

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 207

(By Mr. Thomas)



PASSED March 6 1941

In Effect ninty days from Passage

1941

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House Bill No. 207
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[Passed March 6, 1941; in effect ninety days from passage.]

AN ACT to repeal section two, to amend and reenact section thirteen, to add section thirteen-a, to amend and reenact section seventeen, to add sections seventeen-a, seventeen-b, seventeen-c, eighteen-a and twenty-a, to article four; to amend and reenact sections twelve and thirteen; to add section thirteen-a, to amend and reenact section sixteen, to repeal and reenact section nineteen, to add section nineteen-a, to repeal and reenact section twenty-one, to amend and reenact section twenty-five, to add section twenty-five-a, to amend and reenact section twenty-nine, to add section thirty-one-a, to repeal and reenact section thirty-nine, article five; to amend and reenact section ten of article six; to add sections twelve-a and twelve-b, to repeal sections thirteen and twenty-three of article seven, chapter three; to repeal section seven; to repeal and reenact section fourteen of article three, chapter eight; to

amend and reenact section seven of article three, chapter eight-a, as enacted by chapter fifty-six, acts of the legislature, regular session, one thousand nine hundred thirty-seven, of the code of West Virginia, one thousand nine hundred thirty-one, for the purpose of integrating the machinery of primary and general elections throughout the state and its subdivisions with the system of permanent registration.

Be it enacted by the Legislature of West Virginia:

That section two be repealed, that section thirteen be amended and reenacted, that section thirteen-a be added, that section seventeen be amended and reenacted, that sections seventeen-a, seventeen-b, seventeen-c, eighteen-a and twenty-a be added to article four; that sections twelve and thirteen be amended and reenacted, that section thirteen-a be added, that section sixteen be amended and reenacted, that section nineteen be repealed and reenacted, that section nineteen-a be added, that section twenty-one be repealed and reenacted, that section twenty-five be amended and reenacted, that section twenty-five-a be added, that section twenty-nine be amended and reenacted, that section thirty-one-a be added, that section thirty-nine of article

five be repealed and reenacted; that section ten, article six be amended and reenacted; that sections twelve-a and twelve-b be added, that sections thirteen and twenty-three of article seven, chapter three be repealed; that section seven be repealed; that section fourteen, article three, chapter eight, be repealed and reenacted; and that section seven of article three, chapter eight-a, as enacted by chapter fifty-six, acts of the legislature, regular session, one thousand nine hundred thirty-seven, of the code of West Virginia, one thousand nine hundred thirty-one be amended and reenacted so as to read as follows:

Article 4. Nomination of Candidates.

Section 2. This section is hereby repealed.

Sec. 13. *Procuring Ballots and Other Primary Supplies.*—It shall be the duty of the board of ballot commissioners to appoint one or more of the commissioners of election at each precinct of the county to attend at the offices of the clerks of the circuit and county courts as the case may be, at least three days before each primary election to receive the ballots, ballot boxes, poll books, registration records and forms and all other supplies and materials for conducting the election at the respective

10 precincts. The commissioner or commissioners shall be
11 given ballots for each party to the number of one and
12 one-fifth times the number of registered voters of such
13 party in the election precinct, and shall be given ballot
14 boxes, election booths, and other supplies required to
15 be furnished for conducting the election at such precinct.
16 The respective clerk shall take from the election com-
17 missioner or commissioners receipts for supplies and ma-
18 terials received, which receipts shall be filed in the office
19 of the clerk of the county court or circuit court, as the
20 case may be. It shall be the duty of such commissioner
21 or commissioners to attend at such clerk's office and to
22 receive such ballots and all other election supplies to be
23 used in conducting the election at the respective precinct
24 and to deliver the same, with the seal of all sealed pack-
25 ages unbroken, at his election precinct in time to open
26 the election. Such commissioner or commissioners, if they
27 perform such services, shall receive the per diem and
28 mileage rate prescribed by law for this service. At the
29 same time there shall be delivered to an election com-
30 missioner designated by the ballot commissioners the

31 proper poll books bearing on each page the following
32 headings: "Names of Persons Voting for Candidates at
33 Precinct No.....in the district of.....
34 in the county of.....on this the.....day
35 of.....19.....; of the.....
36 party." Such poll books shall have columns headed re-
37 spectively: "Number of Voters", "Signature of Voters"
38 and "Challenge of Voter", and shall have under the head-
39 ing "Number of Voters" numbers, in consecutive order,
40 to the bottom of each page. Forms for oaths of commis-
41 sioners of election and poll clerks shall be written or
42 printed on the poll books, and one copy of such poll books
43 shall be supplied at each voting precinct for each political
44 party appearing on the primary ballot.

