

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 206

(By Mr. Thomas)



PASSED march, 6. 1941

In Effect ninty days from Passage

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House Bill No. 206
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AN ACT to amend and reenact section one, to add sections one-a and ten-a to article one; to repeal and reenact article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, for the purpose of establishing a uniform system of permanent registration of voters.

Be it enacted by the Legislature of West Virginia:

That section one be amended and reenacted, that sections one-a and ten-a be added to article one; that article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one be repealed and reenacted so as to read as follows:

Chapter 3. ELECTIONS

Article 1. General Election; Officers to Be Chosen; Precincts.

Section 1. *Scope of Chapter.*—The provisions of this
2 chapter shall, unless restricted by the context, apply to

3 every general, primary, or special election in which can-
4 didates are nominated or elected or in which the elec-
5 torate passes upon any public question submitted to it,
6 except that such provisions shall be construed to be oper-
7 ative in municipal elections only in those instances in
8 which they are made expressly applicable.

Sec. 1-a. *Persons Entitled to Vote.*—Citizens of the state
2 shall be entitled to vote at all elections, including pri-
3 maries held within the precincts of the counties and
4 municipalities in which they respectively reside. But no
5 person who has not been registered as a voter as required
6 by law, or who is a minor, or of unsound mind, or a
7 pauper, or who is under conviction of treason, felony or
8 bribery in an election, or who, in the case of state-county
9 elections has not been a bona fide resident of the state
10 for one year and of the county in which he offers to vote
11 for sixty days next preceding such election, or who in the
12 case of municipal elections has not been a bona fide resi-
13 dent of the state for one year and of the municipality in
14 which he offers to vote for sixty days next preceding such
15 election shall be permitted to vote at such election while

16 such disability continues: *Provided*, That subject to the
17 qualifications otherwise prescribed in this section, a minor
18 shall be permitted to vote in a primary election if he will
19 have reached the age of twenty-one on the date of the
20 election next to be held after the primary election.

Sec. 10-a. *Municipal Precincts*.—The governing bodies
2 of all municipalities shall, for the purpose of municipal
3 elections, provide by ordinance for making the voting
4 precincts in the respective municipalities coincide, as
5 nearly as possible, to the boundaries of the voting pre-
6 cincts fixed by the county court for all state and county
7 elections.

Article 2. Registration of Voters.

Section 1. *Purpose; Short Title*.—The purpose of this
2 article is to establish a uniform permanent registration
3 system for all elections within the state. It may be cited
4 as the "Permanent Registration Law".

Sec. 2. *Definitions*.—For the purpose of this article, un-
2 less the context clearly requires a different meaning:
3 "Qualified voter" shall mean any person who possesses
4 the statutory and constitutional requirements for voting.

5 "Election" shall mean the procedure whereby the voters
6 of this state or any subdivision thereof elect persons to
7 fill public office or vote on public questions.

8 "Any election" or "all elections" shall include every
9 general, primary, or special election held in this state, or
10 in any of its subdivisions, for the purpose of nominating
11 or electing federal, state, county, city, town or village
12 officers of any subdivision now existing or hereafter cre-
13 ated, or for voting upon any public question submitted
14 to the people of the state or any of the aforesaid sub-
15 divisions.

16 The masculine pronoun shall be construed to include
17 the feminine.

18 "Subdivision" shall mean any county, city, town, village
19 or any other unit in which the voters are authorized to
20 elect public officers or to vote upon public questions sub-
21 mitted to them.

22 "County court" shall, where such tribunal has not been
23 established, be construed to mean the tribunal created in
24 lieu thereof.

25 "Clerk of the county court" shall be construed to include
26 any authorized deputy.

27 "Office" shall be construed to mean public office.

28 "Public question" shall mean any issue or proposition,
29 now or hereafter required by the governing body of this
30 state or of any of its subdivisions, to be submitted to the
31 voters of the state or subdivision for decision at elections.

32 "Initial registration" shall mean the first registration
33 under this article preparatory to the primary election of
34 the year one thousand nine hundred forty-two.

35 "Quadrennial check-up" shall mean the process by
36 which the registrars, every four years subsequent to the
37 initial registration, proceed to register all persons who
38 are not registered, but who qualify for registration; or to
39 alter, amend, correct, or cancel the registration records
40 of those persons previously registered.

41 "Registration form" shall mean the unfilled form to be
42 used for the registration of voters.

43 "Registration record" shall mean the filled registration
44 form.

