WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED
SENATE BILL NO. 2

(By Mr. [Signature])

PASSED [Signature] March 7, 1963

In Effect [Signature] Passage

Filed in Office of the Secretary of State of West Virginia 3-16-63
JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

Senate Bill No. 2
(By Mr. Carson, Mr. President)

[Passed March 9, 1963; in effect ninety days from passage.]

AN ACT to repeal chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new chapter three, all relating to the establishment, administration and regulation of elections and election procedures, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new chapter three be enacted in lieu thereof to read as follows:
CHAPTER 3. ELECTIONS


Section 1. Purpose of Election Code.—This chapter shall constitute and may be cited as the "West Virginia Election Code" and contemplates and comprehends a code of laws for the establishment, administration and regulation of elections and election procedures in the State of West Virginia.

Sec. 2. Scope of Chapter.—Unless restricted by the context, the provisions of this chapter shall apply to every general, primary, and special election in which candidates are nominated or elected or in which voters pass upon any public question submitted to them, except that the provisions hereof shall be construed to be operative in municipal elections only in those instances in which they are made expressly so applicable.

Unless the context clearly requires a different meaning, as herein used:

"Voter" shall mean any person who possesses the statutory and constitutional qualifications for voting;

"Election" shall mean the procedure whereby the
voters of this state or any subdivision thereof elect persons to fill public offices or vote on public questions;

"Any election" or "all elections" shall include every general, primary, or special election held in this state, or in any of its subdivisions, for the purpose of nominating or electing federal or state officers, or county, city, town or village officers of any subdivision now existing or hereafter created, or for voting upon any public question submitted to the people of the state or any of the aforesaid subdivisions;

"Office" shall be construed to mean "public office" which shall include any elective office provided for by the constitution or laws of the United States or of this state to which a salary or other compensation attaches;

"Candidate" shall mean any person to be voted for at an election;

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

Sec. 3. Persons Entitled to Vote.—Citizens of the state
Section 3 shall be entitled to vote at all elections held within the precincts of the counties and municipalities in which they respectively reside. But no person who has not been registered as a voter as required by law, or who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in an election, or who, in the case of state-county elections has not been a bona fide resident of the state for one year and of the county in which he offers to vote for sixty days next preceding such election, or who in the case of municipal elections has not been a bona fide resident of the state for one year and of the municipality in which he offers to vote for sixty days next preceding such election, shall be permitted to vote at such election while such disability continues. Subject to the qualifications otherwise prescribed in this section, however, a minor shall be permitted to vote in a primary election if he will have reached the age of twenty-one years on the date of the general election next to be held after such primary election.

Sec. 4. Manner of Voting.—In all elections the mode
of voting shall be by ballot, but the voter shall be left free to vote by either open, sealed, or secret ballot, as he may elect. Voting by ballot may be accomplished as provided in articles three, four, five and six of this chapter.

Sec. 5. Voting Precincts and Places Established.—The precinct shall be the basic territorial election unit. The county court shall divide each magisterial district of the county into election precincts, shall number the precincts, shall determine and establish the boundaries thereof, and shall designate one voting place in each precinct, which place shall be established as nearly as possible at the point most convenient for the voters of the precinct. Each magisterial district shall contain at least one voting precinct and each precinct shall have but one voting place therein.

Each precinct within any urban center shall contain not less than three hundred nor more than eight hundred registered voters. Each precinct in a rural or less thickly settled area shall contain not less than two hundred nor more than seven hundred registered voters. If, at any
time the number of registered voters shall exceed the
maximum number in either case herein specified, it shall
be the duty of the county court to, and it shall, rearrange
the precincts within the political division so that the
new precincts formed therefrom, or from any part there-
of, shall each contain a number of registered voters
within the limits above provided. If such county court
fails to so act as herein directed, any qualified voter of
the county may apply for a writ of mandamus to compel
the performance of this duty.

In order to facilitate the conduct of local and special
elections and the use of election registration records
therein, precinct boundaries shall be established to co-
incide with the boundaries of any municipality of the
county and with the wards or other political subdivisions
of the municipality except in instances where found by
the county court to be wholly impracticable so to do.

The provisions of this section shall be subject to the
provisions of section twenty-eight of article four of this
chapter relating to the number of voters in precincts in
which voting machines are used.
Sec. 6. Municipal Voting Precincts.—The governing bodies of all municipalities shall, for the purpose of municipal elections, provide by ordinance for making the voting precincts in the respective municipalities coincide, as nearly as possible, to the boundaries of the voting precincts fixed by the county court for all state and county elections.

Sec. 7. Precinct Changes; Procedure; Precinct Record.

—Subject to the provisions and limitations of section five of this article, the county court of any county may change the boundaries of any precinct within such county, or divide any precinct into two or more precincts, or consolidate two or more precincts into one, or change any place of holding elections, whenever the public convenience may require it. If by reason of the destruction of the house or structure at which a voting place is established, or if for any other reason the election cannot be held thereat, and no provision has been made by the county court for holding the election at another place, the commissioners of election at such place may hold the election at the place nearest thereto which they can
secure for the purpose; and in such case they shall make
known by proclamation, to the voters assembled at such
first named place of voting, the place at which the elec-
tion will be held. The county court shall, in such case,
establish another place of voting for said precinct as soon
thereafter as practicable. No order effecting such change,
division, or consolidation shall be made by the county
court within ninety days next preceding an election nor
without giving notice thereof at least one month before
such change, division or consolidation, by publication
once a week for two successive weeks in two newspapers
published in said county, if such there be, representing
the two political parties which cast the highest and next
highest number of votes in the state at the last preceding
general election, and by notices posted at four public
places in each precinct affected thereby.

Such court shall also, within fifteen days after the date
of such order, cause a copy thereof to be published once
a week for two successive weeks in two newspapers
published as aforesaid.

Such court shall also, before the next succeeding elec-
tion, cause the voters in the several precincts so affected by such order to be duly registered in the proper precinct or precincts.

The county court shall keep in a well-bound book, marked "election precinct record," a complete record of all their proceedings hereunder and of every order made creating a precinct or precincts or establishing a place of voting therein. Such "election precinct record" shall be kept by the county court clerk in his office, and shall, at all reasonable hours, when not actually in use by the county court, be open to inspection by any citizen of the county.

Sec. 8. Political Party Defined.—Any affiliation of voters representing any principle or organization which, at the last preceding general election, polled for its candidate for governor at least one per cent of the total number of votes cast for all candidates for that office in the state, shall be a political party, within the meaning and for the purpose of this chapter.

Sec. 9. Political Party Committees; How Composed.—

At the May primary election in the year one thousand
nine hundred sixty-four and in every fourth year there-
after, the voters of each political party in each senatorial
district shall elect two male and two female members of
the state executive committee of the party. In senatorial
districts containing two or more counties, not more than
two such elected committee members shall be residents
of the same county. The committee, when convened and
organized as herein provided, shall appoint three addi-
tional members of the committee from the state at large.

At such primary election, the voters of each political
party in each county shall elect one male and one female
member of the party’s executive committee of the con-
gressional district and of the senatorial district in which
such county is situated. At the same time such voters in
each magisterial district of the county shall elect one
male and one female member of the party’s county ex-
ecutive committee and, in any county containing a city
of ten thousand or more in population, such voters of each
ward of such city within the county shall elect one male
and one female member of such county party executive
committee in addition to the members thereof chosen
24 from the magisterial district or districts in which such
city is situated.

26 All members of executive committees, selected for each
27 political division as herein provided, shall reside within
28 the county, district, or ward from which chosen.

29 The term of office of all members of executive com-
30 mittees so elected shall begin on the first day of June,
31 following said May primary, and shall continue for four
32 years thereafter and until their successors are elected
33 and qualified. Vacancies in the state executive com-
34 mittee shall be filled by the members of the committee
35 for the unexpired term. Vacancies in the congressional,
36 senatorial and county executive committees shall be
37 filled by the executive committee of the county in which
38 such vacancy exists, and shall be for the unexpired
39 term.

40 As soon as possible after the first day of June, following
41 the election of the new executive committees, as herein
42 provided, they shall convene within their respective
43 political divisions, on the call of the chairman of corre-
44 sponding outgoing executive committees, and proceed to
select a chairman, a treasurer, and a secretary, and such
other officers as they may desire, each of which officers
shall for their respective committees perform the duties
that usually appertain to such offices.

Sec. 10. Party Committees in Office.—The members of
all state, congressional, senatorial, and county executive
committees for political parties in office at the time this
article becomes effective, and the various officers of such
committees, shall hold their several offices and discharge
the duties thereof until their successors are chosen and
installed in accordance with the provisions of this article.

Sec. 11. Powers of State Executive Committee; Cen-
tral or Subcommittees.—The state executive committee
of each party may make such rules for the government
of such party, not inconsistent with law, as may be
deemed expedient; and it may also revoke, alter, or
amend, in any manner not inconsistent with law, any
present or future rules of such party. All acts of such
state or other committees may be reviewable by the
courts.

Any party executive committee may create and ap-
point subcommittees, campaign, or central committees, and delegate to them such powers and authority in the executive and administrative work of the committee as they shall deem advisable; but no power or authority shall be delegated to such subcommittee, campaign committee, or central committee, in contravention of any law of the state.

The state executive committee shall adopt a party emblem or device for the party to distinguish and identify the party ticket, and shall certify the same to the ballot commissioners, and it shall be printed on the party ticket. The device or emblem of no two parties shall be similar or of such a nature as to mislead or confuse the voter. If two or more parties seek the same device, or similar devices, preference shall be given to the party polling the largest number of votes for the candidate for governor at the last election for such office.

Sec. 12. Members of National Party Committee.—The members of the national party executive committee of any political party, to which the state is entitled under the national organization and the rules and regulations
of the national committee of the party, shall be elected
by the state executive committee of such party, unless
the rules of the national party otherwise provide, in
which latter event they shall be selected in all respects
as provided for the selection thereof by the rules and
regulations of the national organization of the political
party and the resolutions of the delegated representatives
of the political party passed and adopted by any national
convention of such political party. A vacancy in the
membership of a national party executive committee
shall be filled by the state committee of the party unless
the rules of the national party otherwise provide.

Sec. 13. Other Party or Group Committees.—The mem-
ers of any political party which, at the last preceding
general election, polled, for its candidate for governor,
fewer than ten per cent of the total number of votes cast
for all candidates for that office in the state, and groups
of citizens, not constituting a political party, which nomi-
nate candidates for offices to be voted for at any election,
may select members of committees and officers thereof,
for such political parties and such groups of citizens, in
such manner as they may devise and adopt.
Sec. 14. Presidential Electors; How Chosen; Duties;

Vacancies; Compensation.—Electors of president and vice-

president of the United States shall be nominated as pro-

vided in section twenty-one of article five of this chapter

but their names shall be omitted from the general elec-

tion ballot, as provided in section two of article six of

this chapter, to be voted on the Tuesday next after the

first Monday in November in the year nineteen hundred

and sixty-four and every fourth year thereafter.

The presidential electors shall meet in the office of the

governor at the capital of this state, on the day now

appointed, or which shall hereafter be appointed, by the

congress of the United States and vote for the president

and for the vice-president of the United States in the

manner prescribed by the constitution and the laws of

the United States. If any of the electors so chosen fail

to attend at the time appointed, the electors present shall

appoint an elector in place of each one so failing to at-

tend, and every elector so appointed shall be entitled to

vote in the same manner as if he had been originally

chosen by the people.
Each presidential elector shall receive as compensation the sum of ten dollars a day for attending such meeting, including the time spent in traveling to and from the place of meeting and in addition thereto the sum of ten cents for every mile necessarily traveled in going to and returning from the place of meeting, by the most direct route.

Sec. 15. Election of United States Senators and Congressmen.—At the general election in the year nineteen hundred and sixty-four and at each general election in every sixth year thereafter, and at the general election in the year nineteen hundred and sixty-six, and in each sixth year thereafter, there shall be elected a member of the United States senate, and at the general election in the year nineteen hundred and sixty-four, and in every second year thereafter, there shall be elected a member of the house of representatives in the congress of the United States for each congressional district of the state, each for the next ensuing term.

Sec. 16. Election of State Officers.—At the general election to be held in the year nineteen hundred and sixty-
four, and in every fourth year thereafter, there shall be elected a governor, secretary of state, treasurer, auditor, attorney general, and commissioner of agriculture. At the general election in the year nineteen hundred and sixty-four, and in every second year thereafter, there shall be elected a member of the state senate for each senatorial district, and a delegate or delegates to the legislature of the state from each county or each delegate district. At the general election to be held in the year nineteen hundred and sixty-eight, and in every twelfth year thereafter, there shall be elected one judge of the supreme court of appeals, and at the general election to be held in the year nineteen hundred and seventy-two, and in every twelfth year thereafter, two judges of the supreme court of appeals, and at the general election to be held in the year nineteen hundred and sixty-four, and in every twelfth year thereafter, two judges of the supreme court of appeals.