45 In case any commissioner of election so appointed shall
46 fail to appear at the offices of the clerks of such county
47 and circuit courts, by the close of the second day prior to
48 any election, as required by this section, the board of
49 ballot commissioners, or the chairman thereof, shall forth-
50 with dispatch a special messenger to the commissioners of
51 election of each respective precinct with the ballots, regis-

52 tration records, ballot boxes, poll books and other supplies
53 for such precinct. Such messenger shall be allowed two
54 dollars for his time, and five cents a mile for the distance
55 necessary to be traveled by him, and shall promptly re-
56 port to the clerks of the circuit and county court respec-
57 tively and file with such clerks the receipts of the person
58 to whom he delivered such ballots and other supplies, and
59 his affidavit, stating when and to whom he delivered them.

Sec. 13-a. *Municipal Precinct Registration Records.*—At
2 least three days prior to each municipal primary election,
3 it shall be the duty of the appropriate officer designated
4 by the municipality to procure from the office of the clerk
5 of the county court, the municipal registration records
6 necessary for the conduct of elections. Such records shall,
7 within ten days after the date of the municipal election,
8 be returned to the office of the clerk of the county court
9 by the appropriate officer or officers designated by the
10 municipality.

11 In case of a contested municipal election, the registra-
12 tion records of any challenged voter shall be made avail-
13 able by the clerk of the county court to the officer or

14 tribunal empowered to determine the contest. Such rec-
15 ords shall be returned to the office of the clerk of the
16 county court within a reasonable time after the contest
17 shall have been finally decided.

18 The clerk of the county court shall acknowledge the
19 release and return of the registration records under this
20 section by the issuance of appropriate receipts.

21 In the event any municipal registration record is lost,
22 destroyed, defaced, or worn in any way as to warrant
23 replacement, it shall be the duty of the clerk of the county
24 court to prepare a duplicate of such record and it shall be
25 the duty of the municipality to pay for such replacement.

26 Sec. 17. *Conducting Primary; Voting.*—Any person of-
27 fering to vote in a primary election shall be given a bal-
28 lot by the poll clerks. Such person shall sign his name in
29 the space marked "signature of voter" on the poll book
30 prescribed in section thirteen of this article. If such per-
31 son is physically or otherwise unable to sign his name,
32 his mark shall be affixed by one of the poll clerks in the
33 presence of the other. The name of the poll clerk affix-
34 ing the mark of such person shall be indicated beneath

10 such affixation.

11 The clerks shall write their names at the place desig-
12 nated on the back of the official ballot called for and de-
13 liver it to the voter, who shall have but one ballot unless
14 he shall return the same spoiled; if he shall return the
15 same spoiled, the clerks shall immediately destroy the
16 ballot so spoiled, and deliver to him another ballot in the
17 same manner as they delivered the first one. The voter
18 shall then forthwith, and without leaving the room, re-
19 turn alone to the booth or compartment prepared for the
20 purpose, and there prepare his ballot. Any voter, because
21 of illiteracy or disability as shown by the registration rec-
22 ord, may receive the assistance as provided for in sec-
23 tion twenty-one, of article five, chapter three, of the code
24 of West Virginia.

25 After preparing the ballot, the voter shall fold the same
26 so that the face shall not be exposed, but so as to show
27 plainly the name of the political party and the names of
28 the poll clerks signed thereon. The voter shall then an-
29 nounce his name and present his ballot to the commis-
30 sioner of his party, if there be one, who shall hand the

31 same to another election officer, who shall deposit it in
32 the ballot box, if such ballot is the official one and prop-
33 erly signed. When the voter has voted, he shall retire
34 immediately from the election room, and beyond the sixty
35 foot limit thereof, and shall not return, except by per-
36 mission of the commissioners.