45 "Registrar" shall be construed to include deputy regis-
46 trar.

47 In determining or reckoning any period of time men-
48 tioned in this act the day upon which the act is done, paper
49 filed, or notice given shall be excluded from, and the data
50 of any election, hearing or other subsequent event, as the
51 case may be, shall be included in the calculation or reckon-
52 ing: *Provided, however,* That if the last day upon which
53 any act may be done, paper filed, or notice given shall fall
54 on a Sunday or legal holiday, the next following ordinary
55 business day shall be considered as the last day for said
56 purpose.

Sec. 3. *Registration Prerequisite for Voting.*—No voter
2 otherwise qualified shall be permitted to vote at any elec-
3 tion unless he shall have been duly registered or shall have
4 placed himself within the "Challenged Voters" provision
5 of this chapter.

Sec. 4. *Qualifications for Registration.*—Any person who
2 possesses the constitutional and statutory requirements for
3 voting except as to age, shall be permitted to register:
4 *Provided,* That such person shall have reached the age of

5 twenty-one years by the time of the next ensuing election.

Sec. 5. *Permanent and Uniform Registration.*—A per-
2 manent registration system shall hereby be established
3 which shall be uniform throughout the state and all of
4 its subdivisions. No voter so registered shall be required
5 to register again for any election while he continues to
6 reside at the same address or, having moved from such
7 address, is properly transferred according to the provisions
8 of section thirty-three of this article: *Provided, That* if a
9 voter fails to vote at least once during a period of five
10 years from the date of his last vote, his registration shall
11 be cancelled, and he shall be given proper notice thereof
12 by the clerk of the county court, to the effect that in order
13 to vote he must register again.

Sec. 6. *Election Commission.*—There shall hereby be
2 created "The State Election Commission", which shall be
3 composed of five members, appointed by the governor, by
4 and with the consent of the senate. The commission shall,
5 from this membership, elect a chairman for a term of
6 two years.

Sec. 7. *Term of Office.*—The term of office of members

2 of the commission shall be six years, except that the gov-
3 ernor, upon the adoption of this law, shall appoint the
4 members of the commission upon the following basis: Two
5 members for a term of six years, two members for a term
6 of four years, and one member for a term of two years.
7 As these appointments expire, all appointments shall be
8 made for six years.

Sec. 8. *Qualifications of Members.*—No member of the
2 commission shall be a candidate for or hold any public
3 office other than that of membership in the commission;
4 nor shall he be a member of any committee of a political
5 party. At least one member shall be selected with special
6 reference to his expert knowledge as a student of the
7 problems of public elections. Of the remaining four mem-
8 bers, not more than two shall be affiliated with the same
9 major political party. In case a member becomes a candi-
10 date for or is appointed to any other public office or
11 political committee, his office as member of the commis-
12 sion shall be deemed immediately vacated.

Sec. 9. *Expenses.*—Each member of the commission

2 shall receive his actual and necessary traveling expense
3 incurred in the performance of his duties.

Sec. 10. *Office and Place of Meeting.*—The office and
2 place of meeting of the commission shall be the office of
3 the secretary of state in the state capitol.

Sec. 11. *Meetings.*—The commission shall hold meetings
2 at least six months prior to every primary election. Special
3 meetings may be convened on the call of the chairman,
4 the governor, or the secretary of state.

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2 of the commission shall serve as an advisory body to the
law
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Sec. 12. *Powers and Duties of Members.*—The members
3 secretary of state, and, as such, shall have the following
4 powers and duties:

5 (1) To recommend policies and practices to the secre-
6 tary of state, relating to his duties as registration official
7 (for voting) and election officer, imposed by law.

8 (2) To investigate the work of the secretary of state,
9 and for this purpose to have access at reasonable times
10 to pertinent records, books, papers and documents.

11 (3) To consider and study the election practices of other
12 jurisdictions, with a view to determining the techniques

13 used in eliminating fraud in elections and in simplifying
14 election procedure.

15 (4) To advise or make recommendations to the gover-
16 nor, relative to election practices and policy in the state.

17 (5) To keep minutes of the transactions of each session,
18 regular or special, which shall be public records and filed
19 with the secretary of state.