Sec. 17. Election of Circuit and Inferior Court Judges; County and District Officers.—There shall be elected, at the general election to be held in the year nineteen hun-
and in every eighth year thereafter, one judge of the circuit court of every judicial circuit, except the first circuit, and of the first circuit two judges of said court; and at the general election to be held in the year nineteen hundred and sixty-four, and in every fourth year thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors prescribed by law for the county, and the number of justices of the peace and constables in each magisterial district in the county to which the district is entitled by law, the number of justices and constables to be prescribed from time to time by the county court; and at such election, and in every second year thereafter, a commissioner of the county court for each county; and at the general election to be held in the year one thousand nine hundred sixty-eight, and in every sixth year thereafter, a clerk of the county court and a clerk of the circuit court, for each county; and at each general election next preceding the expiration of the term of any judge of any common pleas, criminal or other inferior court, a judge of such court, each for the term next ensuing after the date of the election.
Sec. 18. Election to Fill Other Offices.—If the legislature shall hereafter create any elective office, or make any office now filled by appointment an elective office, in the state or in any subdivision thereof, the person to fill the same shall be elected at the general election last preceding the beginning of the term of such office.

Sec. 19. Ballot Commissioners.—In each county in the state, the clerk of the circuit court while holding such office, and two persons by him appointed, one from each of the two political parties which cast the largest and second largest number of votes in the state at the last preceding general election, shall constitute a board of ballot commissioners, of which board the said clerk shall be chairman. It shall be the duty of the clerk of said court to notify the chairman of the respective county executive committees of such two parties, at least five days before making such appointments, of the time and place of making the same, and if at any time after such notice is given, and before or on the day so fixed for making such appointments, the chairman of either of said committees shall designate, in writing, a member of such party as ballot
commissioner having the qualifications of a voter, he shall be appointed. Ballot commissioners shall be appointed between the fifteenth and thirtieth days of March in each year in which a general election is to be held, for a term of two years beginning on the first day of April next ensuing. They shall perform the duties of such commissioners at all general, special and primary elections held in the county or any magisterial district thereof during their term of office. A vacancy shall be filled in the same manner as an original appointment, but immediate notice of a vacancy shall, where necessary, be deemed compliance with the five day notice provision.

Sec. 20. Cards of Instructions to Voters.—The board of ballot commissioners of each county shall cause to be printed in large, clear type, on cards, instructions for the guidance of voters in preparing their ballots. They shall furnish twelve of such cards to the commissioner of election at the same time they deliver to him the ballots for the precinct. The commissioners of election shall cause to be posted one of such cards in each place or compart-
ment provided for the preparation of ballots, and the others in and about the polling place, and one or more of the cards outside of the sixty foot limit provided for in this article, on the day of election. Such cards shall contain full instructions to the voters as to what shall be done:

(a) To obtain ballots for voting;

(b) To prepare the ballots for deposit in the ballot boxes;

(c) To obtain a new ballot in place of one accidentally spoiled.

Such cards shall contain a copy of the second paragraph of section two and a copy of all of sections five, six, eight, and nine of article nine of this chapter.

The ballot commissioners shall also cause to be printed, on colored paper, ten or more copies of the ballots provided for each voting place, at each election therein, which shall be called sample ballots, and shall be furnished and posted with the cards of instruction at each voting place.

Sec. 21. Printing of Ballots, Number and Requirements.

It shall be the duty of the board of ballot commissioners
for each county to provide printed ballots for every election for public officers in which the voters or any of the voters within the county participate, and cause to be printed, on the appropriate ballot, the name of every candidate whose name has been certified to or filed with the clerk of the circuit court of the county in any manner provided for in this chapter. In any case wherein the constitution or statutes limit or prescribe the number of candidates or elected officers to be selected by the voters in any district or other governmental subdivision, the ballot commissioners, in the preparation of such ballots, shall cause to be printed thereon, in plainly worded language, the number of candidates to be voted for in each district or other governmental subdivision. The printing of the ballots, and all other printing caused to be done by the board of ballot commissioners, shall be contracted for with the lowest responsible bidder. Ballots other than those caused to be printed by the respective boards of ballot commissioners, according to the provisions of this chapter, shall not be cast, received, or counted in any election.
For each such election to be held in their county and at least thirty days before the date of such election, the board of ballot commissioners shall cause to be printed official ballots to not more than one and one-fifth times the number of registered voters in the county. Provisions of article five of this chapter shall govern the printing of ballots for primary elections. The ballots so printed shall be wrapped and tied in packages, one for each precinct in their county, containing ballots to the number of one and one-twentieth times the number of registered voters in such precinct. Each package of ballots shall be sealed with wax, and plainly marked with the number of ballots therein, the name of the magisterial district, and the number of the voting place therein, to which it is intended to be sent. The names of the ballot commissioners shall also be indorsed thereon.

Sec. 22. County Court Clerks to Provide Election Supplies.—The clerk of the county court of each county shall provide poll books, tally sheets, ballot boxes, voting booths, registration records and forms, strong and durable envelopes upon which to make returns, blank forms for
certifying returns and whatever further supplies are needed for holding the elections and making the returns thereof. The poll books shall bear upon each page the following heading: "Names of persons voting at precinct No. ______ in the District of ________ in the county of ________ on this (the) ______ day of __________ in the year _________."

Such poll books shall have columns headed respectively: "Number of Voters," "Signature of Voter," and "Challenge of Voter," and shall have under the heading "Number of Voters," numbers in consecutive order to the bottom of each page. Forms for oaths of commissioners of election and poll clerks shall be written or printed on the poll books. Each ballot box shall be provided with two locks with different keys so that the key for one lock will not open the other, and shall be so constructed as to be safely and securely closed and locked, with an opening in the lid of the box sufficient only for the passage of a single ballot.

Sec. 23. County Court to Arrange Polling Places and Equipment.—The county court in each county, before each election, shall secure, in each voting precinct in the county, a suitable room or building in which to hold the
election, and shall cause the same to be suitably provided
with a sufficient number of booths or compartments, each
containing a table, counter or shelf, and furnished with
proper supplies for preparing ballots, at or in which
voters may conveniently prepare their ballots, so that
in the preparation thereof they may be secure from the
observation of others. The number of such booths or com-
partments shall not be less than two nor more than five.

Sec. 24. Obtaining and Delivering Election 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 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 precincts. The
clerks shall take a receipt for the respective materials
delivered to the above commissioner or commissioners of
election, and shall file such receipt in their respective
offices. It shall be the duty of such commissioners to re-
receive such supplies and materials from the respective clerks and to deliver the same with the seal of all sealed packages unbroken, at the election precinct in time to open the election.

Such commissioner or commissioners, if they perform such services, shall receive the per diem and mileage rate prescribed by law for this service.

Ballots shall be delivered in sealed packages with seals unbroken. For general and special elections the ballots so delivered shall not be in excess of one and one-twentieth times the number of registered voters in the precinct. For primary elections the ballots for each party shall be in a separately sealed package containing not more than one and one-twentieth times the number of registered voters of such party in the election precinct.

For primary elections one copy of the poll books, including the forms for oaths of commissioners of election and poll clerks written or printed thereon, shall be supplied at each voting precinct for each political party appearing on the primary ballot.

There shall be two ballot boxes for each election precinct
for which a receiving and a counting board of election
commissioners have been appointed.

Sec. 25. Supplies by Special Messenger.—In case any
commissioner of election so appointed shall fail to appear
at the offices of the clerks of such county and circuit courts,
by the close of the second day prior to any election, as
required by the preceding section, the board of ballot
commissioners, or the chairman thereof, shall forthwith
dispatch a special messenger to the commissioners of elec-
tion of each respective precinct with the ballots, regis-
tration records, ballot boxes, poll books and other supplies
for such precinct. Such messenger shall be allowed two
dollars for his time, and seven cents a mile for the dis-
tance necessary to be traveled by him, and shall promptly
report to the clerks of the circuit and county court, re-
spectively, and file with such clerks the receipts of the
person to whom he delivered such ballots and other sup-
plies, and his affidavit, stating when and to whom he de-
ivered them.

Sec. 26. Election Supplies in Emergencies.—If, by any

accident or casualty, the ballots or ballot box or boxes
delivered to a commissioner of election, or to any messenger, shall be lost or destroyed, it shall be the duty of such commissioner or messenger to report the loss forthwith to the board of ballot commissioners and clerk of the county court from whom the same were, or was, obtained, and make affidavit of the circumstances of the loss; whereupon such board and clerk shall at once send a new supply by special messenger, as provided in other cases. If, for any reason, there should be found no ballots, or ballot box, or other necessary means or contrivances for voting, at the opening of the polls, it shall be the duty of the commissioners of election to secure the same as speedily as possible and, if necessary, the ballot commissioners may have ballots printed or written, and the election commissioners may have a ballot box or boxes made.

Sec. 27. Municipal Precinct Registration Records.—At least three days prior to every municipal election, it shall be the duty of the appropriate officer designated by the municipality to procure from the municipal precinct file in the office of the clerk of the county court the registration records necessary for the conduct of such election.
7 Such records shall, within ten days after the date of the municipal election, be returned to the office of the clerk of the county court by the appropriate officer or officers designated by the municipality.

8 In case of a contested municipal election, the registration record of any challenged voter shall be made available by the clerk of the county court to the officer or tribunal empowered to determine the contest. Such records shall be returned to the office of the clerk of the county court within a reasonable time after the contest shall have been finally decided.

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

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

Sec. 28. Election Commissioners and Clerks.—The county court of each county shall hold a regular or spe-
cial session at the court house of the county on the first Tuesday of the month next preceding the date on which any election is to be held and appoint three commissioners and two clerks to hold the election in each precinct in the county. In primary and general elections and in any special election in which political party candidates are to be nominated or elected, the election commissioners and clerks shall be selected from the two political parties which at the last preceding general election cast the highest and the second highest number of votes in this state. For every precinct in which there are three hundred, but not more than four hundred, registered voters, there may be two boards of election officers, and for all precincts in which there are more than four hundred registered voters, there shall be two boards of election officers, and where two boards are used, each board shall consist of three election commissioners and two poll clerks, one of which boards shall be designated the "receiving board" and the other the "counting board" and not more than two commissioners and one poll clerk of each board shall be appointed from the same political party. If, at
any time before or during the session of the county court, the county executive committee of either or both of the political parties, from which commissioners and clerks of election are to be selected, shall file with or present to the county court a writing signed by them, or by the chairman or secretary of such committee on their behalf, requesting the appointment of a member and of one clerk of each board of the political party for which such committee, chairman or secretary is acting, and designating persons who are qualified under this article for such appointment for each election precinct in the county, the county court shall appoint the persons so designated.

The county court shall by mail notify all commissioners and poll clerks of their appointment, and include with such notice an appropriate form for each person so appointed to return indicating whether or not he will serve as such commissioner or poll clerk. It shall be the duty of all persons so appointed to immediately return said form to the county court. In the event any of the persons so appointed refuse to serve as such commissioners or poll clerks, the county court shall immediately notify the chair-
man of the county executive committee of the political party from which such commissioners and poll clerks are to be selected. The chairman of the political committee so notified shall recommend the person or persons to be appointed to replace those declining to serve and it shall be the duty of the county court to appoint the person or persons so recommended.

If any person appointed receiving commissioner or clerk of election shall fail to appear at the voting place at the hour for opening the polls, the remaining commissioner or commissioners of election of the political party to which the absentee belongs shall select another commissioner or clerk, as the case may be, of such political party. But if the qualified voters of his party present at the polls shall nominate a voter of his party qualified to act under the provisions of this section, such nominee shall be appointed. If none of the receiving commissioners of the election or poll clerks shall appear at the voting place at the hour appointed for opening the polls, the qualified voters present, being at least ten in number, of the political party which cast the highest number of votes in the
county at the last preceding election, shall select two commissioners and one clerk and those of the political party which cast the next highest number of votes in the county at such election shall select one commissioner and one clerk of the receiving board of such precinct, and the persons so selected shall constitute the receiving board for the precinct. A vacancy or vacancies on the counting board shall be filled in the manner herein provided for filling a vacancy or vacancies on the receiving board, except that such vacancy or vacancies shall be determined and filled as of the hour appointed in this chapter for the counting board to attend at the polls. Any commissioner of election acting at any election precinct is hereby empowered and authorized to administer oaths and to take and certify affidavits in relation to any matter or thing required or permitted to be done by any of the provisions of this article in conducting and holding the election.

Sec. 29. Qualifications of Commissioners of Election and Poll Clerks.—No person shall be eligible to be appointed as a commissioner of election or as a poll clerk
in any election precinct who is not a qualified voter in the
magisterial district in which such precinct is situated;
or who has anything of value bet or wagered on the result;
or who is a candidate to be voted for at the ensuing election
or who is addicted to drunkenness; or who is not of good
character and standing; or who has in his employment, or,
as agent or superintendent, has under his control or man-
age ten or more employees who are voters entitled to
vote in the precinct; or who has served or acted in the
capacity of deputy sheriff within six months prior to the
date of holding any such primary or general election.
Whenever a nonpartisan or public question election is
to be conducted separate and apart from a primary or
general election, the provisions of this article relating to
the selection, appointment and qualifications of commis-
sioners of election and poll clerks shall govern and con-
trol, except that persons duly registered as “independent”
or as adherents to a political party or group other than
the two majority political parties then recognized, when
otherwise qualified to be election officials, may be ap-
pointed commissioners of election and poll clerks for the
Sec. 30. **Oaths of Election Officers.**—Each commissioner of election and poll clerk, appointed or selected as aforesaid, shall, before entering upon the discharge of his duties, take and subscribe an oath, respectively, to the following effect:

**Commissioner’s Oath**

State of West Virginia.

