act⁴⁰ limited the present retirement privileges of judges of courts of record and members of the State Corporation Commission and of the Industrial Commission of Virginia to those judges and commissioners who contributed a certain percentage of their salaries to a fund to be known as the "Judges' and Commissioners' Retirement Fund." It also provided certain retirement provisions for judges and commissioners, otherwise ineligible, who are permanently incapacitated, either mentally or physically, from discharging the duties of their office.

This act⁴¹ created a fund to be known as the "Judges' and Commissioners' Retirement Fund" from which are to be paid all retirement allowances paid pursuant to the provisions of this act, or of sections 3464, 3775 and 5978-a of the Code of Virginia and section 52-a of the Workmen's Compensation Act. It makes unlawful the payment of any retirement allowances from monies appropriated out of the general fund of the State treasury until this fund is exhausted.

It further provides that each judge of the Supreme Court of

³⁹See Footnote 32.

⁴⁰Acts of Assembly, 1942, (Chapter 441).

⁴¹See Appendix J.

Appeals and of the circuit, corporation and city courts, as well as each member of the Corporation and Industrial Commissions, shall pay to this fund a percentage of his salary according to the following schedule:

1. If forty years of age or less at the time this act goes into effect, or at the time he takes office, he shall contribute at a rate of two per cent of his salary.

2. If he is more than forty, but not more than fifty-five years of age, he shall contribute at a rate of two and one half per cent of his salary.

3. If he is more than fifty-five years of age he shall contribute at a rate of three per cent of his salary.

The act provided, however, that any judge or commissioner in office at the time this act went into effect might notify the Comptroller on or before September 1, 1942, if he did not wish to contribute to this fund. Any judge or commissioner entering office after the effective date of this act was given sixty days in which to give such notification. Any judge or commissioner electing not to contribute, however, is not entitled to receive a retirement allowance. It further provides that no judge or commissioner shall be again eligible for retirement benefits if he has heretofore elected not to make contributions, even though he should make contributions to the fund. Section six provides that the Commonwealth shall contribute to this fund during each biennium a sum equivalent to the aggregate amount contributed by the judges and commissioners during the preceding biennium.

Section five of this act provides that whenever the Supreme Court of Appeals has reasonable cause to believe that any judge of any court of record, or any member of the State Corporation or Industrial

Commission is physically or mentally incapacitated for a further performance of his duties, it shall hold an inquiry to determine his capacity or competency. This inquiry is to be held by the Court and if, as a result of this inquiry, it finds that any judge or commissioner is permanently incapacitated or incompetent to discharge the duties of his office, the Court shall state its findings and order his retirement. If he has made the contributions to the fund herein provided, he is entitled to receive the retirement salary provided in the judges' or commissioners' retirement act under which he is eligible to retire.

Under the provisions of this act there were sixty-seven judges and commissioners contributing on June 30, 1943, to the fund created. During the fiscal year ending June 30, 1945, these members contributed to the "Judges' and Commissioners' Fund" the amount of \$9,954.71⁴² distributed as follows:

Seven Judges - Supreme Court of Appeals	\$1,647.25
Thirty-four Judges - Circuit Courts	4,827.66
Fifteen Judges - Corporation and Rustings Courts	1,881.05
Five Judges - City Courts	693.00
Three Commissioners - Corporation Commission	695.75
Three Commissioners - Industrial Commission	460.00
	<u>\$9,954.71</u>

During this same fiscal period \$20,398.43⁴³ was paid to retired judges and commissioners out of General Fund appropriations which had been made for this purpose in the amount of \$39,213.25.⁴⁴ These appropriations and

⁴² This figure based on the Report of Comptroller for the fiscal year ended June 30, 1943.

⁴³ Ibid.

⁴⁴ Ibid.

expenditures were distributed as follows:

	<u>Appropriation</u>	<u>Expenditure</u>	<u>Unexpended Balance</u>
Supreme Court of Appeals	\$ 5,667.00		\$ 5,667.00
Circuit Courts	16,200.00	\$ 4,052.18	12,147.82
Corporation or Hastings Court	12,296.25	12,296.25	
City Courts	4,050.00	4,050.00	
	<u>\$38,213.25</u>	<u>\$20,398.43</u>	<u>\$17,814.82</u>

On the basis of these expenditures of \$20,398.43 for judges' and commissioners' retirement for the fiscal year 1942-1943, the fund created by the 1942 General Assembly is hardly adequate to provide funds to meet all obligations which it will incur. This fund will, however, reduce the appropriations which future General assemblies will have to make and it will also give the judges and commissioners a part in providing for their retirement.