Sec. 13. *Secretary of State; Powers; Duties.*—The secre-
2 tary of state shall be the chief registration official of the
3 state. He shall have authority, upon consultation with the
4 state election commission, of which he is hereby created
5 an *ex officio member*, to make, amend and rescind such
6 rules, regulations and orders as may be necessary to carry
7 out the policy of the legislature, as contained in this article.
8 It shall be the duty of all registration officials to abide by
9 such rules, regulations and orders, which shall include
10 (a) Uniform rules of procedure for registrars and other
11 registration officials in the performance of their duties, as
12 to time and manner of performance.
13 (b) Uniform rules for the purging of registration rec-
14 ords.

15 (c) Uniform rules for challenging registrants.

16 (d) Any other rules, regulations, or directions neces-
17 sary to standardize and make effective the administration
18 of the provisions of the act.

19 It shall be his further duty to advise with registration
20 officials; to furnish to the registration officials a sufficient
21 number of indexed copies of the current registration laws
22 of West Virginia and the administrative orders issued
23 thereunder; to investigate the administration of regis-
24 tration laws, frauds, and irregularities in any registration;
25 to report violations of registration laws to the appropriate
26 prosecuting officials, and to prepare an annual report of
27 registration.

28 The secretary of state shall also have the power to issue
29 subpoenas, administer oaths and affirmations, summon
30 witnesses, compel the production of books, papers, records
31 and other evidence, and fix the time and place for hearing
32 any matters relating to the administration and enforce-
33 ment of this article. In case of disobedience to a subpoena
34 or other process, he may invoke the aid of any circuit

35 court in requiring the evidence and testimony of witnesses
36 and the production of papers, books and documents.

Sec. 14. *Powers and Duties of Appointees.*—All powers
2 and duties vested in the secretary of state under this
3 article may be exercised by appointees of the secretary
4 of state at his discretion, but the secretary of state shall
5 be responsible for their acts.

Sec. 15. *Powers of County Court.*—Subject to the au-
2 thority of the secretary of state, the county court shall
3 be the chief registration authority in each respective
4 county and all subdivisions therein, and shall supervise
5 the county clerk and registrars in the performance of their
6 respective duties.

7 The county court shall have power on its own motion
8 to summon and to interrogate any person concerning the
9 registration of voters or any matter related thereto, to
10 investigate any ^(iv)irregularities in registration, to summon
11 and examine witnesses, to require the production of any
12 relevant books and papers, and to administer oaths and
13 affirmations. Each person testifying before the county
14 court shall first be duly sworn or affirmed.

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Maliff, Clerk
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Sec. 16. *Selection of Registrars.*—The county court of

2 each county in the state shall, not less than eight weeks

3 prior to the date of the first registration under this act

4 and not less than eight weeks nor more than ten weeks

5 prior to each quadrennial check-up thereafter, appoint for

6 each voting precinct in the county two competent persons

7 as registrars, one each from the political parties which,

8 at the last preceding election, cast the highest and next

9 highest number of votes in the county in which the elec-

10 tion is to be held. If at any time during such session,

11 however, the county executive committee of either politi-

12 cal party from which registrars are to be selected, through

13 its chairman or secretary, shall present to the county court

14 or file in the office of the clerk of the county court a writ-

15 ing signed by the chairman of such committee, on behalf

16 of the committee, requesting the appointment as registrar

17 of a qualified voter of their political party, the court shall

18 appoint the person named in such writing as registrar.

19 Every writing so presented shall be filed and preserved

20 for one year by the clerk of such court in his office.

21 However, no person shall be eligible to appointment as

22 registrar, or in any way act as such, if he has been con-
23 victed of a felony; or if he holds any elective or appointive
24 office, or is a public employee, under the laws of this state,
25 or of the United States; or if he is not a qualified voter
26 in the precinct for which appointed; or cannot read or
27 write the English language; or is a candidate to be voted
28 for at such election. If in any precinct there should not
29 be a competent person, in the opinion of the chairman of
30 the executive committee, or of the county court, the chair-
31 man of such committee may recommend, and the court
32 shall appoint, some competent voter of such county from
33 some other precinct therein to act as registrar. If any
34 such registrar shall fail or refuse to serve or is properly
35 dismissed, the vacancy shall be filled either by the county
36 court or by the clerk thereof, in vacation, in the manner
37 provided for the appointment of registrars. Each registrar,
38 before entering upon the discharge of his duties, shall take
39 an oath that he will perform the duties of the office to
40 the best of his ability, and that he is a regular member of
41 the party for which appointed. Such oath shall be filed
42 in the office of the clerk of the county court.