I, A________ B________, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State; that I will faithfully and impartially discharge the duties of commissioner of election assigned by law; that I will not knowingly permit any person to vote who is not qualified, and will not knowingly refuse the vote of any qualified voter, or cause any delay to a person offering to vote further than is necessary to procure satisfactory information of the qualifications of such person as a voter; that I have been a resident of the State of West Virginia for one year, and of the county...
and magisterial district in which I am to act as commissioner of election, for sixty days next preceding this date; that I will not disclose nor communicate to any person how any voter has voted at such election, nor how any ballot has been folded, marked, printed or stamped; that I have nothing of value bet or wagered upon the result of said election; that I have not received any promise, agreement or understanding that I am to receive appointment as deputy from any candidate to be voted for at such election; that I do not have any agreement, understanding or arrangement that I shall receive any sum of money or any portion of the salary, fees or emoluments of any office for which any candidate is to be voted for at such election, should such candidate be elected to such office at such election or any subsequent election; that I am not a candidate at this election. So help me God.

Subscribed and sworn to before me this...day of..., 19....

Signature and official title of person before whom sworn.
(Clerk's Oath)

State of West Virginia, ________________ county, ss:

I, ____________, do solemnly swear that I will faithfully and honestly discharge my duties as clerk of the election now about to be held in precinct No.______, in the district of _____________, county of ________________, State of West Virginia; that I will not disclose nor communicate to any person how any elector voted, or how any ballot was folded, marked, printed or stamped; that I do not have any promise, agreement or understanding that I am to be appointed as deputy by any candidate to be voted for at such election; that I do not have any agreement, understanding or arrangement that I shall receive any sum of money or any portion of the salary, fees or emoluments from any office for which any candidate is to be voted for at such election, should such candidate be elected at such election or any subsequent election. So help me God.

Subscribed and sworn to before me this __ day of ______, 19____.
Signature and official title of person before whom sworn.

Said oaths may be taken before any person authorized to administer oaths, but if no other person be present at any place of holding any election, they may be taken before, and administered by, one of the commissioners of such election so appointed, who in turn may take the same before another of such commissioners. Either of the commissioners may administer the oaths to the poll clerks. For the purposes of this chapter all commissioners of election are authorized to administer oaths. Such oaths shall appear completed and certified on one of the poll books of every election precinct.

Sec. 31. Days and Hours of Elections.—General elections shall be held in the several election precincts of the state on the Tuesday next after the first Monday in November of each even year. Primary and special elections shall be held on the days provided by law therefor.

At every primary, general or special election the polls shall be opened in each precinct on the day of such elec-
tion at six-thirty o’clock in the forenoon and be closed
at seven-thirty o’clock in the evening.

Sec. 32. Opening and Closing Polls; Procedure.—At the
time of opening the polls in all precincts wherein voting
machines are not to be used, the election commissioners
shall examine the ballot box and ascertain that there are
no ballots in the same, and they shall thereupon securely
lock the box and give one key to one of the commissioners
and one to a commissioner of the opposite political party,
who shall hold the same, and such boxes shall not be
again opened until the time to begin counting the votes
arrives and for that purpose. At or before opening the
polls, the commissioners of election shall open the pack-
age containing the ballots in such manner as to preserve
the seals intact and thereupon deliver all of the ballots
to the poll clerk. Before any voter is permitted to vote,
the commissioners of election shall proclaim that such
election is opened. When the polls are closed, proclama-
tion must be made of the fact by one of the commissioners
of election to the people outside, in a loud and audible
tone of voice, and a minute of such proclamation and of
the time when it was made must be entered on the poll
books by the clerks. After such minute has been made
and entered, no ballot of any voter shall be cast or re-
ceived.

Sec. 33. How Elections Conducted by Double Boards.—

In all precincts wherein two election boards shall have
been appointed, the receiving board shall attend at the
opening of the polls, shall open the polls, and shall pro-
ceed with the election. The counting board shall attend
at the voting place not later than three hours after the
opening of the polls, and shall take charge of the ballot
box containing the ballots theretofore cast in that pre-
cinct. They shall retire to a partitioned room or space
in the voting place and there proceed to count and tabu-
late the ballots cast, as they shall find them deposited
in the ballot box. The receiving board shall continue to
receive the vote of electors in the other box, until such
time as the counting board shall have finished counting
and tabulating the ballots cast in the first ballot box.
The counting board shall, before exchanging the ballot
boxes as herein provided, seal the ballots counted by it
in envelopes to be provided for the purpose, which shall not be opened until the two boards shall together proceed with counting, tabulating and summarizing the votes as by this chapter provided. The two boards shall then exchange the first box for the second box, and so continue until the hour of closing the polls arrives.

Sec. 34. Voting Procedures.—Any person offering to vote in an election shall, upon entering the election room, clearly state his name and residence to one of the poll clerks who shall thereupon announce the same in a clear and distinct tone of voice. If such person is found to be duly registered as a voter at that precinct, he shall be required to sign his name in the space marked “signature of voter” on the poll book prescribed and provided for the precinct. If such person be 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 and the name of the poll clerk affixing the voter's mark shall be indicated immediately under such affixation. No ballot shall be given to such person until he so signs his name on the poll book or his signature is so affixed thereon.
When the voter's signature is properly on the poll book, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and shall deliver the ballot to the voter to be voted by him then without leaving the election room. If he returns the ballot spoiled to the clerks, they shall immediately destroy the spoiled ballot and deliver to the voter another official ballot, signed by the clerks on the reverse side as before done. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his ballot, using a black lead pencil or other means for the purpose.

In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in section five of article six of this chapter.

Any person whose registration record indicates his inability to write may declare his choice of candidates to the poll clerks who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner hereinbefore provided, and, on request, shall read over to such voter the names of candi-
dates on the ballot as so prepared; or such voter may re-
quire the poll clerks to indicate to him the relative posi-
tion of the names of the candidates on the ballot, where-
upon the voter shall retire to one of the booths or
compartments to prepare his ballot in the manner herein-
before provided, or may request the poll clerks to mark
the ballot as he directs.

If the voter is unable to mark his ballot because of
blindness and the voter presents a doctor’s certificate as
to such blindness, and if he shall so elect, said poll clerks
shall both withdraw, and permit the voter to be assisted
by any person designated by such voter.

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 im-
mediately from the election room, and beyond the sixty-
foot limit thereof, and shall not return, except by per-
mission of the commissioners.

It shall be the duty of a poll clerk, in the presence of
the other poll clerk, to indicate by a check mark inserted
in the appropriate place on the registration record of
each voter the fact that such voter voted in the election.

In primary elections the clerk shall also insert thereon a
distinguishing initial or initials of the political party for
whose candidates the voter voted. If a person is chal-
lenged at the polls, such fact shall be indicated by the
poll clerks on the registration record together with the
name of the challenger. The subsequent removal of the
challenge shall be recorded on the registration record
by the clerk of the county court.

Sec. 35. Ballots to Be Furnished Voters.—In general
and special elections the ballots for all voters of an elec-
tion precinct shall be the same. In primary elections the
ballot of the voter’s political party at that election in that
precinct shall be furnished to the voter together with
separate ballots, if any, on any nonpartisan candidates
and any public questions submitted to the voters gener-
ally at such primary election. In the event the voter is
lawfully registered as “independent” or as an adherent
of a political party not appearing on any primary elec-
tion ballot to be voted in his precinct, he shall not, in a
primary election, be given or entitled to vote any party
ballot but shall be furnished any separate ballots to be
voted thereat on nonpartisan candidates and public
questions.

Sec. 36. Report on and Disposition of Ballots Spoiled or
Not Used.—Any voter who shall spoil, deface or mutilate
the ballot delivered to him, on returning the same to the
poll clerks, shall receive another in place thereof. Every
person who does not vote any ballot delivered to him
shall, before leaving the election room, return such ballot
to the poll clerks. When a spoiled or defaced ballot is
returned, the poll clerks shall make a minute of the fact
on the poll books, at the time, and such ballot shall then
Immediately on closing the polls, the commissioners of election shall ascertain the number of ballots destroyed during the election and the number of ballots remaining not voted. The commissioners of election shall also ascertain from the poll books the number of persons who voted and shall report, over their signatures, to the clerk of the county court, the number of votes cast, the number of ballots destroyed during the election and the number of ballots not voted. All unused ballots shall at the same time be returned to the clerk of the county court, who shall immediately destroy them by fire or otherwise.

Each commissioner who is a member of an election board which fails to account for every ballot delivered to it shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both.

The board of ballot commissioners of each county, or the chairman thereof, shall preserve the ballots that are
left over in their hands, after supplying the precincts as provided, until the close of the polls on the day of election, and such ballots shall then be destroyed by such board, or the chairman thereof, by fire or otherwise.

Sec. 37. Restrictions on Presence and Conduct at Polls.—

No person, except the election officers and voters while going to the election room to vote and returning therefrom, shall be or remain within sixty feet of such room while the polls are open; but this section shall not apply to persons living or carrying on business within that distance of the election room, while in the discharge of their legitimate business, or to persons whose business requires them to pass and repass within sixty feet of such room.

Not more than one voter for each compartment or booth at the precinct shall be allowed in the election room at one time, and no person shall approach nearer than five feet to any booth or compartment while the election is being held, except the voters to prepare their ballots, or the poll clerks when called on by a voter to assist in the preparation of his ballot, and no person, other than elec-
tion officers and voters engaged in receiving, preparing
and depositing their ballots, shall be permitted to be
within five feet of any ballot box, except by authority of
the board of election commissioners, and then only for
the purpose of keeping order and enforcing the law.
Not more than one person shall be permitted to occupy
any booth or compartment at one time; and no person
shall remain in or occupy a booth or compartment longer
than may be necessary to prepare his ballot, and in no
event longer than five minutes. No voter, or person offer-
ing to vote, shall hold any conversation or communication
with any person other than the poll clerks or commissi-
ers of election, while in the election room.
The provisions of this section shall not apply to persons
rendering assistance to blind voters as provided in section
thirty-four of this article.

Sec. 38. Disorder at Polls; Procedure.—The commis-
sioners of election shall preserve order at, and in the vi-
cinity of, the polls, and keep the way to the polls open
and free from obstruction, and may direct disorderly per-
sons to be removed therefrom, and, if necessary and prop-
6 er, to be taken and held in custody until sunrise of the
7 next day, or for any shorter time, which may be done by
8 any sheriff or constable or other person or persons desig-
9 nated by the commissioners of election. For such purpose
10 no warrant or authority in writing shall be necessary.
11 The jail of the county or other place designated by the
12 commissioners of election may be used as the place of
13 custody. But any person so arrested shall have an oppor-
14 tunity to vote, if he be entitled to do so, before he shall be
15 committed to jail, if he so desires and shall be prepared
16 to do so promptly.

Sec. 39. Illegal Voting; Arrest; Procedure.—If at any
2 time during the election any qualified voter shall make
3 affidavit, before a commissioner of election, that any per-
4 son who has voted is an illegal voter in such precinct, the
5 person accused shall at once be arrested by any constable
6 or other person designated by the election commissioners
7 to make the arrest, and by him delivered to the civil au-
8 thorities. Any person desiring to make such affidavit
9 shall be admitted to the election room for that purpose.
10 Immediately after the close of the election, the commis-
sioners of election shall deliver such affidavit to some
justice of the peace in the magisterial district, who shall
proceed thereon as if the affidavit had been made before
him.

Sec. 40. Disposition of Other Affidavits; Procedure.—
All affidavits provided for in this chapter, to be used on
the day of election, at the several polling places, shall,
unless in this chapter otherwise directed, at the close of
the count, be placed in a strong and durable envelope, by
the commissioners of election, and be securely sealed by
them, and each of them shall indorse his name on the
back of such envelope, which shall, within two days after
the election, be delivered by one of the commissioners of
election to the clerk of the circuit court of the county,
whose duty it shall be to carefully preserve the same and
deliver it, with the seal unbroken, to the foreman of the
grand jury when next in session. It shall be the duty of
such grand jury to inquire into the truth or falsity of such
affidavits.

Sec. 41. Challenged Voter Procedures.—It shall be the
duty of the members of the receiving board, jointly or
severally, to challenge the right of any person requesting a ballot to vote in any election, if such person's registration record is not available at the time of the election, or if the signature written by the person in the poll book does not correspond with the signature purported to be his on the registration record, or if the registration record of such person indicates any other legal disqualification.

Any person so challenged shall nevertheless be permitted to vote in the election, but for that purpose he shall be furnished an official ballot not endorsed by the poll clerks. In lieu of such endorsements, the poll clerks shall fill and sign an appropriate form indicating the challenge and the reason thereof, and the name or names of the challengers. Such form shall be securely attached to the voter's ballot and deposited together with the ballot in a separate box or envelope marked "challenged ballots."

The ballot of any voter so challenged shall not be counted by the election officials. The county court shall, on its own motion, at the time of canvassing of the elec-
tion returns, sit in session to determine the validity of such challenges. If the county court shall determine that the challenges are unfounded the ballot of each challenged voter, if otherwise valid, shall be counted and tallied together with the regular ballots cast in the election. In such determinations the county court shall disregard technical errors, omissions or oversights, if it can reasonably be ascertained that the challenged voter was entitled to vote.