The retirement provisions enacted by the General Assembly for judges and commissioners have not in any way established a system to provide for their retirement. The retirement allowances provided them are nothing more than pensions paid for faithful service to the State. Their allowances do not arise from an actuarially established system, but merely from appropriations provided by the General Assembly for this purpose. The fund established by the 1942 General Assembly was provided principally to relieve the General Assembly of any public criticism which might arise from requiring some public employees to make contributions toward providing for their retirement and not requiring others. The fund could not have been established as a means of raising sufficient money to pay retirement allowances, since it provided for inadequate

contributions ranging from two to three per cent of the member's salary and yet guaranteed retirement allowances of two thirds or three fourths of this salary.

CHAPTER III

THE PRESENT VIRGINIA RETIREMENT ACT AND SYSTEM

On March 31, 1942, the General Assembly approved an act establishing a contributory retirement system for certain State employees, and for public school teachers and certain other employees of local public school boards. The act also repealed Chapter 36 and Sections 787 to 805, inclusive, of the Code of Virginia, relating to the retirement of teachers.

The "Virginia Retirement Act,"¹ established on July 1, 1942, a retirement system for teachers and State employees to be known as the "Virginia Retirement System." This act, as has been stated in Chapter II, was based upon the study and recommendations made by the Virginia Advisory Legislative Council in 1941. The system recommended in the Council's report was changed² in several material respects by the General Assembly before the act was approved. The Council's report is published as Senate

¹See Appendix K.

²See Section 8, sub-section (c), paragraph 3.
Section 9, sub-section (b), paragraph 2.
Section 10.
Section 18, sub-section (d).

Document No. 8, 1942.³

Administration

The Virginia Retirement System is administered by the "Board of Trustees of the Virginia Retirement System," composed of eight members. Five are ex-officio members, namely, the Comptroller, the State Treasurer, the Superintendent of Public Instruction, the Auditor of Public Accounts, and the State Tax Commissioner, and three members are appointed by the Governor, subject to confirmation by the General Assembly. Of the members appointed by the Governor, one is a teacher, one a State employee, and one neither a teacher nor a State employee. Each is appointed for a term of four years, with the exception of an appointment to fill an unexpired term. The Governor may suspend or remove any appointive member at his pleasure.

The Governor designates the chairman of the board, and the Board elects one of its members vice-chairman and appoints a secretary who may or may not be a member of the Board. The members of the Board receive no salaries, but are reimbursed for the expenses incurred by them in the performance of their duties. A majority of the members of the Board constitutes a quorum. The Board employs an actuary as its technical adviser, and may employ other personnel and incur such expenditures as it deems necessary for the efficient administration of the Act. The compensation of the actuary and of the other personnel is

³See Appendix D.

fixed by the Board.

Membership in the System

Before it is possible to determine eligibility for membership in the Virginia Retirement System, it is necessary to have clearly in mind the meaning of certain terms.

"Employee," as defined by the Act, means "any teacher or State employee."⁴ The term "State employee," as defined, means "any person who is regularly employed on a salary basis in the service of, and whose compensation is payable, not oftener than semi-monthly, in whole or in part, by the Commonwealth or any department, institution or agency thereof; except (1) an officer elected by popular vote or by the General Assembly or either House thereof, (2) a county or city treasurer, commissioner of the revenue, Commonwealth's attorney, clerk, sheriff, sergeant or constable, and a deputy or employee of any such officer, and (3) any employee of a political subdivision of the Commonwealth."⁵

"Teacher," as defined, means "any person who is regularly employed on a salary basis as a professional or clerical employee of a county, city or other local public school board."⁶

The Act under Section 6, subsection (a) provides that membership in the retirement system shall consist of the following:

⁴Virginia Retirement Act, 1942, Section 1, paragraph 6.

⁵Ibid., paragraph 5.

⁶Ibid., paragraph 4.

1. All persons who become employees or who re-enter service after the date of the establishment of the system;

2. All persons who are employees upon the date of the establishment of the system; and

3. All other persons who were teachers at any time during the school year immediately preceding the date of the establishment of the system.