Sec. 17-a. *Challenges at the Polls.*—It shall be the duty
2 of the members of the receiving board, jointly or severally,
3 to challenge the right of any person requesting a ballot
4 to vote in a primary election, if such person's registration
5 record is not available at the time of the election, or if
6 the signature written by the person in the poll book does
7 not correspond with the signature purported to be his on
8 the registration record, or if the registration record of
9 such person indicates any other legal disqualification.

Sec. 17-b. *Voting by Challenged Voters.*—Any person
2 challenged in accordance with section 17-a of this article,
3 shall nevertheless be permitted to vote in the primary
4 election. Such person shall however, be given a ballot
5 not endorsed by the poll clerks. In lieu of such endorse-
6 ments, the poll clerks shall fill and sign an appropriate

7 form indicating the challenge and the reason thereof, and
8 the name or names of the challengers. Such form shall
9 be securely attached to the voter's ballot and deposited
10 together with the ballot in a separate box or envelope
11 marked "challenged ballots."

Sec. 17-c. *Voting Record.*—In any primary election, it
2 shall be the duty of a poll clerk, with the approval of the
3 other poll clerk, to indicate the fact that a person voted
4 in such primary, by inserting on the registration record,
5 if available, a distinguishing initial or initials of the po-
6 litical party for whose candidates he voted. If a person is
7 challenged at the polls, such facts shall be indicated by
8 the poll clerks on the registration record. The subsequent
9 removal of the challenge shall be recorded on the regis-
10 tration record by the clerk of the county court.

Sec. 18-a. *Ballots of Challenged Voters.*—The ballot of
2 any voter challenged according to sections seventeen-a
3 and seventeen-b of this article shall not be counted by the
4 election officials. The county court shall on its own mo-
5 tion, at the time of the canvassing of the election returns,
6 sit in session to determine the validity of such challenges.

7 If the county court shall determine that the challenges
8 are unfounded, the ballot of the challenged voter, if other-
9 wise valid, shall be counted and tallied together with the
10 regular ballots cast in the election. In such determinations
11 the county court shall disregard technical errors, omis-
12 sions, or oversights if it can reasonably be ascertained
13 that the challenged voter was entitled to vote.

Sec. 20-a. *Recount Procedure.*—The provisions of ar-
2 ticle five of this chapter, relating to the recount of votes
3 in final elections, shall, to the extent that they are ap-
4 plicable, be operative in primary elections.

**Article 5. Conducting Elections; Ascertaining and Certifying
the Results.**

Section 12. *Supplies for Holding Election.*—The clerk of
2 the county court of each county shall provide poll books,
3 tally sheets, ballot boxes, voting booths, registration rec-
4 ords and forms, strong and durable envelopes upon which
5 to make returns, blank forms for certifying returns and
6 whatever further supplies are needed for holding the elec-
7 tion and making the return thereof. The poll books shall
8 bear upon each page the following heading: “Names of

9 persons voting at precinct No. _____ in the District
10 of _____ in the county of _____
11 on this the _____ day of _____
12 in the year _____.” Such poll books shall
13 have columns headed respectively: “Number of Voters,”
14 “Signature of Voter,” and “Challenge of Voter,” and shall
15 have under the heading “Number of Voters”, numbers in
16 consecutive order to the bottom of each page. Forms for
17 oaths of commissioners of election and poll clerks shall
18 be written or printed on the poll books. Each ballot box
19 shall be provided with two locks with different keys so
20 that the key for one lock will not open the other, and shall
21 be so constructed as to be safely and securely closed and
22 locked, with an opening in the lid of the box sufficient
23 only for the passage of a single ballot.