Any person duly appointed as an election commissioner or clerk under the provisions of section twenty-eight of this article and who serves in such capacity in a precinct other than the precinct in which such person is legally entitled to vote, may cast a challenged ballot in the precinct in which such person is serving as a commissioner or clerk, and such ballot shall not be deemed invalid for the sole reason of having been cast in a precinct other than the precinct in which such person is legally entitled to vote, and the county court shall record the challenged ballot on the voter's permanent registration record.

Sec. 42. Time Off for Voting.—Every person entitled
2 to vote at any election who may be employed by any
3 person, company, or corporation on the day on which
4 such election shall be held in this state, shall, on written
5 demand of such employee, made at least three days prior
6 thereto, be given a period of not more than three hours, if
7 necessary, between the opening and the closing of the
8 polls on such day, for the purpose of enabling such person
9 to repair to the place of voting to cast his vote and return,
10 without liability to any penalty or deduction from his
11 usual salary or wages on account of such absence, except
12 that any employee, who has three or more hours of his
13 own time away from his work or place of employment at
14 any time between the hours of the opening and the closing
15 of the polls on election day and who fails or neglects to
16 vote or elects not to vote during such free time away from
17 his work or employment, may be subject to wage or salary
18 deductions for the time actually absent from his work or
19 employment for voting in such election.
20 In essential government, health, hospital, transportation
21 and communication services and in production, manufac-
22 turing and processing works requiring continuity in oper-
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23 ation, the employer may, upon receipt of such written de-
24 mand for voting time off, arrange and schedule a calendar
25 of time off for any and all of his employees for voting so
26 as to avoid impairment or disruption of essential services
27 and operations, but every such schedule or calendar of
28 time off for voting so arranged shall provide ample and
29 convenient time and opportunity for each employee of
30 such services or works to cast his vote as herein provided.

Sec. 43. Disposition of Miscellaneous Election Papers.—

2 At the expiration of one year after any election, the af-
3 fidavits taken and returned by any registrar or any elec-
4 tion officer, applications for absent voters' ballots, re-
5 jected absent voters' ballots, and certificates of nomina-
6 tions of candidates shall be destroyed. At the expiration
7 of two years from the date of any election the written
8 designations of election officers and of ballot commission-
9 ers shall be destroyed. If the further preservation of any
10 of the documents mentioned in this section shall be re-
11 quired by the order of the court, the same shall be de-
12 stroyed at the expiration of the time fixed for the further
13 preservation thereof by such order.
Sec. 44. Compensation of Election Officials; Expenses.—

Each ballot commissioner shall be allowed and paid a sum, to be fixed by the county court, not exceeding twenty dollars for each day he shall serve as such, but in no case shall a ballot commissioner receive allowance for more than ten days' services for any one primary, general or special election. Each commissioner of election and poll clerk shall be allowed and paid a sum, to be fixed by the county court, not exceeding ten dollars for one day's services for attending the school of instructions for election officials and a sum not exceeding twenty dollars for his services at any one election. The commissioners of election obtaining and delivering the election supplies, as provided in section twenty-four of this article, and returning them as provided in articles five and six of this chapter, shall be allowed and paid an additional sum, likewise fixed by the county court, not exceeding ten dollars for all such services at any one election and, in addition, shall be allowed and paid mileage at the rate of seven cents per mile necessarily traveled in the performance of such services. The compensation of election of-
ficers, cost of printing ballots, and all other expenses incurred in providing for holding and making the return of elections shall be audited by the county court and paid out of the county treasury.

Sec. 45. Court Proceedings; Duties; Enforcement.—Any officer or person, upon whom any duty is devolved by this chapter, may be compelled to perform the same by writ of mandamus. The circuit courts, or the judges thereof in vacation, shall have jurisdiction by such writ, and shall, upon affidavit filed, showing a proper case, issue such writ, to be returned, heard and determined without unnecessary delay. If a circuit court, or a judge thereof in vacation, shall proceed against any board of canvassers by mandamus, or otherwise, to control, in any manner, the action of such board in the performance of its duties, under the provisions of this article, in any case concerning the election of a member of the house of delegates, or a state senator, and shall fail to enter a final order in such proceedings, settling all questions presented therein within fifteen days from the commencement of such proceedings, unless delayed by proceedings in the supreme court
of appeals, or a judge thereof in vacation, the same shall thereupon be dismissed; and such board shall convene within not less than five days thereafter, and proceed forthwith to the performance of its duties under the provisions of this article. A mandamus shall lie from the supreme court of appeals, or any one of the judges thereof in vacation, returnable before said court, to compel any officer herein to do and perform legally any duty herein required of him. And respecting the election of a member of the house of delegates and state senator, a writ of certiorari, mandamus or prohibition shall lie from the supreme court of appeals, or a judge thereof in vacation, returnable before said court, to correct any error of law, and review and correct the proceedings of any circuit court, or the judge thereof in vacation, or any board of canvassers. When any such writ of mandamus, prohibition or certiorari shall be issued by said court, or a judge thereof in vacation, it shall be the duty of said court to convene in special session at the state capital, not later than ten days from the date of the writ, to hear and determine all matters arising upon such writ, which matters
shall have precedence over all other business pending in
said court, and be determined within five days from the
assembling thereof, and, in any case, in ample time for
the case to be remanded and final action taken by the
circuit court and the board of canvassers, in order that
such board may perform its duty and issue the certificate
of election before the second Wednesday in January, then
next following. In mandamus and prohibition proceedings under this section the same may be upon affidavit
alone.

Article 2. Registration of Voters.

Section 1. Permanent Registration Law.—This article,
providing a permanent and uniform system for the reg-
istration of the voters of the state of West Virginia, may
be cited as the “Permanent Registration Law.”

Sec. 2. Voter Registration Requirements.—No voter
otherwise qualified shall be permitted to vote at any elec-
tion unless he shall have been duly registered or shall
have placed himself within the “challenged voters” pro-
vision of this chapter, and only those persons who pos-
sess the constitutional and statutory qualifications for
voting shall be permitted to register, except that minors,
otherwise qualified, who shall have attained the age of
twenty-one years by the time of the next ensuing elec-
tion, may be permitted to register.

Sec. 3. Registration, Cancellation and Reinstatement.—
A permanent registration system shall hereby be estab-
lished which shall be uniform throughout the state and
all of its subdivisions. No voter so registered shall be
required to register again for any election while he con-
tinues to reside at the same address, or, having moved
from such address, is properly transferred according to
the provisions of section twenty-seven of this article, un-
less his registration is cancelled as provided in this ar-
ticle. If a voter fails to vote at least once during a period
covering two primary and general elections, his registra-
tion shall be cancelled and he shall, by letter, be given
proper notice thereof by the clerk of the county court, to
the effect that in order to vote he must register again or
execute and file, not later than thirty days before the next
primary or general election, with the clerk, an affidavit,
state, stating that he desires to be reinstated as a qualified voter at the same address and the clerk shall replace the registration card of the voter in the registration records. A blank form of such affidavit shall be included with and accompany the aforesaid notice to the voter.

Sec. 4. Election Commission.—The “State Election Commission,” heretofore created, is hereby continued and shall be composed of five members, appointed by the governor, by and with the advice and consent of the senate. The commission shall, from this membership, elect a chairman for a term of two years. Each member of the commission shall receive his actual and necessary traveling expense incurred in the performance of his duties.

Sec. 5. Qualifications of Members.—No member of the commission shall be a candidate for or hold any public office other than that of membership in the commission; nor shall he be a member of any committee of a political party. At least one member shall be selected with special reference to his expert knowledge as a student of the problems of public elections. Of the remaining four
members, not more than two shall be affiliated with the
same major political party. In case a member becomes
a candidate for or is appointed to any other public office
or political committee, his office as member of the com-
mission shall be deemed immediately vacated.

Sec. 6. Terms of Office.—The terms of office of the
members of the commission shall be six years. Members
in office when this section becomes effective shall con-
tinue in office until their terms expire or their member-
ship is otherwise vacated. Appointments to fill vacancies
shall be for the unexpired terms. As present terms ex-
pire, two members shall be appointed for terms of six
years commencing on the fourth day of June, one thou-
sand nine hundred sixty-three, two members shall be ap-
pointed for terms of six years commencing on the fourth
day of June, one thousand nine hundred sixty-five, and
one member shall be appointed for a term of six years
commencing on the fourth day of June, one thousand nine
hundred sixty-seven, and successively every six years
thereafter.

Sec. 7. Commission's Office and Meetings.—The office
and place of meeting of the commission shall be the office of the secretary of state in the state capitol.

The commission shall hold such meetings as may be called by the chairman, the governor, or the secretary of state.

Sec. 8. Commission Powers and Duties.—The commission shall serve as a body advisory to the secretary of state, and, as such, shall have the following powers and duties:

(1) To recommend policies and practices to the secretary of state, relating to his duties as chief registration official and election officer, imposed by law;

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

(3) To consider and study the election practices of other jurisdictions, with a view to determining the techniques used in eliminating fraud in elections and in simplifying election procedure;

(4) To advise or make recommendations to the governor relative to election practices and policy in the state; and
(5) To keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the secretary of state.

Sec. 9. Election Rules, Powers and Duties of Secretary of State.—The secretary of state shall be the chief registration official of the state. He shall have authority, upon consultation with the state election commission, of which he is hereby created an ex officio member, to make, amend and rescind such rules, regulations and orders as may be necessary to carry out the policy of the legislature, as contained in this article. It shall be the duty of all registration officials to abide by such rules, regulations and orders, which shall include:

(a) Uniform rules of procedure for registrars and other registration officials in the performance of their duties, as to time and manner of performance;

(b) Uniform rules for the purging of registration records;

(c) Uniform rules for challenging registrants; and

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

It shall be his further duty to advise with registration officials; to furnish to the registration officials a sufficient number of indexed copies of the current registration laws of West Virginia and the administrative orders issued thereunder; to investigate the administration of registration laws, frauds, and irregularities in any registration; to report violations of registration laws to the appropriate prosecuting officials, and to prepare an annual report of registration.

The secretary of state shall also have the power to issue subpoenas, administer oaths and affirmations, summon witnesses, compel the production of books, papers, records and other evidence, and fix the time and place for hearing any matters relating to the administration and enforcement of this article. In case of disobedience to a subpoena or other process, he may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books and documents.
All powers and duties vested in the secretary of state under this article may be exercised by appointees of the secretary of state at his discretion, but the secretary of state shall be responsible for their acts.

Sec. 10. County Court Duties and Powers.—Subject to the authority of the secretary of state, the county court shall be the chief registration authority in each respective county and all subdivisions therein, and shall supervise the county clerk and registrars in the performance of their respective duties.

The county court shall have power on its own motion to summon and to interrogate any person concerning the registration of voters, to investigate any irregularities in registration, to summon and examine witnesses, to require the production of any relevant books and papers, and to conduct hearings on any matters relating to registration of voters.

Sec. 11. Appointment of Registrars; Qualifications and Duties.—The county court of each county shall, not less than eighteen nor more than twenty weeks prior to the date of a state-wide primary election, appoint two com-
petent persons, for one or more but not to exceed ten voting precincts in the county, to act as registrars for the purpose of making a biennial or quadrennial check-up required by this article. No person shall be eligible to appointment as a registrar, or in any way act as such, if he has been convicted of a felony or if he holds any elective or appointive office, or is a public employee, under the laws of this state or of the United States; or cannot read or write the English language; or is a candidate to be voted for at such election. If any such registrar shall fail or refuse to serve or is properly dismissed, the vacancy shall be filled either by the county court or by the clerk thereof in vacation, in the manner provided for the appointment of registrars. Each registrar, before entering upon the discharge of his duties, shall take an oath that he will perform the duties of the office to the best of his ability, which oath shall be filed in the office of the clerk of the county court.

An equal number of such registrars shall be selected from the two political parties which at the last preceding election, cast the highest number and next highest num-
ber of votes in the county in which the election is to be held. The county court shall, at least four weeks prior
to making such appointment, request the county execu-
tive committee of each of the said two political parties to
submit a list of names, equal to one-half of the total num-
er to be appointed, of persons qualified to act as reg-
istrars; and the county court shall, if such lists are sub-
mitted, appoint the respective registrars therefrom, and
shall notify each registrar of his appointment. Every
such list so presented shall be filed and preserved for one
year by the clerk of such court in his office. Any and
every act performed by any registrar under the provisions
of this article shall be void unless performed in conjunc-
tion with a registrar of the opposite political party at the
same time and place.
Before acting, all such registrars shall attend a session,
or sessions, of instruction by the clerk of the county court,
or some person designated by him, concerning the per-
formance of their duties.
Immediately following such instruction the clerk of the
county court shall deliver to the registrars a copy of the
laws and regulations relating to registration of voters
and all necessary forms and other supplies, including a
certified list of all registered voters within the precinct or
precincts for which such registrars were appointed, upon
such form as may be prescribed by the secretary of state.
Such registrars shall thereupon proceed together to make
a house-to-house canvass in their precincts for the pur-
pose of making the biennial or quadrennial check-up re-
quired by section twenty-one of this article. In making
such check-up the registrars shall not again register any
person who is already registered in such precinct, but
shall determine whether or not such person is duly regis-
tered and qualified to vote therein.