Summarized, therefore, Section 6, subsection (a) provided membership in the System for the following groups:

1. All public school teachers regularly employed on a salary basis by any county, city, or other local public school board;

2. All other professional and clerical employees of such school boards who are regularly employed on a salary basis;

3. All persons regularly employed on a salary basis by any State department, institution or agency, provided their compensation is payable not oftener than twice a month, inclusive of State officers appointed by the Governor, but exclusive of officers elected by popular vote or by the General Assembly; and

4. All employees of State agencies paid in part by any county, city, or town.

The Act provided, however, that no person shall be eligible for membership in the retirement system at any time during which the employment in which he is engaged brings him within the provisions of the Federal Social Security Act providing for old-age and survivors insurance benefits.

Teaching, administrative, and research employees of institutions of higher education, which had retirement plans covering their employees at the time this system was established, or which may later adopt such plans, were given the option of electing to participate as

members of this system or continuing or becoming members of the plan provided by the institutions employing them. The Act did not specify the length of time such an employee would have to exercise this option. The Act did specify, however, that any future employee of such an institution would have to exercise this option within thirty days after he enters upon the performance of his duties.

The Board of Trustees has taken the position that temporary and part-time employees are not subject to membership in the system, since they are not construed as being "regularly employed." Employees paid on an hourly, per diem, or weekly basis are also excepted from membership in the system, since they have been excluded by the Act itself or by action of the Board.

The Act makes membership compulsory for all persons who are eligible for membership under Section 6, subsection (a). Section 6, subsection (b) of the Act further provides that membership shall be compulsory for the following groups:

1. Any teacher or State employee on leave from service at the time of the establishment of the system;

2. All employees of institutions of higher education engaged in teaching, administrative, or research duties who were not members of the retirement plans in force at these institutions at the time this system was established and who did not elect to become members;

3. All employees of such institutions of higher education who were members of the retirement plans in force at these institutions, but who failed to exercise the option provided them of electing to remain members of this system or electing to participate in the system established by this Act; and

4. All future employees of such institutions of higher education who fail to exercise the option provided them of

NOTICE OF ELECTION NOT TO BE INCLUDED IN MEMBERSHIP OF VIRGINIA RETIREMENT SYSTEM

July 14, 1942

(Date)

Board of Trustees of the Virginia Retirement System, State Finance Building, Richmond, Virginia.

Gentlemen:

In accordance with Section 6, Subsection (b), of the Virginia Retirement Act, I hereby elect not to be included in the membership of the Virginia Retirement System and I do hereby waive all present and prospective benefits which would inure to me as a member. I take this action with full knowledge that should I, after 150 days subsequent to July 1, 1942, apply for membership and become a member of the Retirement System, I will not receive credit for any service prior to the date of such application.

My date of birth is June 2, 1912. I have been employed by the State of Virginia (or a State department or institution) or by one of the local school boards for a period of 6 years and 4 months. My present salary is \$ 1380 per year.

Very truly yours,

James M. Clarke (Signature) State Comptroller's Office (Department, Institution, Agency or School Board) 111 W. 34th Street (Address)

State of Virginia

County (city) of Richmond

I, James Brooks, a notary public of and for the county (city) aforesaid in the State of Virginia, do hereby certify that James M. Clarke this day personally appeared before me and acknowledged the foregoing signature to be his (hers).

Given under my hand this 15th day of July, 1942

JAMES BROOKS Notary Public

My commission expires September 4, 1945

2. Any person on leave of absence on July 1, 1942, was granted one hundred and fifty days after the termination of his leave in which to file notice of withdrawal; and

3. Any member of this system employed in an institution of higher education, which shall adopt a retirement plan for its employees after this system becomes effective, shall have the privilege of withdrawing from this system and becoming a member of the plan adopted by the institution at which he is employed.

Termination of Membership

The Virginia Retirement Act provides that membership in the system shall cease under any of the following circumstances:

1. If a member is continuously unemployed as a teacher or other employee of a local public school board, or as a State employee, for a period of five years,
2. If in any ten year period the member renders less than five years of service,
3. If a member withdraws his accumulated contributions,
4. If a member retires on a retirement allowance, or
5. If a member dies.