Sec. 13. *Delivery of Ballots and Supplies to Election*

2 *Commissioners.*—It shall be the duty of the board of ballot
3 commissioners to appoint one or more of the commis-
4 sioners of election at each precinct of the county to attend
5 at the offices of the clerks of the circuit and county courts
6 at least three days before the election, to receive the

7 ballots, ballot boxes, poll books, registration records and
8 forms and other supplies and materials for conducting the
9 election at the respective precinct. Such commissioner
10 or commissioners shall receive the per diem and mileage
11 rate prescribed by law for this service. It shall be the
12 duty of such commissioners to receive such supplies and
13 materials from the respective clerks and to deliver the
14 same, with the seal of all sealed packages unbroken, at
15 the election precinct in time to open the election. The
16 ballots shall be delivered in sealed packages; and there
17 shall be two ballot boxes for each precinct for which a
18 receiving and counting board of election commissioners
19 have been appointed. The clerks shall take a receipt for
20 the respective materials delivered to the above commis-
21 sioner or commissioners of election, and shall file such
22 receipt in their respective offices.

Sec. 13-a. *Municipal Precinct Registration Records.*—

2 At least three days prior to every municipal election other
3 than primary elections, it shall be the duty of the appro-
4 priate officer designated by the municipality to procure
5 from the municipal precinct file in the office of the clerk

6 of the county court the registration records necessary for
7 the conduct of such election.

8 Such records shall, within ten days after the date of the
9 municipal election, be returned to the office of the clerk
10 of the county court by the appropriate officer or officers
11 designated by the municipality.

12 In case of a contested municipal election, the registra-
13 tion record of any challenged voter shall be made avail-
14 able by the clerk of the county court to the officer or
15 tribunal empowered to determine the contest. Such rec-
16 ords shall be returned to the office of the clerk of the
17 county court within a reasonable time after the contest
18 shall have been finally decided.

19 The clerk of the county court shall acknowledge the
20 release and return of the registration records under this
21 section by the issuance of appropriate receipts.

22 In the event any municipal registration record is lost,
23 destroyed, defaced, or worn in any way as to warrant
24 replacement, it shall be the duty of the clerk of the county
25 court to prepare a duplicate of such record and it shall

26 be the duty of the municipality to pay for such replace-
27 ment.

Sec. 16. *Opening and Closing the Polls.*—At every pri-
2 mary, general or special election the polls shall be opened
3 in each precinct on the day of such election at six-thirty
4 o'clock in the forenoon and be closed at seven-thirty in
5 the evening, eastern standard time. In all precincts
6 wherein two election boards shall have been appointed
7 the receiving board shall attend at the time and open
8 the polls.

9 At the time of opening the polls, the election commis-
10 sioners shall examine the ballot box and ascertain that
11 there are no ballots in the same, and they shall thereupon
12 securely lock the box and give one key to one of the
13 commissioners and one to a commissioner of the opposite
14 political party, who shall hold the same, and such boxes
15 shall not be again opened until the time to begin counting
16 the votes arrived and for that purpose.

17 At or before opening the polls, the commissioners of
18 election shall open the package containing the ballots in

19 such manner as to preserve the seals intact and thereupon
20 deliver all of the ballots to the poll clerk.

21 Before any voter is permitted to vote, the commissioners
22 of election shall proclaim that such election is opened.
23 When the polls are closed, proclamation must be made
24 of the fact by one of the commissioners of election to the
25 people outside, in a loud and audible tone of voice, and a
26 minute of such proclamation and of the time when it
27 was made, must be entered on the poll books by the clerks,
28 and, after such minute has been made and entered, no
29 ballot of any voter shall be cast or received.

Sec. 19. *Conducting Elections Other Than Primaries;*

2 *Voting.*—Any person offering to vote in an election shall
3 be given a ballot by the poll clerks. Such person shall
4 sign his name in the space marked “signature of voter”
5 on the poll book prescribed in section ~~thirteen~~ ^{twelve} of this
6 article. If such person is physically or otherwise unable
7 to sign his name, his mark shall be affixed by one of the
8 poll clerks in the presence of the other. The name of the
9 poll clerk affixing the mark of such person shall be in-
10 dicated beneath such affixation.

or
poll clerk
or
poll clerk

11 The clerks shall write their names at the place desig-
12 nated on the back of the official ballot called for and de-
13 liver it to the voter, who shall have but one ballot un-
14 less he shall return the same spoiled; if he shall return
15 the same spoiled, the clerks shall immediately destroy
16 the ballot so spoiled, and deliver to him another ballot in
17 the same manner as they delivered the first one.