Sec. 17. *Salaries of Registrars.*—For registering qualified
2 voters during the initial registration, each registrar shall
3 be compensated at a rate fixed by the respective county
4 court of not more than ten cents nor less than five cents
5 for each name registered. For registering qualified voters
6 or for checking the registration record of any qualified
7 voter during the periods of the quadrennial check-up,
8 each registrar shall receive not more than six cents for
9 each name registered or each record checked. In the event
10 of a reregistration, the registrars shall receive the same
11 payment as that prescribed for the initial registration.
12 Any part or all of the salary of any registrar may be
13 withheld by the county court until such time as the county
14 court shall have agreed that the duties of such registrars
15 have been fulfilled.

Sec. 18. *Clerical Assistance.*—The county court shall
2 have power to provide for clerical assistance at reasonable
3 compensation, to aid in the administration of registration.

Sec. 19. *Registration Record Files.*—The registration
2 records to be used in county-state elections shall be kept
3 in a separate file and arranged, where possible, according

4 to precinct, street and sequence of house, apartment or
5 room numbers. A duplicate set of these registration
6 records shall be made and kept in a separate file, and shall
7 be arranged in alphabetical order. Such file shall herein
8 be referred to as the "alphabet file."

9 The registration records to be used in municipal elec-
10 tions shall be kept in a separate file and arranged, where
11 possible, according to precinct, street, and sequence of
12 house, apartment or room numbers.

Sec. 20. *Custody of Registration Records; Public In-*
2 *spection.*—The registration records shall not be removed
3 from the custody of the county court except for use in
4 an election, or by the order of a court of record. The
5 registration records in the alphabet file shall be open for
6 public inspection, ^{under} reasonable regulations prescribed
7 by the county court. Such inspection shall be carried on
8 in the presence of the clerk of the county court.

Sec. 21. *Registration Form.*—The registration form shall
2 be prescribed by the secretary of state substantially as
3 follows. The forms for county-state elections and munici-
4 pal elections, shall be identical, save for color.

NAME (Last name first) (Information in this space to be typed in at office of clerk of county court)

Address

YEAR	42	43	44	45	46	47	48	(Upon change of address place sticker containing new address over former)
State-County Primary								PARTY AFFILIATION
Municipal Primary								
General-State-County Election								DATE
General Municipal Election								Record of Change of Address
Special State-County Election								
Special Municipal Election								

(As the elector votes record fact of voting with a "v" in proper space, except at primaries record fact of voting by use of party initial or initials.)

Magisterial District	Precinct	Ward	Address	Apt. or Room	Date

(Continued on next page.)

Miss
Mrs.
Mr.

Last Name First Name Middle Name

Will you have resided In County In Municipality
on day of next elec- 60 days, 60 days,
tion in state one year,

Place and date of birth Married_____ Single_____
Occupation If unable to write state
Color of Eyes reasons:
Color of Hair
Color of Skin Other means of identifica-
Height tion

If Name of Court Through Husband
Naturalized Place Whom Name
Date Naturalized Father

State of West Virginia, County of _____

I, _____ being duly sworn on oath
(affirmation) do swear (affirm) that the statements
herein contained are, to the best of my knowledge

Enr. H. B. No. 206]

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and belief, true, and that I am legally qualified to vote.

Signature of Applicant

Subscribed and sworn before me this _____ day
of _____, 19____.

Signature of Registrar

Signature of Registrar

(If registration
of absentee)

Signature of Person Taking
Affidavit (Official Seal)

(If registration
by clerk)

Signature of Clerk of County
Court

Sec. 22. *Filling of Registration Forms.*—Two registration forms shall be filled for each applicant, one for use in county-state elections, the other for municipal elections. Only the form for the county-state elections shall be filled, however, if the applicant for registration is not eligible to vote in municipal elections. The signature of the applicant on both filled forms shall be written in ink.

Sec. 23. *Power to Administer Oaths.*—Whenever in any matter concerning registration, an oath or affirmation is required, the clerk of the county court and registrars shall have the power to administer the same.

Sec. 23-a. *Issuance of Registration Receipts.*—Upon the completion of the registration of any person, the registration official shall issue to such person a signed and dated receipt of such registration. The form for such receipt shall be prescribed by the secretary of state.

Sec. 24. *Absentee Registration.*—Any person who possesses the qualifications for registration, but who is absent from the state or county on account of occupation, or for any other necessary cause, during the time of the initial registration or quadrennial check-up, may register

6 by mail during these respective periods, according to the
7 procedure prescribed by the secretary of state.