Contributions by Members

All members of the system, except members who have attained the age of sixty-five or over, are required to contribute to the system as long as they remain on the payroll. The Act provides, however, that no deduction shall be made from the salary of an employee who has attained the age of sixty-five or over, if he elects not to contribute. However, if such an employee elects not to make contributions, his

employee annuity⁸ upon retirement will be smaller than it would have been had he elected to continue making contributions, since the amount he will have contributed toward his employee annuity will be smaller.

Each member is required to contribute a certain percentage of his compensation every payroll period. The Board is required to establish this percentage for each member on the basis of sex, occupational classification and age at the time of his becoming a member. The rate of contribution is calculated to provide, with interest compounded annually at not less than two per cent, an annual retirement income of $1/160$ of the member's prospective average annual salary during his last five years of service before retirement multiplied by the number of years of service rendered after July 1, 1942, plus an additional amount not to exceed $1/4$ of 1% of the member's annual earnable compensation to be applied to the cost of administering the system. Since the system is a jointly contributory system, under which both the employee and the State contribute equally, each member is required to contribute at a rate sufficient to purchase an employee annuity approximately equivalent to the State annuity⁹ for service rendered after July 1, 1942, plus his share of the costs of administration.

The Board, after having an investigation made of the mortality, service and salary experience of the teachers and State employees, set

⁸"Employee annuity" is the annual payment which the retired member will receive for life, derived from the total contributions made by him during his years of membership.

⁹"State annuity" is the annual payment which the retired member will receive for life, derived from the total contributions made by the Commonwealth or any other contributor.

up tables of rates¹⁰ to be used by the system in making contributions from the salaries of its members. The Board's investigation revealed that six separate tables would be necessary because of the difference in the mortality rates between men and women and between the different occupational groups and also the expected rate of salary increase in the various groups. The rates for women are uniformly higher than those for men in the same occupational group because women generally live longer after retirement than men. The mortality also varies somewhat according to the occupational classification of the employee and this, together with the differences in the expected rate of salary increase in the various groups, explains the variation in the rates according to occupational classification.

The rates for State employees have, therefore, been divided into two groups (1) clerical and administrative employees, and (2) other employees. The first group is clearly identified by its title, but the second group is not. This group includes laborers, mechanics, or any type of personnel engaged in physical or manual work requiring use of the hands and body and very little use of the brain. Since personnel engaged in this type of work with any local public school board are not eligible to participate in the system, it was only necessary to set up one group of rates to cover teachers.

The Act contemplates that a member will always contribute at the rate prescribed for the age at which he becomes a member. The Act

¹⁰See Table 1.

TABLE 1
 RATES OF CONTRIBUTION PAYABLE BY
 STATE EMPLOYEES AND TEACHERS
 (Expressed as percentages of salary)

STATE EMPLOYEES				
Age	Clerical and Administrative Employees		Other Employees	
	Men	Women	Men	Women
17; 18..	5.31	6.13	4.57	4.95
19, 20..	5.22	6.03	4.52	4.90
21 to 25	5.15	5.94	4.52	4.88
26 to 29	5.14	5.93	4.58	4.95
30 to 32	5.18	5.97	4.66	5.04
33; 34..	5.23	6.02	4.74	5.13
35; 36..	5.27	6.08	4.82	5.21
37; 38..	5.31	6.14	4.90	5.29
39; 40..	5.38	6.21	4.98	5.38
41; 42..	5.44	6.28	5.06	5.47
43; 44..	5.50	6.36	5.15	5.57
45; 46..	5.58	6.44	5.25	5.67
47; 48..	5.66	6.53	5.35	5.78
49; 50..	5.74	6.63	5.45	5.89
51; 52..	5.82	6.73	5.55	6.00
53; 54..	5.92	6.83	5.65	6.11
55; 56..	6.02	6.95	5.75	6.23
57; 58..	6.12	7.07	5.86	6.35
59; 60..	6.22	7.19	5.97	6.47
61;.....	6.30	7.28	6.05	6.56
62;.....	6.36	7.35	6.10	6.62
63;.....	6.42	7.42	6.16	6.68
64;.....	6.48	7.49	6.22	6.74