Sec. 12. Additional Duties of Registrars and Clerks;
Checking; Notices.—Upon the completion of the biennial
or quadrennial check-up, the registrars shall return the
records and lists to the clerk of the county court, together
with an affidavit that the returns, records and lists re-
turned to the clerk are true and correct to the best of
their knowledge and belief. The clerk of the county
court shall make the necessary changes in his other regis-
tration records. The list checked by the registrars in each
precinct shall be compared with the register of deaths
kept by the clerk of the county court in his office. Each
person named in the list who is not shown to have been
found and so checked by the registrars and whose death
is not shown on such register shall be given proper notice
by the clerk of the county court that his registration has
been cancelled and that in order to vote he must register
again. The notice shall be mailed to such person's last
address appearing on the registration record.

The clerk of the county court is authorized to publish
such notices as may be proper in his opinion to advise the
electorate of the respective dates after which transfers
and registration, and changes of registration, may not
be made with respect to any general or primary election.

Sec. 13. Compensation of Registrars.—As compensation
for his services during the house-to-house canvass each
registrar shall be paid at a rate, to be fixed by the county
court, of not less than ten nor more than twenty cents
for each person newly registered; and for each transfer
and for each previous registration checked, whether
cancelled or not, he shall be paid not less than eight nor
more than twelve cents. Each registrar shall be paid not
more than ten dollars for each day he attends a session
of instruction for registrars conducted by the clerk of
the county court.
Registrars shall be paid for their services by the county
court, but part or all of the compensation of any registrar
may be withheld by the county court until such time as
the county court shall have agreed that the duties of such
registrar have been fulfilled.

Sec. 14. Clerical Assistance.—The county court shall
have power to provide funds for the reasonable compen-
sation of clerical assistance needed by the clerk of the
county court in the performance of his duties in the
administration of voter registration.

Sec. 15. Registration Record Files.—The registration
records to be used in county-state elections shall be kept
in a separate file and arranged according to precinct,
street and sequence of house, apartment or room num-
bers, where possible. A duplicate set of these registra-
tion records shall be made and kept in a separate file,
and shall be arranged in alphabetical order. Such file
shall herein be referred to as the “alphabet file.”
The registration records to be used in municipal elections shall be kept in a separate file and arranged, where possible, according to precinct, street, and sequence of house, apartment or room numbers.

In any case where the county magisterial district and municipal precinct lines coincide in such manner that all the registrants entitled to vote in any county-state election and the registrants entitled to vote in any municipal election in any precinct are the same it shall not be necessary for the registrar to maintain a separate record for municipal elections, unless the governing body of the municipality demands it by formal notice directed to the county court, and offers to defray the expense of maintaining such duplicate set of registration lists.

Sec. 16. Custody of Registration Records; Public Inspection.—The registration records shall not be removed from the custody of the county court except for use in an election, or by the order of a court of record. The registration records shall be open for public inspection under reasonable regulations prescribed by the county court.

Sec. 17. Administration of 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. 18. Party Affiliation; Primary and Nonpartisan Voting.—Any person claiming the right to be registered shall be requested to state the name of the political party with which he desires to affiliate, and such affiliation shall be indicated on the registration record in the proper space. Any person desiring to be registered, who declines to state any preference for party affiliation, shall be registered as an "independent" and such person, while such registration continues, shall not be permitted to vote a political party ballot in any primary election, but he shall be entitled to vote any nonpartisan ballots for candidates or on public questions submitted to the voters at such primary election.

Sec. 19. Voter Registration Forms.—The voter registration forms for county-state elections and for municipal elections shall be identical, except for color. The forms shall be prescribed by the secretary of state and may be by him revised and supplemented from time to time so as to provide thereon for a continued record of voter registration and voter election participation. The forms shall be substantially as follows:
NAME (Last name firat) (lnformatioa in ·thia space to be typed in at office of clerk of county court) Address

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</table>

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

Miss
Mrs.
Mr.

Last Name | First Name | Middle Name

Will you have resided on day of next election in state one year? | 60 days? | In County | In Municipality
Place and date of birth | Married—Single—
Occupation | If unable to write
Color of eyes | state reasons:
Color of hair | Other means of identification
Height | Naturalized

If Naturalized | Name of Court | Place | Through | Husband | Date | Naturalized | Name

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

Signature of Applicant

Subscribed and sworn before me this

day of

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. 20. Completing Registration Forms.—Each applicant for voter registration shall fill in and complete only one registration form, except in those cases where a separate record for municipal elections is required, in which cases those registrants who are required to be listed in separate municipal record lists shall fill in and complete two forms. The signature of the applicant on all forms shall be written in ink. 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. 21. Quadrennial and Biennial Check-up.—There shall be a quadrennial check-up in every county in the state, beginning with the year one thousand nine hundred sixty-four and every four years subsequent thereto, and the registrars, according to directions prescribed by the secretary of state and as provided in sections eleven and twelve of this article, shall proceed to register the names of all persons not registered but who are qualified to register, and shall also check and, if necessary, alter,
amend, correct or cancel the registration records of the
voters of the respective precincts, so as to provide a com-
plete and accurate record of all persons qualified to vote.
During the year one thousand nine hundred sixty-six and
every two years subsequent thereto, except in those years
in which a quadrennial check-up is held as aforesaid,
there may be a biennial check-up for voter registration
if in the discretion of the county court such check-up is
deemed necessary and advisable.

Sec. 22. Registration in Clerk's Office.—The clerk of
the county court may register any qualified person as a
voter by having him fill in and complete the prescribed
voter registration form and having him sign same under
oath or affirmation. The clerk, upon proper proof, may
alter, amend, correct, or cancel the registration record
of any voter. Such registration or alteration, amendment,
correction or cancellation of registration records shall be
carried on throughout the year. If found necessary, the
county court may order and direct the clerk of the county
court to maintain additional office hours in the evening
or at other proper times and places for accommodation
of voter registration.
Sec. 23. **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, including service in the armed forces of the United States, may at any time register by mail according to the procedure prescribed by the secretary of state.

Sec. 24. **Registration of Persons Unable to Write.**—If an applicant, although physically able, shall allege inability to sign his name, the registrar or clerk of the county court shall require him to present an affidavit of a qualified voter within the same county who is personally acquainted with the applicant. Such voter shall, in his affidavit, state his own residence and affirm that the statements made by the applicant for registration are true. Upon the presentation of such affidavit, the applicant shall be permitted to sign the registration form by making his mark.

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

Sec. 25. Post-Registration Disabilities.—Any voter, who has since the time of registration suffered a physical disability which renders him unable to sign his name, may personally make application under oath to the clerk of the county court to have such fact entered on his registration record, together with a statement of the exact nature of his physical disability, and such entry shall be made accordingly. If such applicant is physically unable to appear before the clerk of the county court to cause such change to be made on the registration record, he may request the clerk of the county court to mail him the necessary forms, and the clerk of the county court upon receipt of such forms properly completed, together with a physician's certificate affirming such disability, shall alter the registration record of the voter accordingly. When the clerk of the county court shall ascertain that any voter, who has declared himself physically disabled or illiterate, no longer suffers from such physical disability or illiteracy, he shall forthwith cancel on the registration record the entry relating to physical dis-
ability or illiteracy and shall notify such voter by mail
of his action.

Sec. 26. Registration of Naturalized Citizens.—Any nat-
uralized citizen, claiming the right to register, shall pro-
duce his naturalization papers or a certificate under the
seal of the court in which his naturalization was effected.
Any person, claiming citizenship by reason of the natural-
ization of his parent during his minority, may be regis-
tered either by the production of his parent’s original
naturalization papers, or a certified copy thereof, or a
certificate of the court. Any woman claiming citizenship
by reason of her marriage prior to September twenty-
second, one thousand nine hundred twenty-two, may be
registered by the production of her husband’s original
naturalization papers, or a certified copy thereof, or a
certificate of the court in which naturalization was
effected.

Sec. 27. Registration Transfers.—Whenever a voter re-
moves his residence from one place to another within
the same county he shall request that the change be made
on his registration record. Such request shall be made by
filling in, and, if he is able, signing under oath or affirmation the necessary form, which may be procured in person or by mail from the office of the clerk of the county court, or from the registrars during the biennial check-up. 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 card 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 herein prescribed, such transfer shall not be made.

Transfers of the registration record may be made throughout the year except during the thirty days immediately preceding any election, and if any voter shall move from one place to another within the county within
the thirty-day period, he shall, for that election only, vote
in the precinct from which he moved.

Sec. 28. Procedure on Change of Registered Voter's Name.—Whenever a voter, 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 prescribed in section twenty-three 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 thirty days immediately preceding any election, such voter, if duly registered, may vote at the election under his former name.

Sec. 29. Challenges; Notice; Cancellation of Registration.—Any person claiming the right to be registered as a voter may be challenged by the clerk of the county court or by any registrar of the county or by the chairman of any political party committee or any voter who shall appear in person at the clerk's office. Such challenge shall be entered upon a form prescribed by the secretary
of state and shall be filed as a matter of record in the office
of the clerk of the county court. Upon the receipt and
filing of such challenge, the clerk of the county court
shall mail to the person so challenged a notice thereof
requesting such person to appear in person during business
hours at the clerk's office within a period of thirty days
from and after the mailing of such notice to show cause,
if any he can, why such challenge should be removed. The
form of the notice of challenge shall be prescribed by the
secretary of state and shall be mailed by registered or cer-
tified mail with return receipt requested. Failure of the
challenged person to appear and show cause within the
prescribed time shall constitute immediate cancellation
of his voter registration, if any, theretofore effected and
shall be prima facie evidence of his ineligibility to be
registered as a voter. If he does timely appear and show
cause, the clerk shall determine his eligibility to be regis-
tered as a voter as in any other case.

Sec. 30. Time of Registration Prior to Election;

No person may vote in an election when he
has registered or his voter registration has been altered,
amended or corrected within a period of thirty days next preceding such election, but this inhibition shall not prevent, during such period of thirty days, additional registrations and changes in voter registrations with reference to future elections. If, during such period of thirty days preceding an election, a voter is registered or his voter registration is altered, amended or corrected, he shall not be permitted or qualified to vote at such election.

Sec. 31. Registration When Precincts Changed; Re-Registration When Deemed Necessary.—Whenever a new precinct has been created or the boundaries of any precinct have been changed, the clerk of the county court shall correct and transfer accordingly the registration records of the voters whose voting precincts have been thus changed. The registration of a voter shall not be invalidated by such alteration or transfer.

Whenever the county court shall deem it necessary because of destruction of records or any other emergency, it shall have the power to and may order a re-registration of the voters in any precinct.

Sec. 32. Preparation and Furnishing of Precinct Voter
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, addresses 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."

Any person, municipality, corporation, or other entity may obtain copies of precinct registration lists containing the name, address and political affiliation of each registered voter in such precinct from the clerk of the county court, who shall charge a fee of one cent per name furnished. The fees received by the clerk of the county court, shall be kept in a separate fund under his supervision for the purpose of defraying the cost of the preparation of the precinct lists. Any unexpended balance in the fund shall be transferred to the general fund of the county court.

Sec. 33. Hearings on Registration Issues in County Court; Review in Circuit and Supreme Court.—Any per-
son affected adversely in regard to any matter pertaining
to his registration may obtain a hearing before the county
court. The county court shall preserve and keep all record
evidence offered at such hearing and shall have all oral
evidence heard reduced to writing and preserved and kept
with other records. From the decision of the county court
such person or the person challenging his registration shall
have, within thirty days, an appeal of right by petition to
the circuit court of the county. Such appeal may be taken by
petition without formal bill of exceptions or certification.
The clerk of the county court shall give reasonable notice
of such appeal thereof in writing to the party or parties
to the proceedings.
The circuit court upon such appeal shall consider only
the record before the county court, which record shall
consist of the evidence considered by the county court in
reaching its decision. Such record shall be properly au-
thenticated by the clerk of the county court.
The circuit court may affirm the order of the county
court, whether the order be affirmative or negative; but if
it deems such order not to be reasonably justified by the
evidence considered, it may reverse such orders of the county court in whole or in part as it deems just and right; and if it deems the evidence considered by the county court in reaching its decision insufficient, it may remand the proceedings to the county court for further hearing. Any such order or orders of the circuit court shall be certified to the county court.

Any party to such appeal, may, within thirty days after the date of a final order by the circuit court, apply for an appeal to the supreme court of appeals, which may grant or refuse such appeal at its discretion. The supreme court of appeals shall have jurisdiction to hear and determine the appeal upon the record before the circuit court, and to enter such order as it may find that the circuit court should have entered.

It shall be the duty of the circuit court and the supreme court of appeals, in order to expedite registration and election procedure, to hold such sessions as may be necessary to determine any cases involving the registration of voters.

Judges of the circuit court and supreme court of ap-
peals in vacation shall have the same power as that prescribed in this section for their respective courts.

Sec. 34. County Court Appropriations.—The county court shall budget the funds necessary for the payment of the compensation of registrars and other assistants and employees, and the fees of witnesses, and likewise for preparing, securing, distributing notices, stationery and other supplies, and other services which are necessary for the purpose of this article. The county court shall not include in its budget any sum for the purpose of preparing or printing precinct lists. Any unexpended balances of any appropriation heretofore made by the county court for the purpose of carrying out any provision of the existing registration law shall be transferred to and made available to the county court for the expenses of carrying out the provisions of this article.