Sec. 25. *Quadrennial Check-up.*—Four years subsequent
2 to the initial registration and the corresponding time
3 every four years thereafter, the registrars according to
4 directions prescribed by the secretary of state shall pro-
5 ceed to register the names of all persons not registered
6 but who are qualified to register, and shall also alter,
7 amend, correct or cancel, where necessary, the registration
8 records of the voters of the respective precincts so as to
9 provide a complete and accurate record of all persons
10 qualified to vote.

Sec. 26. *Registration Procedure in Office of the Clerk of*
2 *the County Court.*—The clerk of the county court may
3 register any qualified person by filling in the prescribed
4 registration form or forms as the case may be and having
5 them signed by the applicant under oath or affirmation,
6 except as is otherwise provided in this article. Upon
7 proper proof, the registration record of any voter may be
8 altered, amended, corrected, or cancelled by the clerk of
9 the county court.

10 The aforesaid registration or alteration, correction, or
11 cancellation of registration records shall be carried on
12 throughout the year, except during the two weeks preced-
13 ing any election. For the initial registration the county
14 court may at its discretion order the clerk of the county
15 court to maintain additional office hours in the evening.

Sec. 27. Duties of Registrars After Completion of Initial

2 *Registration and Quadrennial Check-ups.*—After the com-
3 pletion of the initial registration, and before every pri-
4 mary and general election which follows, the county
5 court shall station the registrars for two days at some
6 convenient place within the voting precinct for the pur-
7 pose of registering persons qualified to register and for
8 amending, correcting, and cancelling, where necessary
9 the registration records of the voters of the respective
10 precinct. The county court shall give notice of the time
11 and place of such procedure by posting notices at not less
12 than five conspicuous public places in the election pre-
13 cinct.

Sec. 28. Registration of Applicants Unable to Write.—

2 If an applicant, although physically able, shall allege in-

3 ability to sign his name, the registrar or clerk of the
4 county court shall require him to present an affidavit of a
5 qualified elector within the same county who is personally
6 acquainted with the applicant. Such elector shall, in his
7 affidavit, state his own residence and affirm that the state-
8 ments made by the applicant for registration are true.
9 Upon the presentation of such affidavit, the applicant shall
10 be permitted to sign the registration form by making his
11 mark.

12 If an applicant is literate, but physically unable to sign
13 his name, the registrar or clerk of the county court shall
14 insert the name of the applicant on the registration form
15 together with a notation of the nature of the disability.

Sec. 29. Disability Suffered Since Registration.—Any
2 voter who has since the time of registration suffered a
3 physical disability which renders him unable to sign his
4 name may at any time except the two weeks immediately
5 preceding any election personally make application under
6 oath to the clerk of the county court to have such fact
7 entered on his registration record, together with a state-
8 ment of the exact nature of his physical disability, and

9 such entry shall be made accordingly. If such applicant
10 is physically unable to appear before the clerk of the
11 county court to cause such change to be made on the reg-
12 istration record, he may request the clerk of the county
13 court to mail him the necessary forms, and the clerk of
14 the county court upon receipt of such forms properly filled,
15 together with a physician's certificate affirming such dis-
16 ability, shall alter the registration record of the voter ac-
17 cordingly: *Provided*, That when the clerk of the county
18 court shall ascertain that any voter who has declared him-
19 self physically disabled or illiterate, no longer suffers from
20 such physical disability or illiteracy, he shall forthwith
21 cancel on the registration record the entry relating to
22 physical disability or illiteracy and shall notify such
23 elector by mail of his action.

Sec. 30. *Naturalized Applicants*.—Any naturalized cit-
2 izen claiming the right to register, shall produce his nat-
3 uralization papers or a certificate under the seal of the
4 court in which his naturalization was effected. Any per-
5 son claiming citizenship by reason of the naturalization of
6 his parent during his minority, may be registered either

7 by the production of his parent's original naturalization
8 papers, or a certified copy thereof, or a certificate of the
9 court. Any woman claiming citizenship by reason of her
10 marriage prior to September twenty-second, one thousand
11 nine hundred twenty-two, may be registered by the pro-
12 duction of her husband's original naturalization papers,
13 or a certified copy thereof, or a certificate of the court in
14 which naturalization was effected.