TEACHERS		
Age	Men	Women
20 to 24	5.73	6.46
25 to 31	5.69	6.47
32 to 35	5.72	6.53
36 to 38	5.78	6.60
39 to 41	5.84	6.68
42; 43..	5.90	6.75
44; 45..	5.97	6.83
46; 47..	6.03	6.90
48; 49..	6.09	6.98
50; 51..	6.15	7.06
52; 53..	6.22	7.15
54; 55..	6.30	7.25
56; 57..	6.37	7.36
58; 59	6.44	7.46
60; 61..	6.52	7.57
62;.....	6.56	7.65
63;.....	6.60	7.71
64;.....	6.64	7.77

does require, however, that the Board have an actuarial investigation made, at least once every two years, to determine the morality, service and salary experience of the members of the system. It further provides that as a result of such investigations the Board shall, at various intervals, revise the rates of contributions to agree with the revised mortality and service tables.

The Act further provides that no member shall be compelled to contribute over five per cent of his compensation if he elects not to, but this election must be given to the Board in writing. The Act also provides in this same section¹¹ that no member who has attained the age of sixty-five shall be compelled to contribute if he elects not to and notifies the Board in writing of his election. The Act is elastic, however, in that a member filing notification of his election under either provision may again return to his original status by notifying the Board. This might occur if he elects to return to his original age rate after he had elected to contribute at five per cent or if he desires again to make contributions after he had attained age sixty-five and elected not to contribute. However, should a member elect to contribute only five per cent or, if over age sixty-five, elect not to contribute at all, that part of his retirement allowance purchased by his own contributions (employee annuity) will be correspondingly smaller than if he contributed at the full rate or, if over sixty-five, had continued to contribute.

¹¹Section 13, subsection (c).

The Act provides that no member shall contribute on any part of his annual compensation in excess of two thousand dollars. The Act further provides that where compensation includes maintenance or other perquisites, these shall be considered part of the annual compensation and their value shall be fixed by the Board.

Any member, with the consent of the Board, may contribute, by a single payment or by an increased rate of contribution, additional amounts and build up a larger retirement allowance than he would otherwise receive. Such additional payments, however, cannot increase a member's total retirement allowance in excess of one half of his prospective average final compensation for his last five years of service if he retires at age sixty-five. The Act also provides, subject to the approval of the Board, that any member may redeposit, by a single contribution or by an increased rate of contribution, an amount equal to any amount which he may have previously withdrawn under the provisions of the Act, or any part of any such amount. Any additional amounts deposited become a part of the member's accumulated contributions. However, in the case of disability retirement they are treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and are not to be considered in computing a member's State annuity.

The Act provides that member contributions shall be deducted from each installment of the members' salaries. In the case of State employees paid by warrants on the State Treasurer, the Act requires that the Comptroller shall deduct on each payroll the amount computed,

by the Board, as being due from each member thereon. The Comptroller is required to transfer, at the end of each payroll period, to the credit of the employee annuity savings fund and the expense fund, in proper proportions, an amount equal to the aggregate amount deducted by him from the members' salaries for the preceding payroll period. The amounts transferred are to be paid out of those funds in the State treasury from which the salaries of the members making the contributions were paid. The Comptroller is required to forward a record of all such transfers to the Board.

If the member is not paid through the Comptroller, but directly by the department, institution, or agency employing him, then this employer shall, at the end of each payroll period, transmit to the State Treasurer its warrant for an amount equal to the aggregate deductions made by it from the salaries paid to its employees for that payroll period. In the case of teachers the amounts certified as being due are deducted from each teacher's salary by the local public school board employing him. Each local public school board, at the end of each payroll period, transmits to the State Treasurer its warrant for the payment of an amount equal to the aggregate deductions made for that payroll period from the salaries of all employees paid by this school board. In each instance the funds collected by the Treasurer on account of such warrants are to be credited, in proper proportions, to the employee annuity savings fund and the expense fund. The Treasurer is required to transmit to the Comptroller and to the Board a record of all monies so collected.

Disposition of Members' Contributions

The contribution of each member is credited each payroll period to his individual account in the employee annuity savings fund, with the exception of a small amount not to exceed one fourth of one per cent of the member's annual earnable compensation which is transferred to an expense fund, the monies of which pay for the cost of administering the system. These contributions shall be used for the sole benefit of the member making them in determining his employee annuity for service or disability retirement with the following exceptions:

1. If he ceases to be an employee after having been a member of the system for two years since he last became a member, he will be paid, on demand or within thirty days thereafter, the amount of his accumulated contributions.¹²

2. If he ceases his employment within two years since he last became a member he is not entitled to a return of his accumulated contributions. His accumulated contributions will remain credited to his individual account, however, as long as he remains a member, and if he is re-employed by the State or by a public school board within five years from his date of separation from service, he will assume his original status and will lose nothing. If, on the other hand, he is not re-employed within five years, at the end of that time his contributions will be transferred to the State annuity accumulation fund and he will thereafter relinquish all rights to these contributions.