18 On receipt of the ballot the voter shall forthwith, and
19 without leaving the election room, retire alone to one of
20 the booths or compartments provided for the purpose and
21 shall prepare the ballot, using a black lead pencil or other
22 means for the purpose, and observing the following rules:

23 (a) If the voter desires to vote a straight ticket, or,
24 in other words for each and every candidate for one party
25 for whatever office nominated, he shall either:

26 (1) Make a cross mark in the circular space below the
27 device and above the name of the party at the head of
28 the ticket; or

29 (2) Make a cross mark on the left and opposite the
30 name of each and every candidate of such party in the
31 blank space provided therefor; or

32 (3) Mark out, by lines, all the tickets on the ballot,
33 other than the ticket he desires to vote.

34 (b) If the voter desires to vote a mixed ticket, or, in
35 other words, for candidates of different parties, he shall
36 either:

37 (1) Omit making a cross in the circular space above
38 the name of the party, and make a cross mark in the blank
39 space before the name of each candidate for whom he
40 desires to vote on whatever ticket the name may be; or

41 (2) Make a cross mark in the circular space above the
42 name of the party for some of whose candidates he de-
43 sires to vote, and then make a cross mark before the
44 name of any candidate of any other party for whom he
45 may desire to vote; in which case the cross mark in the
46 circular space above the name of the party will cast his
47 vote for every candidate on the ticket of such party ex-
48 cept for offices for which candidates are marked on other
49 party tickets, and the cross marks before the name of
50 such candidates will cast his vote for them; or

51 (3) Write with black lead pencil or other means the
52 name of any person for whom he desires to vote in the

53 space immediately below the name of the opposing can-
54 didate for the same office, on the ticket voted by him, and
55 the name so written shall be counted.

56 If, in marking either a straight or mixed ticket as
57 above defined, a cross mark is made in the circular space
58 above the name of a party at the head of the ticket, and
59 also one or more cross marks made before the name or
60 names of candidates on the same ticket for offices for
61 which candidates on other party tickets are not indi-
62 vidually marked, such marks before the name of candi-
63 dates on the ticket so marked shall be treated as surplus-
64 age and ignored.

65 If the voter desires to vote for any person whose name
66 does not appear on the ticket, he may substitute the name
67 by writing it with black pencil or other means in the
68 proper place, and making a cross mark in the blank space
69 at the left of the name so written.

70 If the voter marks more names than there are persons
71 to be elected to an office, or if, for any reason, it is impos-
72 sible to determine the voter's choice, for an office to be
73 filled, the ballot shall not be counted for such office.

74 No ballot shall be rejected for any technical error which
75 does not make it impossible to determine the voter's
76 choice.

77 After preparing the ballot the voter shall fold the same
78 so that the face shall not be exposed and so that the names
79 of the poll clerks thereon shall be seen. The voter shall
80 then announce his name and present his ballot to one of
81 the commissioners who shall hand the same to another
82 commissioner, of a different political party, who shall de-
83 posit it in the ballot box, if such ballot is the official one
84 and properly signed. The commissioners of election may
85 inspect every ballot before it is deposited in the ballot
86 box, to ascertain whether it is single, but without unfold-
87 ing or unrolling it, so as to disclose its content. When the
88 voter has voted, he shall retire immediately from the
89 election room, and beyond the sixty foot limit thereof,
90 and shall not return, except by permission of the com-
91 missioners.

Sec. 19-a. *Voting Record*.—In any election under this
2 article it shall be the duty of a poll clerk, in the presence
3 of the other poll clerk, to indicate by a check mark in-

4 sserted in the appropriate place on the registration record
5 of each voter the fact that such voter voted in the respec-
6 tive election. If a person is challenged at the polls, such
7 fact shall be indicated by the poll clerks on the registration
8 record together with the name of the challenger. The
9 subsequent removal of the challenge shall be recorded
10 on the registration record by the clerk of the county court.