Sec. 31. *Statement of Party Affiliation.*—Any person
2 claiming the right to register shall be requested to state
3 the name of the political party with which he desires to
4 affiliate, and such affiliation shall be indicated on the reg-
5 istration record in the proper space. Any person who
6 declines to state any preference of party affiliation shall
7 be registered as “Independent” and such person shall not
8 be permitted to vote in any primary election.

Sec. 32. *Challenge of Right to Register.*—Any person
2 claiming the right to register may be challenged by the
3 clerk of the county court or by any registrar, or, provided
4 they appear in person at the office of the clerk of the
5 county court, by the chairman of a political party or any

6 other qualified voter. Such challenge shall be entered
7 upon a form prescribed by the secretary of state and shall
8 be filed as a matter of record in the office of the clerk of
9 the county court. Upon receipt of such form the clerk of
10 the county court shall mail to the person challenged a no-
11 tice, the form of which shall be prescribed by the secretary
12 of state. Any person so challenged may appear at the of-
13 fice of the clerk of the county court at any time except
14 during the two weeks immediately preceding any election
15 to show cause why the challenge should be removed.
16 Failure to appear shall automatically constitute a can-
17 cellation of such person's registration record: *Provided,*
18 That in no case shall such registration record be cancelled
19 unless such person receives notice of such challenge by
20 registered mail with return receipt requested at least
21 three weeks preceding any election.

Sec. 33. *Transfers.*—Whenever a voter removes his resi-
2 dence from one place to another within the same county
3 he may request that the change be made on his registra-
4 tion record. Such request shall be made by filling in and
5 if he is able, signing under oath or affirmation the neces-

sary form which may be procured in person or by mail from the office of the clerk of the county court. The form of such notice shall be prescribed by the secretary of state. Upon receipt of such notice the clerk of the county court shall cause the signature thereon to be compared with the signature of the applicant upon his registration record and, if such signatures correspond, shall make entry of such change of residence upon all the registration records and the necessary transfers in the files. If the clerk of the county court is not satisfied as to the genuineness of the signature on the notice of change of residence, and if the right of such applicant to register is challenged, according to the procedure hereinbefore prescribed, such transfer shall not be made.

Sec. 34. *Time of Transfer.*—Transfers of the registration record may be made throughout the year except during the two weeks immediately preceding any election, and if any voter shall move from one place to another within the county within the said two weeks, he shall, for that election only, vote in the precinct from which he moved.

Sec. 35. *Change of Name.*—Whenever an elector, previously registered, shall change his name, such person shall be required to register again. For this purpose such person may register by mail in the same manner as an absentee registrant, according to the procedure of section twenty-four of this article. Upon such registration the clerk of the county court shall cancel the registration record bearing the voter's former name. When such a change of name is made during the two weeks immediately preceding any election, such elector, if duly registered, may vote at the election under his former name.

Sec. 36. *Preparation, Posting and Furnishing of Precinct Lists.*—Prior to any election the clerk of the county court shall, upon request, prepare lists which may be photostated, typed, printed, or mimeographed at the discretion of such clerk. Such lists shall contain exact copies of the names, address, and political affiliation of the registered voters in the order of their arrangement in the respective county or municipal precinct registration files. Such copies shall be known as the "precinct registration lists".

11 Any person, municipality, corporation, or other entity
12 may obtain copies of precinct registration lists contain-
13 ing the name, address and political affiliation of each reg-
14 istered voter in such precinct from the clerk of the county
15 court, who shall charge a fee of one cent per name fur-
16 nished. The fees received by the clerk of the county court
17 shall be kept in a separate fund under his supervision, for
18 the purpose of defraying the cost of the preparation of
19 the precinct lists. Any unexpended balance in the fund
20 shall be transferred to the general fund of the county
21 court.

Sec. 37. *Hearings before County Court; Appeals.*—Any
2 person affected adversely in regard to any matter per-
3 taining to his registration may obtain a hearing before the
4 county court. The county court shall preserve and keep
5 all record evidence offered at such hearing and shall have
6 all oral evidence heard reduced to writing and preserved
7 and kept with other records. From the decision of the
8 county court such person or the person challenging his
9 registration shall have within thirty days an appeal of
10 right by petition to the circuit court of the respective

11 county. Such appeal may be taken by petition without
12 formal bill of exceptions or certification. The clerk of
13 the county court shall give reasonable notice of such ap-
14 peal thereof in writing to the party or parties to the pro-
15 ceedings.