3. Should a member die at any time before retirement, the amount of his accumulated contributions shall be paid to his beneficiary, if any, as he may have designated in writing to the Board, otherwise to his executors or administrators.

¹² "Accumulated Contributions" means the sum of all amounts deducted from the salary of a member, less administrative expenses deducted therefrom, plus regular interest allowed thereon.

4. Any former member who dies within thirty days after retirement shall be considered an active member at the time of his death, and the benefits payable on his account shall be disposed of in the same way as those of any other deceased member. Any amounts paid on account of his retirement allowance shall be deducted from the benefits payable on his account.

Contributions by the State and Other Contributors

In the case of teachers whose compensation is paid exclusively out of funds derived from local revenues and appropriations from the general fund of the State treasury, and in the case of State employees whose compensation is paid exclusively by the State out of the general fund of the State treasury, the State is the sole contributor to the State annuity accumulation fund. It is required to contribute an amount which will provide a fund sufficient, as shown by actuarial valuation, to pay all claims for retirement benefits for which the State shall be liable.

If a teacher or State employee receives compensation paid out of funds derived in whole or in part from any special fund, or from a contributor other than the State, then contributions to the State annuity accumulation fund on behalf of such an employee in any year shall be paid out of such special funds, or by such other contributor. The amount paid shall be in proportion to that part of the employee's compensation derived therefrom for that year. The amount that shall be paid from the general fund to the State annuity accumulation fund in any year on behalf of such an employee shall be only that proportion of the contribution due this fund for that year as that part of the employee's compensation paid out of local revenues and funds derived from the general fund for that year

bears to his total compensation for that year.

The "other contributors" mentioned in the foregoing paragraphs include any person, agency, city, county, or town who or which pays any part of the salary of a State employee or employee of a local public school board. One of the best examples of such "other contributors" can be found among State employees by turning to the Extension Service of the Virginia Polytechnic Institute, a State agency. The Extension Service of this agency is engaged principally in agricultural work and employs many agents who are stationed throughout the counties of the State to assist the farmers. Part of the compensation of each of these agents is paid directly by the county in which he is located. Such counties, therefore, would be "other contributors." The same is true of State game wardens who are employees of the Commission of Game and Inland Fisheries, a State agency, but whose compensation is paid in part by the county or city in which they are located.

In the case of teachers and other employees of local public school boards, the Act states that the State shall pay the entire amount due the State annuity accumulation fund on account of such employees paid from local revenues and appropriations from the general fund of the State treasury. This cost is to be borne by the general fund of the State.

The Act does not make it compulsory, but it does authorize the counties, cities, and towns, and whatever other contributors there may be to State employee's salaries, to make "employer contributions"¹³ on behalf

¹³ See Page 53.

of those State employees eligible for membership whom they pay in whole or in part. An employee whose compensation is paid in whole or in part by some such "other contributor" upon retirement would get a proportionately smaller State annuity than he would have gotten if all contributors to his salary had contributed toward his State annuity.

The Act also provides, in the case of contributions made by the State and other contributors, as it does in the case of contributions to be made by members, that those contributions shall be based on a maximum annual earnable compensation of two thousand dollars for each member. All compensation in excess of two thousand dollars annually will be disregarded in every case and for every purpose under the Act.

"Employer contributions" (those made by the State and other contributors) are to be calculated entirely independently of the employee contributions, except that the employer contributions shall be adequate to provide funds sufficient to pay any deficiency in the guaranteed interest¹⁴ on employee contributions and also sufficient to cover administrative expenses not covered by excess interest and members' contributions. The Act further provides that no deduction shall be made from any member's salary if the State's contribution to the State annuity accumulation fund on his account is in default.