Sec. 21. *Assistance to Voters Unable to Write.*—Any per-
2 son whose registration record indicates his inability to
3 write may declare his choice of candidates to the poll
4 clerks who, in the presence of the voter and in the pres-
5 ence of each other, shall prepare the ballot for voting in
6 the manner hereinbefore provided, and, on request, shall
7 read over to such voter the names of candidates on the
8 ballot as so prepared; or such voter may require the poll
9 clerks to indicate to him the relative position of the names
10 of the candidates on the ballot, whereupon the voter shall
11 retire to one of the booths or compartments to prepare
12 his ballot in the manner hereinbefore provided, or may
13 request the poll clerks to mark the ballot as he directs.

Sec. 25. *Challenges at the Polls.*—It shall be the duty of

2 the receiving board, jointly or severally, to challenge the
3 right of any person, requesting a ballot, to vote in the
4 election, if such person's registration record is not availa-
5 ble at the time of the election, or if the signature written
6 by the person in the poll book does not correspond with
7 the signature purported to be his on the registration rec-
8 ord, or if the registration record of such person indicates
9 any other legal disqualification.

Sec. 25-a. *Voting by Challenged Voters.*—Any person
2 challenged in accordance with section twenty-five of this
3 article, shall nevertheless be permitted to vote in the elec-
4 tion. Such person shall, however, be given a ballot not
5 endorsed by the poll clerks. In lieu of such endorsements,
6 the poll clerks shall fill and sign an appropriate form in-
7 dicating the challenge and the reason thereof, and the
8 name or names of the challengers. Such form shall be se-
9 curely attached to the voter's ballot and deposited together
10 with the ballot in a separate box or envelope marked
11 "challenged ballots."

Sec. 29. *Counting and Destruction of Ballots Not Voted;*
2 *Recordation of Number of Voters.*—Immediately on clos-

3 ing the polls, the commissioners of election shall ascer-
4 tain the number of ballots destroyed during the election
5 and count all of the ballots remaining not voted, and
6 record the number of each on tally sheets. All such re-
7 maining ballots shall be destroyed immediately by fire
8 or otherwise. The commissioners of election shall as-
9 certain from the poll books the number of persons who
10 voted and shall report the same, over their signatures,
11 to the clerk of the county court.

Sec. 31-a. *Ballots of Challenged Voters.*—The ballot of
2 any voter challenged according to sections twenty-five
3 and twenty-five (a) of this article shall not be counted
4 by the election officials. The county court shall on its
5 own motion, at the time of the canvassing of the election
6 returns sit in session to determine the validity of such
7 challenges. If the county court shall determine that the
8 challenges are unfounded, the ballot of each challenged
9 voter, if otherwise valid, shall be counted and tallied to-
10 gether with the regular ballots cast in the election. In
11 such determinations the county court shall disregard tech-
12 nical errors, omissions or oversights, if it can reasonably

13 be ascertained that the challenged voter was entitled to
14 vote.

Sec. 39. *Destruction of Affidavits, Certificates, and Designation of Election Officers.*—At the expiration of one
2 year after any election, the affidavits taken and returned
3 by any registrar or any election officer, applications for
4 absent voters' ballots, rejected absent voters' ballots, and
5 certificates of nominations of candidates shall be de-
6 stroyed; at the expiration of two years from the date of
7 any election the written designations of election officers
8 and of ballot commissioners shall be destroyed. If
9 the further preservation of any of the documents men-
10 tioned in this section shall be required by the order of the
11 court, the same shall be destroyed at the expiration of the
12 time fixed for the further preservation thereof by such
13 order.

Article 6. Voting by Absentees.

Section 10. *Canvass of Ballots.*—At any time between
2 the opening and closing of the polls on such election day,
3 the commissioners of election of such precinct, in the
4 presence of each other, shall open the outer or carrier

5 envelope only, announce the absent voter's name and
6 compare the signature upon the application with the sig-
7 nature upon the affidavit on the ballot envelope and upon
8 the voter's registration record. In case the election com-
9 missioners find the affidavit properly executed and at-
10 tested, that the signatures correspond, that the applicant
11 is a duly qualified elector of the precinct, that he is duly
12 registered, and that the applicant has not voted in person
13 at such election, or, in case of a primary election, if he has
14 not previously exercised the right of suffrage, if he shall
15 have executed the proper declaration relative to his age
16 and qualifications and the party with which he intends to
17 affiliate, the election commissioner shall open the envelope
18 containing the absent voter's ballot in such manner as
19 not to deface or destroy the affidavit therein and take out
20 the ballot or ballots inclosed therein, without unfolding
21 or permitting the same to be unfolded or examined. The
22 commissioners shall then deliver such ballot or ballots to
23 the poll clerks, who shall at once proceed to write their
24 names on the back of each of such ballots in the same
25 manner as other ballots are required to be endorsed. A