16 The circuit court upon such appeal shall consider only
17 the record before the county court, which record shall
18 consist of the evidence considered by the county court in
19 reducing its decision. Such record shall be properly au-
20 thenticated by the clerk of the county court.

21 The circuit court may affirm the order of the county
22 court, whether the order be affirmative or negative; but
23 if it deems such order not to be reasonably justified by
24 the evidence considered, it may reverse such orders of the
25 county court in whole or in part as it deems just and
26 right; and if it deems the evidence considered by the
27 county court in reaching its decision insufficient, it may
28 remand the proceedings to the county court for further
29 hearing. Any such order or orders of the circuit court
30 shall be certified to the county court.

31 Any party to such appeal, may, within thirty days

32 after the date of a final order by the circuit court, apply
33 for an appeal to the supreme court of appeals, which may
34 grant or refuse such appeal at its discretion. The supreme
35 court of appeals shall have jurisdiction to hear and de-
36 termine the appeal upon the record before the circuit
37 court and to enter such order as it may find that the cir-
38 cuit court should have entered.

39 Judges of the circuit and supreme court of appeals in
40 vacation shall have the same power as that prescribed in
41 this section for their respective courts.

Sec. 38. *Time of Hearings before County Court.*—The
2 county court shall hold such hearings as shall be neces-
3 sary for the purpose of reviewing any case pertaining to
4 registration: *Provided*, That no such hearings shall be
5 held within the two weeks immediately preceding the
6 election in which the person whose registration is affected
7 seeks to vote.

Sec. 39. *Sessions of Courts in Registration Cases.*—It
2 shall be the duty of the circuit court and the supreme
3 court of appeals, in order to expedite registration and
4 election procedure, to hold such sessions as may be neces-

5 sary to determine any cases involving the registration of
6 voters.

Sec. 40. *Changes in Precinct Boundaries.*—Whenever a
2 new precinct has been created or the boundaries of any
3 precinct have been changed, the clerk of the county court
4 shall correct and transfer accordingly the registration
5 records of electors whose voting precincts have thus been
6 changed. The registration of an elector shall not be in-
7 validated by such alteration or transfer.

Sec. 41. *Reregistration.*—Whenever the county court
2 shall deem it necessary because of destruction of records,
3 or any other emergency, it shall have power to order a
4 reregistration in any precinct.

Sec. 41-a. *Purchase of Equipment for Initial Registra-*
2 *tion.*—The election commission, by resolution of the ma-
3 jority of the members, shall prescribe the type and
4 quantity of registration forms, poll books, and filing
5 equipment necessary for the completion of initial regis-
6 tration under this article, and shall make proper alloca-
7 tion of such materials to the counties.

8 The purchase of such forms, poll books and filing equip-

9 ment shall be made by the director of purchases in ac-
10 cordance with the procedure prescribed in chapter
11 twenty-five-a of the code of West Virginia.

Sec. 41-b. *Appropriations from General Revenues.*—

2 Appropriations for the purchase of the registration forms,
3 poll books, and filing equipment necessary for the com-
4 pletion of initial registration under this article shall be
5 paid out of the state general revenue fund.

Sec. 42. *Appropriation by County Court.*—The county

2 court shall budget the funds necessary for the payment of
3 the compensation of registrars and other assistants and
4 employees, and the fees of witnesses, and likewise for
5 preparing, securing, distributing/ notices, stationery and
6 other supplies, and other services which are necessary
7 for the purpose of this article. The county court shall not
8 include in its budget any sum for the purpose of preparing
9 or printing precinct lists. Any unexpended balances of
10 any appropriation heretofore made by the county court
11 for the purpose of carrying out any provision of the ex-
12 isting registration law shall be transferred to and made

13 available to the county court for the expenses of carrying
14 out the provisions of this article.

Sec. 43. *Disposition of Registration Records Under Prior*
2 *Laws.*—The registration records used prior to the date
3 when this article goes into effect shall be preserved by the
4 clerk of the county court for at least two years after this
5 article becomes effective, and during said period shall be
6 open for public inspection under proper regulations for
7 their safe keeping. Such records shall not be destroyed
8 without the previous consent in writing of the prosecut-
9 ing attorney of the respective county.