The employer contribution to be made by the State and any other contributor to the State annuity accumulation fund on account of every

¹⁴ The Act guarantees, under Section 18, subsection (d) regular interest, compounded annually, to be limited to a minimum of two per cent and a maximum of four per cent, to be determined by the Board. The Act established two per cent as regular interest for the first year of operation.

member shall be a certain percentage of each member's earnable compensation. The rate to be applied to each member's earnable compensation is to be fixed on the basis of the liabilities of the retirement system, as shown by actuarial valuation, and is to be determined separately for teachers and State employees. This rate consists of two parts:

1. A certain percentage, known as the "normal contribution," which will be adequate to provide the necessary funds for State annuities payable on account of service rendered after July 1, 1942, and will be recurrent each year as long as the system exists; and

2. An additional percentage, known as the "accrued liability contribution," which will be adequate to provide the necessary funds for State annuities payable on account of service rendered before July 1, 1942, and which will be recurrent for about twenty-five years, by the end of which time the accrued liability should be liquidated.

These two percentage factors, when added together, provide the employer contribution rate. The Act provides, however, that until the first valuation is made, the normal contribution rate shall be two and fifty-seven one hundredths per cent (2.57%) for teachers and one and sixty-four one hundredths per cent (1.64%) for State employees. The accrued liability contribution rate is fixed at three per cent (3.00%) for teachers and ninety-eight one hundredths per cent (0.98%) for State employees. The total employer contribution rate for State employees is two and sixty-two one hundredths per cent (2.62%) of the member's annual earnable compensation, and for teachers is five and fifty-seven one hundredths per cent (5.57%) of the member's annual earnable compensation.

As has been already stated, the Board is required every two years to make an actuarial investigation of the mortality, service and salary experience of the members and beneficiaries of the system, and

a valuation of its various funds. On the basis of such investigations and valuations the Board shall, from time to time, revise the mortality and service tables and the rates of contribution then existent under the Act. Therefore, the employer contribution rates are subject to change depending upon the results of such actuarial investigations.

The Act further provides that the accrued liability contribution shall be discontinued as soon as the accumulated reserve in the State annuity accumulation fund equals an amount as determined by the following formula:

The present value of the total liability of the State annuity accumulation fund less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of persons who are members at that time.

As previously stated it is estimated that this liability will be fully covered within twenty-five years.

It is further provided that, after the accrued liability contribution has ceased to be payable, the normal contribution rate will be a percentage of the earnable compensation of all members determined by means of the following formula:

Subtracting the amount of the funds in hand and credited to the State annuity accumulation fund from the total liabilities of that fund and dividing the remainder by one per cent of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the Board and on the basis of regular interest.

The employer contributions, to be paid by the State for teachers and State employees paid directly out of the general fund of the State or local revenues, will be a percentage of the total payrolls for teachers

and State employees taken separately. The aggregate of all excess in individual salaries over and above two thousand dollars will be subtracted from the total amount of both teachers' and State employees' payrolls before the employer contribution rate is applied. In this way the amounts due the State annuity accumulation fund are determined. The Act requires that, at least thirty days prior to each regular session of the General Assembly, the Board certify to the Governor the amounts which will become due and payable to the retirement system from the funds in the State treasury on account of the State's contribution to the State annuity accumulation fund. These amounts are then to be included in the appropriation bill which is submitted to the General Assembly for approval. The Board is then required to certify one quarter of each amount appropriated for each year of the biennium to the Comptroller on or before the first days of October, January, April, and July. The Comptroller, upon receipt of the certification, transfers to the State annuity accumulation fund the amounts certified from those funds in the State treasury out of which these appropriations are payable.

If the employer contribution is to be made by a contributor other than the State, the Board is required to certify to each contributor, on or before the first day of May, the amount which will become due from such contributor on account of contributions to the State annuity accumulation fund during the fiscal year beginning July first of that year. Each contributor is required to make provisions for the payment of the amounts certified. These must be paid in equal quarterly installments upon warrants of the contributor transmitted and payable to the

State Treasurer. The Treasurer is required to transmit to the Comptroller and the Board a record of all monies so collected.