Sec. 35. Unlawful Registration or Rejection of Voter; Penalties.—Any registrar or clerk of the county court who knowingly registers or permits to be registered a person not lawfully entitled to be registered, or who knowingly refuses to register a person entitled to be registered, or
who knowingly assists in preventing such person from
being registered, or who inserts or intentionally permits
to be inserted a name or other entries in any registration
form, knowing or having reason to know that such entry
should not be made, shall be guilty of a misdemeanor, and,
upon conviction, shall be fined not more than one thousand
dollars or confined in the county jail for not more than
one year, or both, at the discretion of the court.

Any person who registers or applies to be registered,
or who applies for a change of residence address, know-
ing or having reason to know that he is not entitled to be
registered, or to have his residence address changed on
his registration record, or any person who declares as his
address a place or address which he knows is not his legal
residence, or who impersonates another in an application
for registration, or who knowingly offers false naturali-
zation papers to establish his claim to be registered, shall
be guilty of a misdemeanor, and, upon conviction, shall be
fined not more than one thousand dollars or confined in
the county jail for not more than one year, or both, at the
discretion of the court.
Sec. 36. Neglect of Duty by Registration Officers; Penalties.—Any registrar or clerk of the county court or their authorized deputies or any other persons upon whom a duty is laid by the permanent registration law, who shall wilfully delay, neglect, or refuse to perform such duty, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both, at the discretion of the court.

Sec. 37. Alteration or Destruction of Records; Penalties.—Any person who wrongfully and intentionally inserts or permits to be wrongfully inserted any name or material entry on any registration form or any other record in connection with registration; or who wrongfully alters or destroys an entry which has been duly made; or who wrongfully takes and removes any such registration form, or any other record authorized or required in connection with registration, from the custody of any person having lawful charge thereof, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one
thousand dollars or confined in the county jail for not
more than one year, or both, at the discretion of the court.

Sec. 38. Withholding Information; Penalties.—Any per-
son who neglects or refuses to furnish to the secretary of
state, the county court, or the clerk of the county court
any information which they are authorized to obtain in
connection with registration, or to exhibit any records,
papers, or documents herein authorized to be inspected
by them, shall be guilty of a misdemeanor, and, upon con-
viction thereof shall be fined not more than one thousand
dollars, or confined in the county jail for not more than
one year, or both, at the discretion of the court.

Sec. 39. Interference with Voter Registration; Penal-
ties.—Any person who intentionally interferes with, hin-
ders, or delays another in the performance of any act
or duty in connection with registration or any person who
knowingly and wilfully prevents another from being duly
registered shall be guilty of a misdemeanor, and, upon
conviction, shall be fined not more than one thousand dol-
ars or confined in the county jail for not more than one
year, or both, at the discretion of the court.
Sec. 40. Damaging or Destroying Registration Records;

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

Article 3. Voting by Absentees.

Section 1. Persons Eligible to Vote as Absentees.—Any
2 qualified voter of the State of West Virginia, being duly
3 registered, (a) who by reason of the nature of his em-
4 ployment, business, or on account of other unavoidable
5 causes, expects to be absent from the county on the date of
6 any primary, general or special election, (b) who by
7 reason of physical disability, illness or injury will be un-
8 able to vote in person at the polls at such election as other-
9 wise required by law, (c) who is a student attending any
10 college or university, or is the spouse of any such student,
outside the county wherein he or she is legally registered
to vote, or (d) who is a member of any branch of the
armed services of the United States and who in the per-
formance of his duties expects to be absent on election
day from the county in which he is registered, or his wife
or husband or other member of his family living with
such person, may vote by absent voter's ballot as provided
in this article, at any such election.

The provisions of this article shall apply only to voters
necessarily absent from the county or from the polls on
election day for the reasons specified in this section.

Sec. 2. Application for Absent Voter Ballots; Time.—
Any voter, as defined and designated in section one of this
article, expecting to be absent from the county or from the
polls on the day of any primary, general or special elec-
tion, may, not more than sixty days prior to the date of
any such election, make application to the clerk of the
circuit court of the county in which his voting precinct
is situated for an official absent voter's ballot or ballots
to be voted at such election, except that the clerk shall
not receive and honor any such application for absent
voter ballots for a primary or general election made to
him after the Saturday next preceding the date of any
such primary or general election nor after regular business
hours on the third day next preceding the date of any spe-
cial election. In computing such third day the day of con-
ducting the special elections shall be excluded.

Sec. 3. Form of Application; Declaration.—Application
for an absent voter's ballot shall be made in person or by
mail, on a blank to be furnished by the clerk of any circuit
court of the state. Such blank shall, upon request, be sent
to the applicant by mail by any such clerk, or delivered to
such applicant in person upon his appearance at the office
of any such clerk. Application for an absent voter's ballot
shall be substantially in the following form, and shall be
signed by the applicant, as hereinafter provided. Such
completed application may be returned only to the clerk
of the circuit court of the county in which the applicant
is a qualified elector.

APPLICATION FOR ABSENT VOTER'S BALLOT

State of ________________________,
County of ____________________, to wit:

I, __________________________________________ hereby declare
that I am now, or will have been, a resident of the State
of West Virginia for twelve months, and of the county
of ________________________ for sixty days, next preced-
ing the date of the ensuing election to be held on the
day of ____________________, 19____;
that I am now a resident of election precinct No._______,
in the magisterial district of ________________________,
in said county, that I am a duly qualified voter entitled
to vote in such election; that I am registered in the
precinct of my residence as provided by law; that (as
the case may be) I am ________________________ (stating business),
and because of the nature of my business or employ-
ment, or for the following reasons________________________
(relating unavoidably cause of absence), I expect to
be absent from the said county on the date of such elec-
tion, or I am a (college or university student, member
of armed forces, spouse, etc., as specified in section one
of this article) and will be unable to vote in person at such
election, or because of physical disability, illness or injury
here state reason, whether physical disability, illness or injury) I will be unable to vote in person at such election, as evidenced below by the statement of a duly licensed physician; and I hereby make application for an official ballot (or ballots if more than one are to be used) to be voted by me at such election; and that I will return such ballot (or ballots) to the officer issuing them not later than four days prior to the day of such election.

(If application is made for a primary ballot, the applicant shall also designate the party whose candidates he expects to vote for:)

I hereby declare under penalty of false swearing, as provided in section three, article nine, chapter three of the code of West Virginia, as amended, that the statements and declarations contained in this application are true and correct to the best of my knowledge and belief.

Signed

Home address of applicant

P. O. Address to which ballot is to be sent

The following statement must be executed if the reason stated is physical disability of the voter:
STATEMENT OF PHYSICIAN

I, ..........................................., a physician duly licensed to practice in
the State of .................................. do hereby certify under penalty
of false swearing, as provided in section three, article
nine, chapter three of the code of West Virginia, as
amended, that I have examined ..............................................,
the applicant whose signature appears above, and that
in my opinion, because of physical disability, illness or
injury ........................................ (here state reason, whether physical
disability, illness or injury), he will be unable to vote in
person at such election.

Signed ..............................................

Sec. 4. Clerk's Duties and Records on Absentee's Application and Ballots.—Upon receipt of an absent voter's
ballot application, the clerk of the circuit court of the
county in which the applicant is a qualified elector shall
file same in his office and enter the name of the voter
applicant, his home address, the address to which the
ballot is to be mailed, and the date of receipt of the appli-
cation on a record to be kept for that purpose. As subse-
quent events with reference thereto occur, the clerk shall
enter upon such record the date of his mailing the ballot
applied for, the date of his receipt of the returned ballot,
and such other pertinent information as he shall consider
necessary and advisable.

Sec. 5. Mailing of Ballots; Time.—Between the thir-
tieth day and the fourth day next prior to the election
in which the absent voter's ballot is to be used, the clerk
of the circuit court of the county in which an applicant
is a qualified voter shall mail, postage prepaid, to each
duly registered applicant who has executed and filed his
application, to the address shown therein, an official ballot
or ballots (if more than one are to be voted at such elec-
tion), except that the clerk shall not, after the fifteenth
day next prior to such election, mail any such ballot to an
applicant whose address is shown to be outside the con-	
tinental limits of the United States of America. The
clerk shall, without delay, mail all such absent voter bal-
lots as soon after the thirtieth day next prior to the election
as he shall have in his office properly executed applications
therefor. The applicant may obtain the absent voter ballot
or ballots by applying personally at the office of the clerk
of the circuit court not more than thirty days before such
election and thereafter may vote such ballot or ballots in the clerk's office during regular business hours on any day up to and including the Saturday next preceding the date of the primary or general election or, in the case of special elections, up to and including the third day next preceding the day of any such special election. In computing the thirtieth, fifteenth, fourth and third day before the election day, the day of the election shall be excluded. Before any ballot is mailed or delivered the clerk shall affix his official seal and he and the other members of the board of ballot commissioners shall place their signatures near the lower left hand corner on the back thereof.

Sec. 6. Absent Voter's Ballot Envelope; Declaration.

The clerk of the circuit court of the county shall enclose the ballot or ballots in an envelope, unsealed, to be furnished by such clerk, which envelope shall bear upon the face thereof the name, official title and post office address of such clerk and upon the other side a printed declaration in substantially the following form:

State of_____________________,

County of_____________________, to wit:
I, ________________________, hereby declare that I am a resident of precinct No. __________ of the magisterial district of __________ residing at __________ in the County of __________ and State of West Virginia, and am entitled to vote in such precinct at the election to be held on _______________.

That (as the case may be) I am ________________ (stating business) and because of the nature of my employment, or for the following reasons ________________, (relating unavoidable cause of absence), I expect to be absent from the county on the date of such election, or I am a (college or university student, member of armed forces, spouse, etc., as specified in section one of this article) and will be unable to vote in person at such election, or because of physical disability, illness or injury ________________, (here state reason whether physical disability, illness or injury), I will be unable to vote in person at such election. I further declare that I have personally marked the enclosed ballot (or ballots) in secret, and have enclosed the same in this envelope and sealed the same without exhibiting it to any other person.

I hereby declare under penalty of false swearing, as
provided in section three, article nine, chapter three of
the code of West Virginia, as amended, that the above
statements and declarations are true and correct to the
best of my knowledge and belief.

Signed

Sec. 7. Marking and Mailing Ballot byAbsent Voter.

Such absent voter shall make and subscribe to the
declaration provided for in section six of this article, and
such voter shall thereupon, in the presence of no other
person, mark such ballot or ballots, and such ballot or
ballots shall then be folded by such voter so that each
ballot will be separate and so as to conceal the marking,
and shall be inclosed in such envelope, together with any
unused ballot, and the envelope shall be securely sealed.
The envelope shall then be mailed by such voter, postage
prepaid, to the officer issuing the ballot, or, if more con-
venient, it may be delivered in person, or, if the voter
be for any reason disabled, the envelope may be so mail-
ed or delivered by a person selected and designated by
the voter for that purpose. Any such ballot to be valid
Sec. 8. Clerk's Receipt of and Action on Absent Voters' Ballots.—Upon receipt of an absent voter's ballot, the clerk of the circuit court of the county shall forthwith enclose the same, unopened, together with the application made by such absent voter, in a large carrier envelope, which shall be securely sealed and indorsed with the name and official title of such clerk and the words: "This envelope contains an absent voter's ballot to be voted in precinct No. ...... in .................... district in .................... county, and must be opened only at the polls on election day while such polls are open." The clerk shall insert the name of the district and the number of the precinct in which the absent voter intends to vote and shall thereafter keep the same securely in his office until delivered by him, as provided in section nine of this article.

Sec. 9. Delivery of Absent Voters' Ballots to Election Officers.—In the event that an absent voter's ballot shall be received by the clerk of the circuit court prior to the
delivery of the official ballots to the election commissioner of the precinct in which such absent voter resides, such ballot and application, sealed in the carrier envelope, as provided in section eight of this article, shall be delivered to the election commissioner of such precinct along with such official ballots, but, if received after the delivery of such official ballots, the same shall be delivered to the election commissioners of such precinct, by the clerk in person, or by messenger, before the closing of the polls, provided such ballots are received by the clerk in time to make such delivery.

Sec. 10. Return of Absent Voter and Ballot to Precinct.—

This article shall not be so construed as to prohibit any absent voter, returning to his place of residence, from voting in person at the proper precinct at any election contemplated in this article, notwithstanding that he may have made application for an absent voter's ballot or ballots, and such ballot or ballots may have been mailed or otherwise delivered by the proper clerk to him, (a) if such voter has not availed himself of the privileges of an absent voter, as provided in this article, and voted the
ballot or ballots mailed or otherwise delivered by such
clerk to him, and (b) if such voter shall return such bal-
lot or ballots, if received, to the commissioners of the
election of the precinct of his residence, by whom such
ballot or ballots shall be marked "Cancelled," a minute of
such action entered in the poll books, and such ballot or
ballots shall thereafter be destroyed with the unused
ballots.

Sec. 11. Action When Absent Voter Dies.—Whenever
it shall be made to appear by due proof to the election
commissioners that any voter, who has marked and for-
warded his ballot as hereinbefore provided in this article,
has died, then the ballot of such deceased voter shall be
returned by the commissioners with defective ballots, but
the casting of an absent voter's ballot of a deceased voter
shall not invalidate the election.

