ENROLLED

HOUSE BILL No. 39

(By Mr. Taylor of Mingo)

PASSED March 1, 1943

In Effect from Passage
AN ACT to amend and reenact section seventeen, article four, and section nineteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the conduct of primary and other elections, and voting therein.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article four, and section nineteen, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter forty-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:
Section 17. Conducting Primary; Voting.—Any person offering to vote in a primary election shall be required to sign his name in the space marked "signature of voter" on the poll book prescribed in section thirteen of this article, and until such person shall so sign the poll book no ballot shall be given to him. After having signed the poll book, as aforesaid, a ballot shall be given to the voter by the poll clerks. If such person is physically or otherwise unable to sign his name, his mark shall be affixed by one of the poll clerks in the presence of the other. The name of the poll clerk affixing the mark of such person shall be indicated beneath such affixation.

The clerks shall write their names at the place designated on the back of the official ballot called for and deliver it to the voter, who shall have but one ballot unless he shall return the same spoiled; if he shall return the same spoiled, the clerk shall immediately destroy the ballot so spoiled, and deliver to him another ballot in the same manner as they delivered the first one. The voter shall then forthwith, and without leaving the room, return alone to the booth or compartment prepared for the purpose, and there prepare
his ballot. Any voter, because of illiteracy or disability, as shown by the registration record, may receive the assistance as provided for in section twenty-one, article five, chapter three of the code of West Virginia.

After preparing the ballot, the voter shall fold the same so that the face shall not be exposed, but so as to show plainly the name of the political party and the names of the poll clerks signed thereon. The voter shall then announce his name and present his ballot to the commissioner of his party, if there be one, who shall hand the same to another election official, who shall deposit it in the ballot box, if such ballot is the official one and properly signed. When the voter has voted, he shall retire immediately from the election room, and beyond the sixty foot limit thereof, and shall not return, except by permission of the commissioners.

Sec. 19. Conducting Elections other than Primaries;

Voting.—Any person offering to vote in an election shall sign his name in the space marked "signature of voter" on the poll book prescribed in section twelve of this article before being given a ballot, and after such person
shall have so signed the poll book a ballot shall be given him by the poll clerks. If such person is physically or otherwise unable to sign his name, his mark shall be affixed by one of the poll clerks in the presence of the other. The name of the poll clerk affixing the mark of such person shall be indicated beneath such affixation.

The clerks shall write their names at the place designated on the back of the official ballot called for and deliver it to the voter, who shall have but one ballot unless he shall return the same spoiled; if he shall return the same spoiled, the clerks shall immediately destroy the ballot so spoiled, and deliver to him another ballot in the same manner as they delivered the first one.

On receipt of the ballot the voter shall forthwith, and without leaving the election room, retire alone to one of the booths or compartments provided for the purpose and shall prepare the ballot, using a black lead pencil or other means for the purpose and observing the following rules:
(a) If the voter desires to vote a straight ticket, or, in other words, for each and every candidate for one party for whatever office nominated, he shall either:

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

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

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

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

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

(2) Make a cross mark in the circular space above the name of the party for some of whose candidates he
desires to vote, and then make a cross mark before the name of any candidate of any other party for whom he may desire to vote; in which case the cross mark in the circular space above the name of the party will cast his vote for every candidate on the ticket of such party except for offices for which candidates are marked on other party tickets, and the cross marks before the name of such candidates will cast his vote for them; or

(3) Write with black lead pencil or other means the name of any person for whom he desires to vote in the space immediately below the name of the opposing candidate for the same office, on the ticket voted by him, and the name so written shall be counted.

If, in marking either a straight or mixed ticket as above defined, a cross mark is made in the circular space above the name of a party at the head of the ticket, and also one or more cross marks made before the name or names of candidates on the same ticket for offices for which candidates on other party tickets are not individually marked, such marks before the name of
candidates on the ticket so marked shall be treated as surplusage and ignored.

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

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

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

After preparing the ballot the voter shall fold the same so that the face shall not be exposed and so that the names of the poll clerks thereon shall be seen. The voter shall then announce his name and present his ballot to one of the commissioners who shall hand the same to another commissioner, of a different political
party, who shall deposit it in the ballot box, if such ballot is the official one and properly signed. The commissioners of election may inspect every ballot before it is deposited in the ballot box, to ascertain whether it is single, but without unfolding or unrolling it, so as to disclose its content. When the voter has voted, he shall retire immediately from the election room, and beyond the sixty-foot limit thereof, and shall not return, except by permission of the commissioners.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Ray J. Gemser
Chairman Senate Committee

Evel K. Petree
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Clyde Wark
Clerk of the Senate

Clerk of the House of Delegates

James Pauze
President of the Senate

John C. Amos
Speaker House of Delegates

The within approval this the 10

day of March, 1943.

Matthew Neely
Governor

Filed in the office of the Secretary of State
of West Virginia MAR 10 1943

Wm. S. O'Brien, Secretary of State