Types of Service

The years of service for which a member may receive credit under the provisions of the Virginia Retirement Act are of two types, "prior service" and "membership service." "Prior service," as defined by the Act, "means service as an employee rendered prior to the date of establishment of the retirement system for which credit is allowable under section seven, and any other employment occurring prior to the date of establishment of the retirement system for which credit is allowable under section seven."¹⁵

The Act provides that each employee upon becoming a member, or someone on his behalf, must file with the Board a statement of the facts pertaining to his status as a member. This statement¹⁶ was devised to include a detailed description of all service rendered as an employee of the Commonwealth or any local public school board prior to becoming a member of the system, and any other information that the Board might desire. The Act made it compulsory that each member must file such a statement if he claimed any "prior service." It further provides that no member or beneficiary shall be eligible to receive any benefits under the Act until such a statement is filed.

¹⁵Virginia Retirement Act, 1942, Section 1, paragraph 10.

¹⁶See Figure 2.

FIGURE 3
(Front.)

VB-3 7-43-50M.

MEMBER'S STATUS AND INFORMATIONAL REPORT
VIRGINIA RETIREMENT SYSTEM

M - 2083
E - 750971

Date July 2, 1942

1. NAME: (Print or type) <u>Ashenfelter</u> <u>William</u> <u>Dabney</u> <small>(Last) (First) (Middle)</small>		7. EMPLOYING AGENCY: <u>Virginia Agricultural Extension Division</u> <small>(Name of department, institution, agency or local public school board)</small>
2. HOME ADDRESS: <u>Blacksburg,</u> <u>Virginia</u>		4. PRESENT RATE OF COMPENSATION: (Exclusive of perquisites) <u>\$ 1820</u> per half month <input type="checkbox"/> Month <input type="checkbox"/> Year <input checked="" type="checkbox"/>
3. DATE OF BIRTH: <u>September</u> <u>3</u> <u>1885</u> <small>(Month) (Day) (Year)</small>		9. PERQUISITES IN ADDITION TO CASH COMPENSATION: Board <input type="checkbox"/> Room <input type="checkbox"/> Apartment <input type="checkbox"/> House <input type="checkbox"/> Laundry <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/>
4. SEX: Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>		
5. RACE: White <input checked="" type="checkbox"/> Colored <input type="checkbox"/>		
6. MARITAL STATUS: Single <input type="checkbox"/> Married <input checked="" type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/>		10. Date of present employment <u>July 1, 1914</u>

11. List below all service rendered prior to July 1, 1942, as a State employee and/or as a teacher or other professional or clerical employee of a local public school board. Start with the earliest service. Continuous service with one employer prior to 1937 may be shown on a single line but be sure to include in the proper columns the month and year of the beginning of the service and the month and year of ending of service. For the period prior to July 1937 salaries need not be stated. Years in which teachers were employed as substitutes and in consequence did not have regular employment should be indicated. In listing service beginning with July 1937 use a separate line for each different rate of compensation received.

STATE DEPARTMENT, INSTITUTION, AGENCY OR SCHOOL BOARD IN VIRGINIA BY WHICH EMPLOYED. (Start with earliest service)	RATE OF COMPENSATION (See instructions above)						FROM			TO			LENGTH OF SERVICE		
	Hourly	Daily	Weekly	Semi-Monthly	Monthly	Yearly	Mo.	Day	Year	Mo.	Day	Year	Yrs.	Mo.	Days
	<u>Va. Agric. Experiment Station</u>						X	8	1	90	8	1	91	1	-
<u>Virginia Polytechnic Institute</u>						X	9	1	94	7	1	08	13	10	-
<u>Dairy and Food Commissioner</u>						X	7	1	08	7	1	14	6	-	-
<u>Va. Agric. Experiment Station</u>						X	7	1	14	3	1	23	8	8	-
<u>Va. Agric. Experiment Station</u>						X	3	1	23	6	30	37	14	4	-
<u>Virginia Agric. Exp. Station</u>						3/20	7	1	37	8	30	39	2	-	-
<u>Virginia Agric. Exp. Station</u>						1820	7	1	39	6	30	42	3	-	-
TOTAL ALL PRIOR SERVICE (Total each column separately. Do not convert days into months or months into years)												47	22	-	

Women married during period of above service, state maiden name _____ Date of Marriage _____, 19__

12. If your contribution rate is more than 5% you may elect to contribute 5% and no more, but by so doing your employee annuity upon retirement will be correspondingly smaller though your State annuity remains unchanged. Check in proper block whether you desire to contribute at the regular rate or the 5% rate.
Regular rate 5% rate

13. If you have attained age 65 you need not make any contributions. If you have attained age 65 do you desire to make any contributions? Yes No