Sec. 12. Preparation, Number and Handling of Absent
Voters' Ballots.—Absent voters' ballots shall be in all re-
spects like other ballots. Not less than thirty days prior
to the date on which any primary, general or special
election is to be held, the clerk of the circuit courts of
the several counties shall estimate and determine the 
number of absent voters' ballots of all kinds which will 
be required in their respective counties for any such 
election. The ballots for the election of all officers, or 
the ratification, acceptance or rejection of any measure, 
proposition or other public question to be voted on 
by the voters, shall be prepared and printed under the 
direction of the board of ballot commissioners constituted 
as provided in article one of this chapter. The several 
county boards of ballot commissioners shall prepare and 
have printed, in such number as they shall determine, 
such absent voters' ballots as are to be printed under their 
directions as hereinbefore provided, and such ballots shall 
be delivered to the clerk of the circuit court of the coun-
ty not less than thirty days prior to the day of the elec-
tion at which they are to be used.

Sec. 13. Clerk's Additional Duties and Responsibilities.

The clerk of the circuit court shall be primarily responsi-
ble for the preparation, mailing, receiving, delivering and 
otherwise handling of all absent voter ballots. He shall 
keep a record of all ballots so delivered for the purpose of
absentee voting, as well as all ballots, if any, marked before him, and shall deliver to the commissioner of election to whom the ballots for the precinct are delivered and at the time of the delivery of such ballots a certificate stating the number of ballots delivered or mailed to absent voters, and those marked before him, if any, and the names of the voters to whom such ballots have been delivered or mailed, or by whom they have been marked, if marked before him.

In the event a voter, qualified to vote an absent voter's ballot as herein prescribed, offers to vote such ballot or ballots in the clerk's office but manifests inability to write or mark his ballot, the voter may designate and call upon any person of his choice then present to assist him in voting his absent voter's ballot or ballots thereat and such designated person shall thereupon assist such voter in the manner and to the extent of poll clerk assistance to voters at the polling places under provisions of section thirty-four of article one of this chapter.

Sec. 14. Challenges of Votes of Absent Voters.—The vote of an absent voter may be challenged for any cause
for which it could be challenged if the voter were present and voting in person. When any such challenge is made, the procedure relating to challenges at the polls, as provided in article one of this chapter, shall apply. Notice of such challenge shall be sent by the clerk of the county court to the absent voter by registered or certified mail with return receipt requested.

Sec. 15. Canvass of Absent Voter Ballots; Requirements; Procedure.—At any time between the opening and closing of the polls on such election day, the commission­ers of election of the precinct, in the presence of each other, shall open the absent voter ballot outer or carrier envelope only, announce the absent voter's name and compare the signature upon the application with the signature at the end of the declaration on the ballot envelope and upon the voter's registration record. In case the election commissioners find the declaration properly executed, that the signatures correspond, that the applicant is a duly qualified voter of the precinct indicated, that he is duly registered, and that the applicant has not voted in person at such election, or, in case of a primary election,
if he has not previously exercised the right of suffrage, if
he shall have executed the proper statement relative to
his age and qualifications and the party with which he
intends to affiliate, the election commissioners shall open
the envelope containing the absent voter's ballot in such
manner as not to deface or destroy the declaration there-
on, and take out the ballot or ballots inclosed therein,
without unfolding or permitting the same to be unfolded
or examined. The election commissioners shall then deliv-
er such ballot or ballots to the poll clerks who shall at
once proceed to write their names on the back of each of
such ballots in the same manner as other ballots are re-
quired to be endorsed by the poll clerks at precinct vot-
ing. A commissioner shall thereupon deposit the same in
the ballot box and the poll clerks shall indicate, in the
appropriate place on the registration record in the same
manner as if he had appeared personally, the fact that
such absent voter had voted, and shall enter the absent
voter's name on the poll book. In the event that such
declaration is found to be insufficient, or that the signatures
do not correspond, or that the applicant is not a duly qual-
and primary elections, provided that the use thereof shall be governed by the terms, conditions, restrictions and limitations imposed by this article.

Sec. 2. Procedures for Adopting Voting Machines.—

Voting machines may be adopted for use in general, primary and special elections in any county by either of the following procedures, and not otherwise:

(1) By a majority of the members of the county court voting to adopt the same at a meeting regularly called in regular or special session: Provided, however, That such meeting shall be held not less than six months prior to a general election or six months prior to a primary election. If at such meeting, such county court shall enter an order of its intention to adopt the use of voting machines, it shall thereafter forthwith cause to be published a certified copy of such order in some newspaper of general circulation in such county. Such notice shall be published at least once a week for four successive weeks beginning not less than twenty days after the entry of such order, and a copy of such order shall be posted at the front door of the courthouse and at least three other public places.
ified voter in such precinct, or that he has voted in person at such election, or that he has not registered, or that the ballot is open, or has been opened and resealed, or that the ballot envelope contains more than one ballot of any one kind, or, in case of a primary election, if he shall have failed to execute the proper statements relative to his age and qualifications and the party with which he intends to affiliate, such vote may be challenged as provided in the next preceding section of this article.

Sec. 16. Absentee Voting in Municipal Elections.—The provisions of this article relating to absentee voting shall apply to all municipal elections, except where clearly not adaptable thereto, and the governing bodies of the several municipalities of the state shall by ordinance implement the provisions hereof so as to develop and provide a complete and satisfactory absentee voting system for municipal elections.

Article 4. Voting Machines.

Section 1. Use of Voting Machines Authorized.—Voting machines may be used for the purpose of registering or recording and computing votes cast in general, special
in such county for a like period. Such county court shall not adopt the use of voting machines until ninety days after the entry of such order of its intention to adopt the same. Promptly after the expiration of ninety days after the entry of such order of intention to adopt the use of voting machines, if no petition has theretofore been filed with such county court requesting a referendum on the question of adoption of voting machines as hereinafter provided, such county court shall enter a final order adopting voting machines, and voting machines shall thereby be adopted.

If five per cent or more of the registered voters of such county shall sign a petition requesting that voting machines be not adopted for use in such county and such petition be filed with the county court of such county within ninety days after the entry of such order of intention to adopt the use of voting machines, such county court shall submit to the voters of such county at the next general or primary election, whichever shall first occur, the question: "Shall voting machines be adopted in
If this question be answered in the affirmative by a majority of the voters in such election upon the question, voting machines shall thereby be adopted. If such question shall not be answered in the affirmative by such majority, the use of voting machines shall not be adopted.

(2) By the affirmative vote of a majority of the voters of such county voting upon the question of the adoption of voting machines in such county. If five per cent or more of the registered voters of such county shall sign a petition requesting the adoption of voting machines for use in such county, and such petition be filed with the county court of such county, such county court shall submit to the voters of such county at the next general or primary election, following by not less than ninety days the date of the filing of such petition, the question: "Shall voting machines be adopted in County?" If this question be answered in the affirmative by a majority of the voters of such county voting upon the question, voting machines shall thereby be adopted. If such question shall
not be answered in the affirmative by such majority, the use of voting machines shall not be adopted.

Sec. 3. Procedures for Terminating Use of Voting Machines.—If at any time after the adoption of voting machines in any county as herein provided, five per cent or more of the registered voters of such county shall sign a petition requesting that the use of voting machines be terminated, and such petition be filed with the county court of such county, such county court shall submit to the voters of such county at the next general or primary election, following by not less than ninety days the date of the filing of such petition, the question: “Shall the use of voting machines in County be terminated?”

If this question be answered in the affirmative by a majority of the voters of such county voting upon the question, the use of voting machines in all future elections shall thereby be terminated; otherwise, the use of voting machines shall be continued.

Any vote pursuant to this section and the preceding section which results in a failure to adopt, or in a termi-
nation of the use of voting machines shall not be con-
strued to preclude any future proceeding by the voters or
the county court of any county to adopt or readopt voting
machines in a lawful manner as provided herein.

Sec. 4. Duty of County Court to Acquire Machines;

Provision in Some Precincts.—If the use of voting ma-
chines shall have been adopted as hereinbefore provided,
it shall be the duty of the county court of such county to
acquire the necessary number of voting machines to sup-
ply each election precinct within such county as soon as
possible, and to acquire such reserve machine or machines
as will be deemed necessary, and to acquire for each ma-
chine an instruction model.

If it shall be impossible for the county court to supply
each election precinct with a voting machine or voting
machines for use at the next election following the adop-
tion of voting machines, as many voting machines shall
be supplied for that election and the next succeeding
elections as it is possible for the county court to acquire
in the manner as hereinafter provided, and the machines
so acquired may be used in such election precincts within the county as the county court may direct until it shall be possible to provide the requisite number of voting machines properly to equip all precincts within the county.

Sec. 5. Acquisition of Machines by Purchase or Lease.

—The county court may finance the acquisition of voting machines by any one or any combination of the following methods:

(1) By purchasing the same and paying the purchase price therefor in cash from funds available from the maximum general levy or from any other lawful source; and

(2) By leasing the same under written contract of lease, and paying the rentals therefor in cash from funds available from the maximum general levy or any other lawful source.

Sec. 6. Bids and Contracts for Voting Machines.—Contracts for the purchase or lease of voting machines shall be based on competitive bids. The county court shall solicit sealed bids by sending requests by mail to all
known manufacturers and suppliers of voting machines which have been previously approved by the voting machine commission as hereinafter provided. The award of contracts of purchase or lease shall be based on the quality, cost, specifications and suitability of the particular voting machines.

No bid shall be accepted by the county court unless accompanied by a contract which shall provide that in the event the bid is accepted the party or parties making the sale or lease shall:

(1) Guarantee in writing to keep the machine or machines in good working order for five years without additional cost to the county court.

(2) Warrant to defend and indemnify the county court against any claim for patent infringement, and in case any machine or machines shall be held to be an infringement of a valid patent, to obtain a license for the use of such patent on the machines sold or leased to the county court or to modify the machines so that the offending infringement is removed without altering the mechanical efficiency or statutory requirements of the machines; all at the
sole cost and expense of the supplier of the voting machines.

(3) Provide a bond with good corporate surety duly qualified to do business in West Virginia, conditioned upon the due performance of said guaranty and said warranty, in a penal sum to be fixed by the county court.

No bid shall be accepted by the county court unless the party or parties submitting the bid shall file with the bid an affidavit:

(1) Disclosing the name and address of, and the amount of any contribution paid or to be paid to, any individual, partnership, corporation or association hired regularly and specially for the purpose, or partly for the purpose, of attempting to influence directly or indirectly the purchase or lease of the voting machine represented by the bid.

(2) Declaring that no individual, partnership, corporation or association not disclosed in said affidavit shall thereafter be regularly or specially hired and no contribution shall thereafter be paid for the purpose or partly for the purpose of attempting to influence directly or in-
For the purpose of this affidavit, the word “contribution” shall mean payment, distribution, loan, advance, deposit, gift of money, property, benefit or other consideration, or any agreement providing for a payment, distribution, loan, advance, deposit, or gift of money, property, benefit, or other consideration at any future time.

Any person who shall knowingly or wilfully make any false or fraudulent statement, or who shall knowingly or wilfully fail to disclose any material fact in the affidavit required by this section shall be guilty of a felony, and, upon conviction thereof shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or imprisonment in the state penitentiary for not less than one year nor more than three years, or both, in the discretion of the court.

In construing this section, the term “person” shall include an individual, partnership, committee, association, and any other organization or group of persons.
2 Duties; Compensation and Expenses.—There is hereby created a voting machine commission, to be composed of the secretary of state, and two persons appointed by the governor, by and with the advice and consent of the senate, who shall be mechanical experts and not members of the same political party. The term of office of such commissioners shall be four years, except that the commissioners appointed by the governor shall be subject to removal at his pleasure, and that any secretary of state, in surrendering the duties of his office, shall be succeeded on the commission by the succeeding secretary of state. No member of the commission shall have any interest in any voting machine.

Any person or corporation owning or being interested in any voting machine may apply to said commission to the end that such machine may be examined and a report be made on its accuracy, efficiency, capacity, and safety. The mechanical experts of the commission shall examine the machine and make full report thereon to the secretary of state. They shall state in the report whether or not the machine so examined complies with the requirements of
this article and can be safely used by voters at elections
under the conditions prescribed in this article. If the
report be in the affirmative upon said question, the ma-
chine shall be deemed approved by the commission and
the machine of its make and design may be adopted for
use at elections as herein provided. Any form of voting
machine not so approved shall not be used at any election.
Each of the two mechanical experts on the commission
shall be entitled to two hundred dollars for his compen-
sation and expenses in making such examination and
report, and such compensation shall be paid by the person
or corporation applying for such examination, which sum
shall be paid in advance of making the examination and
which sum shall be the sole compensation to be received
by any such expert for his work hereunder.