26 commissioner shall thereupon deposit the same in the bal-
27 lot box, and the poll clerks shall indicate in the appropri-
28 ate place on the registration record in the same manner
29 as if he had appeared personally, the fact that such ab-
30 sent voter had voted, and shall enter the absent voter's
31 name on the poll book. In the event that such affidavit is
32 found to be insufficient, or that the signatures do not cor-
33 respond, or that the applicant is not a duly qualified elec-
34 tor in such precinct, or that he has voted in person at
35 such election, or that he has not registered, or that the
36 ballot is open, or has been opened and resealed, or that the
37 ballot envelope contains more than one ballot of any one
38 kind, or, in case of a primary election, if he shall have
39 failed to execute the proper declarations relative to his
40 age and qualifications and the party with which he in-
41 tends to affiliate, the procedure to be followed shall be
42 as prescribed in this chapter relating to challenges at the
43 polls; *Provided*, That a notice of such a challenge shall be
44 sent by the clerk of the county court to the respective ab-
45 sentee voter by registered mail, with return receipt re-
46 quested.

Article 7. Offenses and Penalties.

Section 12-a. *Fraudulent Conduct of Election Officers at*
2 *the Polls.*—Any election officer who refuses the vote of a
3 duly registered and qualified voter, whom he knows is
4 entitled to vote or who accepts the vote of a person whom
5 he knows to be not lawfully registered, without chal-
6 lenging such persons, shall be guilty of a misdemeanor,
7 and upon conviction fined not more than one thousand
8 dollars or confined in the county jail for not more than
9 one year, or both, at the discretion of the court.

Sec. 12-b. *Malicious or Frivolous Challenges.*—Any per-
2 son who shall maliciously or frivolously, and without prob-
3 able cause, challenge the right of any person to vote shall
4 be guilty of a misdemeanor, and upon conviction be fined
5 not more than one hundred dollars or confined in the
6 county jail for not more than ninety days, or both, at the
7 discretion of the court.

Sec. 13. *Repealed.*—Section thirteen is hereby repealed.

Sec. 23. *Repealed.*—Section twenty-three is hereby re-
2 pealed.

Chapter 8. MUNICIPAL CORPORATIONS

Article 3. Election, Appointment, and Qualification of Officers.

Section 7. *Repealed.*—Section seven is hereby repealed.

Sec. 14. *Integration of Municipal Elections with System of Permanent Registration.*—It shall be the duty of each municipality by ordinance to make provision for integrating the conduct of all municipal elections with the system of Permanent Registration of Voters. Such ordinances, shall, to the extent that they are reasonably applicable, parallel those provisions of chapter three of the official code, which integrate county-state elections with the Permanent Registration System. The provisions of this Act shall supersede conflicting provisions in existing municipal charters and shall be deemed as amendments to such charters.

Chapter 8-a. MUNICIPAL HOME RULE

Article 3. Home Rule Charters; Ordinances.

Section 7. *Elections.*—Regular city elections under a home rule charter shall be held on the first Tuesday in June at which election city officers shall be chosen to take office upon the first day of July next ensuing for a

5 term of as many years, not to exceed four, as the charter
6 may prescribe.

7 A home rule charter shall provide a method and time
8 for nominating candidates, conducting elections, and de-
9 termining and certifying results of elections. A charter
10 may prescribe that the provisions of general law with
11 respect to primary and general elections so far as ap-
12 plicable, shall apply to city elections: *Provided*, That the
13 provisions of sections fourteen, article three, chapter eight
14 of the official code, as herein amended shall be construed
15 as mandatory.

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 *ninty days from* passage.

Atale Watkins

Clerk of the Senate

J. Raliff

Clerk of the House of Delegates

Byron B. 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
of West Virginia **MAR 17 1941**

Wm. S. O'BRIEN,
Secretary of State