Sec. 44. *Unlawful Registration or Rejection of Voter;*
2 *Penalties.*—Any registrar or clerk of the county court who
3 knowingly registers or permits to be registered a person
4 not lawfully entitled to be registered, or who knowingly
5 refuses to register a person entitled to be registered, or
6 who knowingly assists in preventing such person from be-
7 ing registered, or who inserts or intentionally permits to
8 be inserted a name or other entries in any registration
9 form, knowing or having reason to know that such entry
10 should not be made, shall be guilty of a misdemeanor and

11 upon conviction shall be fined not more than one thousand
12 dollars or confined in the county jail for not more than one
13 year or both, at the discretion of the court.

14 Any person who registers or applies to be registered, or
15 who applies for a change of residence address, knowing or
16 having reason to know that he is not entitled to be regis-
17 tered, or to have his residence address changed on his
18 registration record, or any person who declares as his
19 address a place or address which he knows is not his legal
20 residence, or who impersonates another in an application
21 for registration, or who knowingly offers false naturaliza-
22 tion papers to establish his claim to be registered shall be
23 guilty of a misdemeanor, and upon conviction shall be
24 fined not more than one thousand dollars or confined in
25 the county jail for not more than one year or both, at the
26 discretion of the court.

Sec. 45. Neglect of Duty by Registration Officers; Pen-

2 *alties.*—Any registrar or clerk of the county court or their
3 authorized deputies or any other persons upon whom a
4 duty is laid by the permanent registration law, who shall
5 wilfully delay, neglect, or refuse to perform such duty,

6 shall be guilty of a misdemeanor, and upon conviction
7 shall be fined not more than one thousand dollars or con-
8 fined in the county jail for not more than one year
9 or both, at the discretion of the court.

Sec. 46. *Alteration or Destruction of Registration Rec-*
2 *ords; Penalties.*—Any person who intentionally inserts
3 or permits to be wrongfully inserted any name or material
4 entry on any registration form or any other record in con-
5 nection with registration; or who wrongfully alters or de-
6 stroys an entry which has been duly made; or who wrong-
7 fully takes and removes any such registration form, or
8 any other record authorized or required in connection
9 with registration, from the custody of any person having
10 lawful charge thereof, shall be guilty of a misdemeanor,
11 and upon conviction shall be fined not more than one thou-
12 sand dollars or confined in the county jail for not more
13 than one year or both, at the discretion of the court.

Sec. 47. *Withholding of Information; Penalties.*—Any
2 person who neglects or refuses to furnish to the secretary
3 of state or the county court any information which they
4 are authorized to obtain, in connection with registration,

5 or to exhibit any records, papers, or documents herein
6 authorized to be inspected by them, shall be guilty of a
7 misdemeanor and upon conviction shall be fined not more
8 than one thousand dollars or confined in the county jail
9 for not more than one year or both, at the discretion of
10 the court.

Sec. 48. *Interference with Registration of Voters; Pen-*
2 *alties.*—Any person who intentionally interferes with,
3 hinders, or delays another in the performance of any act
4 or duty in connection with registration or any person
5 who knowingly and wilfully prevents another from being
6 duly registered shall be guilty of a misdemeanor and upon
7 conviction shall be fined not more than one thousand dol-
8 lars or confined in the county jail for not more than one
9 year, or both, at the discretion of the court.

Sec. 49. *Destruction of Registration Records; Penalties.*
2 —Any person who without authority under the provisions
3 of this article destroys or attempts to destroy any regis-
4 tration document or record or who removes or attempts
5 to remove such registration document or record, shall be
6 guilty of a misdemeanor, and upon conviction shall be
7 fined not less than one hundred dollars nor more than

8 one thousand dollars or confined in the county jail for not
9 more than one year or both, at the discretion of the court.

Sec. 50. *Inconsistent Acts Repealed.*—All previous acts
2 and parts of acts inconsistent with this act are hereby re-
3 pealed.

Sec. 51. *Constitutionality.*—If any part of this act is
2 declared unconstitutional by a court of competent juris-
3 diction, its decision shall not affect any portion of this act
4 which remains, but the remaining portions shall be in full
5 force and effect as if the portions declared unconstitu-
6 tional had never been a part of the act.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. H. McKown
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

Alfred Watkins
Clerk of the Senate

J. R. Alf
Clerk of the House of Delegates

Dymond Randolph
President of the Senate

Malcolm R. Arnold
Speaker House of Delegates

The within approved this the 14th
day of March, 1941.

Matthew M. Neely
Governor.

Filed in the office of the Secretary of State
West Virginia MAR 17 1941
Wm. S. O'BRIEN,
Secretary of State