Sec. 8. Minimum Requirements of Voting Machines.—
A voting machine of particular make and design shall not
be approved by the voting machine commission or be
purchased, leased, or used, by any county court unless it
shall fulfill the following requirements:

(1) It shall secure or insure the voter absolute secrecy
in the act of voting, or, at the voter's election, shall provide for open voting;

(2) It shall be so constructed that no person except in instances of open voting, as herein provided for, can see or know for whom any voter has voted or is voting, and that no voter or other person can, while the machine is unlocked for operation, see or otherwise ascertain the numerical total of votes cast for any candidate or for or against any question;

(3) It shall permit each voter to vote at any election for all persons and offices for whom and which he is lawfully entitled to vote, whether or not the name of any such person appears on a ballot label as a candidate; and it shall permit each voter to vote for as many persons for an office as he is lawfully entitled to vote for; and to vote for or against any question upon which he is lawfully entitled to vote;

(4) It shall preclude each voter from voting for any person or office or upon any question for whom or which and upon which he is not lawfully entitled to vote and from voting for more persons for any office than he is law-
fully entitled to vote for, and from voting for any candidate for the same office and upon any question more than once;

(5) It shall permit each voter to deposit, write in, or affix upon devices to be provided for that purpose, ballots containing the names of persons for whom he desires to vote whose names do not appear upon the machine ballot labels;

(6) It shall permit each voter to change his vote for any candidate and upon any question appearing upon the ballot labels up to the time when he starts to register his vote;

(7) It shall correctly register and accurately count all votes cast for each candidate and for and against each question appearing upon the ballot labels;

(8) It shall permit each voter at any election other than primary elections, to vote a straight party ticket by one device, and by one device to vote for all candidates of one party for presidential electors; and to vote a mixed ticket selected from the candidates of any and all parties and from independent candidates;

(9) It shall be capable of adjustment by election officers
at a primary election so as to permit each voter to vote only for the candidates of the party with which he has declared his affiliation, and so as to preclude him from voting for any candidate seeking nomination by any other political party, and so as to permit each voter to vote for the candidates, if any, for nonpartisan nomination or election and on public questions;

(10) It shall have separate voting devices for candidates and questions, which shall be arranged in separate rows or columns. It shall also be arranged so that one or more adjacent rows or columns may be assigned to the candidates of each political party at primary elections;

(11) It shall have a public counter or other device, the register of which is visible on the outside of the machine and which shall show the total number of voters who have voted on that machine in the election; also candidate and question counters or other devices which shall not be visible on the outside of the machine when the machine is unlocked for operation, and upon which are registered numerically the total votes cast for each candidate and question appearing on the ballot labels; also a protective
counter or other device which will record the cumulative
total number of movements of the registering mechanism;

(12) It shall be provided with locks and seals by the
use of which all movement of the registering mechanism
is prevented, both before the polls are open or before the
operation of the machine for an election is begun and
immediately after the polls are closed or after the opera-
tion of the machine for an election is completed;

(13) It shall have the capacity to contain the names
of candidates constituting the tickets of at least nine po-
litical parties, and to accommodate the wording of at least
fifteen questions;

(14) It shall be durably constructed of material of good
quality and in a workmanlike manner and in a form which
shall make it safely transportable;

(15) It shall be so constructed with frames for the
placing of ballot labels and with transparent devices for
the protection of such labels, that the labels on which are
printed the names of candidates and their respective par-
ties, titles of offices, and wording of questions shall be rea-
sonably protected from mutilation, disfigurement or dis-
arrangement;

(16) It shall bear a number that will identify it or dis-
tinguish it from any other machine;

(17) It shall be so constructed that a voter may easily
learn the method of operating it and may expeditiously
cast his vote for all candidates of his choice; and

(18) It shall be accompanied by a mechanically oper-
ated instruction model which shall show the arrangement
of ballot labels, party columns or rows, and questions.

Sec. 9. County Court Clerk Custodian of Machines;

Duties.—When voting machines are acquired by any
county court, they shall be immediately placed in the cus-
tody of the county clerk, and shall remain in his custody
at all times except when in use at an election or when
in custody of a court or court officers during contest pro-
ceedings. The clerk shall see that the machines are prop-
erly protected and preserved from damage or unneces-
sary deterioration, and shall not permit any unauthorized
person to tamper with them. The clerk shall also be
charged with the duty of keeping the machines in repair
and of preparing the same for voting.

Sec. 10. Ballot Labels, Instructions, and Other Supplies; Vacancy Changes; Procedure and Requirements.—

The ballot commissioners of any county in which voting machines are to be used in any election shall cause to be printed for use in such election the ballot labels for the voting machines. The ballot labels so printed shall total in number one and one-half times the total number of voting machines to be used in the several precincts of the county in such election. All such labels shall be delivered to the clerk of the county court at least fifty days prior to the day of the election in which such labels are to be used. The labels shall contain the name of each candidate and each question to be voted upon and shall be clearly printed or typed in black ink on clear white material of such size as will fit the ballot frames. One set of ballot labels shall be inserted in the machine prior to the delivery of the machine to the polling place. The remainder of such ballot labels for each machine shall be retained by the clerk of the county court for use in the event the
set so inserted in a machine becomes lost, mutilated or damaged.

If a nomination to fill a vacancy be made by a political committee or the chairman thereof and be certified to the ballot commissioners after the ballot labels to be used at the ensuing election shall have been printed, it shall be lawful for the chairman of the party executive committee for the political division to provide, or cause to be provided, and deliver, or cause to be delivered, to the clerk, a sufficient number of ballot labels containing the name of such candidate. Such ballot labels shall conform to the specifications as set forth herein. If such ballot labels are furnished to the clerk of the county court before the machines are delivered to the election precincts, the clerk, with the advice and consent of the ballot commissioners, shall cause such ballot labels to be inserted in the proper ballot frames.

In addition to all other equipment and supplies required by the provisions of this article, the ballot commissioners shall cause to be printed a supply of instruction cards, sample ballots, facsimile diagrams of the voting machine
ballot and official printed ballots adequate for the orderly
closest the election in each precinct in their county.
In addition they shall provide all other materials and
equipment necessary for the conduct of the election, in-
cluding appropriate facilities for the reception and safe-
keeping of the ballots of absent voters and of challenged
voters and of such "independent" voters who shall, in
primary elections, cast their votes on nonpartisan can-
didates and public questions submitted to the voters.

Sec. 11. Ballot Label Arrangement in Machines; Ad-
justment; Records.—When the ballot labels are printed
and delivered to the clerk of the county court, he shall
place them in the ballot frames of the voting machines in
such manner as will most nearly conform to the arrange-
ment prescribed for paper ballots, and as will clearly indi-
cate the party designation or emblem of each candidate.
Each column or row containing the names of the office and
candidates for such office shall be so arranged as to clearly
indicate the office for which the candidate is running. The
names of the candidates for each office indicated shall be
placed on the ballot.
The clerk of the circuit court shall appoint a time at which all candidates for the house of delegates are to appear in his office for the purpose of drawing by lot to determine where their names will appear on the voting machines. The clerk shall give due notice of such time to each such candidate by registered or certified mail, return receipt requested. At the time appointed, all such candidates for the house of delegates shall assemble in the office of such clerk and such candidates shall then proceed to draw by lot to determine where their names shall appear on the voting machines. The number so drawn by each such candidate shall determine where his or her name shall appear on the voting machines. In the event any candidate or candidates fail to appear at the time appointed, the clerk shall draw for such absent candidate or candidates in the presence of those candidates assembled, if any, and the number so drawn by the clerk shall determine where the name of any absent candidate or candidates shall appear on the voting machines.
The clerk shall then see that the counters referred to in subsection eleven of section eight of this article are set at zero (000) and shall lock the operating device and mechanism and devices protecting the counters and ballot labels. The clerk shall then enter in an appropriate book, opposite the number of each precinct, the identifying or distinguishing number of the specific voting machine or machines to be used in that precinct.

Sec. 12. Inspection of Machines; Duties of County Court, Ballot Commissioners, Election Commissioners; Keys and Records Relating to Machines.—When the clerk of the county court has completed the preparation of the voting machines, as provided in the next preceding section, and not later than seven days before the day of the election, he shall notify the members of the county court and the ballot commissioners that the machines are ready for use. Thereupon the members of the county court and the ballot commissioners shall convene at the office of the clerk, or at such other place wherein the voting machines are stored, not later than five days before the day of the election, and shall examine the machines to
determine whether the requirements of this article have

been met. Any candidate, and one representative of each

political party having candidates to be voted on at the

election, may be present during such examination. If the

machines are found to be in proper order, the members

of the county court and the ballot commissioners shall

endorse their approval in the book in which the clerk

entered the numbers of the machines opposite the num-

bers of the precincts. The clerk shall then deliver the

keys to the voting machines to the ballot commissioners

who shall give a receipt for the keys, which receipt shall

contain identification of such keys. Not later than three

days before the election the election commissioner of each

precinct who shall have been previously designated by

the ballot commissioners, shall attend at the office of

the clerks of the circuit and county courts of such county

to receive the key or keys to the device covering the regis-

tering counters and such other keys as may be necessary

for the operation of the machine in registering votes, and

to receive the other necessary election records, books, and

supplies required by law. Such election commissioners
shall receive the per diem mileage rate prescribed by law for this service. Such election commissioners shall give the ballot commissioners a receipt for such keys, records, books and supplies, and such receipt shall contain identification of such keys. The master key and all other keys shall remain in the possession of the clerk of the county court.

Sec. 13. Election Boards Where Voting Machines Used;

Instructions; Vacancies.—The county court shall appoint a uniform election board, consisting of three election commissioners and two poll clerks, to conduct each election in each precinct of each county in which voting machines have been adopted and are to be used.

The county court shall call the necessary meeting or meetings for the instruction of all election officials in the use of the voting machines. Such meeting or meetings shall be held and the proper instructions given not less than seven (7) days prior to any election in which voting machines are to be used. No election officer, upon being so notified to appear for instruction, shall fail without just cause to do so. If any officer does so fail to appear, the county court may appoint some other qualified person,
and such person, after instruction, shall act in the place of the defaulting officer. If such defaulting officer were appointed by the county court upon the written recommendation of a county executive committee as provided in article one of this chapter, the county court shall give written notice of such default to such county executive committee and appoint a person to take the place of such defaulting person upon the recommendation of such county executive committee. The election officers shall receive the per diem mileage rate prescribed by law for attending such instruction meetings.

Where not inconsistent with the provisions of this section, provisions of article one of this chapter, relating to the appointment of election officers, shall be applicable herein.

Sec. 14. Instructions and Helps to Voters.—For the instruction of the voters on any election day there shall be provided for each polling place one instruction model for each voting machine. Each such instruction model shall be constructed so as to provide a replica of a portion of
the face of the voting machine, and shall contain the ar-
rangement of the ballot labels, party columns or rows,
office columns or rows, and questions. Fictitious names
shall be inserted in the ballot labels of the models. Such
models shall be located on the election officers' tables or
in some other place in which the voter must pass to reach
the voting machine. Each voter, upon request, before vot-
ing, shall be offered instruction by the election officers in
the operation of the voting machine by use of the instruc-
tion model, and each voter shall be given ample oppor-
tunity to operate the model himself.

The ballot commissioners shall also provide facsimile
diagrams, at least two of which shall be posted on the
walls of each polling place. The facsimile diagrams shall
be exact diagrams of the face of the voting machines to
the end that the voter may become familiar with the loca-
tion of the parties, offices, candidates and questions as
they appear on the voting machine to be used in his pre-
cinct. Ballot labels may be affixed to the diagrams to insure
that the position of the names of the candidates in each
The ballot commissioners may, with the consent of the county court, or the county court may prepare and mail to each qualified voter at his address as shown on the registration books a facsimile sample of the ballot for his precinct.

In counties where voting machines have been adopted, the legal ballot advertisements required by articles five and six of this chapter, shall consist of a facsimile of the face of the voting machine with the names of the candidates and the offices for which they are running shown in their proper positions.

Sec. 15. Delivery of Machines; Time; Arrangement for Voting.—The clerk of the county court shall deliver or cause to be delivered each voting machine to the polling place where it is to be employed. Such delivery shall be made not less than one hour prior to the opening of the polls. At the time of the delivery of the voting machine the operating device and mechanism and the device covering the registering counters shall be securely locked.
The election commissioners shall then cause the machine to be arranged in the voting place in such manner that the front of the machine, on which the ballot labels appear, will not be visible, when the machine is being operated, to any person other than the voter if the voter shall elect to close the curtain, screen or hood furnished with the voting machine.

Sec. 16. Check of Machines Before Use; Corrections;

Reserve Machines.—Before permitting the first voter to vote, the election officers shall examine the machine to ascertain whether it has been operated since the public counters referred to in subsection eleven of section eight of this article were set at zero (000) and to ascertain whether the ballot labels are arranged as specified on the facsimile diagram furnished to the precinct. If the machine indicates that it has been operated or if the ballot labels are arranged incorrectly, the officers shall not unlock the operating device or mechanism, but shall immediately secure the attendance of one or more members of the county court and one or more of the ballot commissioners, who shall reset the counters at zero (000) and then relock the
device covering the counters, or properly arrange the bal-
lot labels, as the case may be, in the presence of the elec-
tion officers. If the attendance of such members of the
county court and ballot commissioners cannot be obtained
before the time for opening the polls or within one hour
thereafter, the election officers shall notify the clerk of the
county court of the foregoing facts and obtain from such
clerk a reserve voting machine, and thereafter proceed
to conduct the election. Any reserve machine so used
shall be prepared for use by the clerk or his duly appointed
deputy and said reserve machine shall be delivered and
examined in the same manner as hereinbefore provided.
The machine found to have been operated or provided
with incorrect ballot labels shall be returned immediately
to the custody of the clerk who shall then promptly cause
such machine to be repaired in order that it may be used
as a reserve machine if needed.

Sec. 17. Disrepair of Machines in Use; Reserve Ma-
chines; Counting.—If, during the conduct of an election,
a machine becomes in a state of disrepair so that it can-
not be operated in a manner that will comply with the
provisions of this article, the election officers shall lock
or seal the machine in such manner as to prevent further
voting thereon and shall record the numbers shown by
the public counter. Then the election officers shall se-
cure from the county clerk a reserve voting machine,
which shall be prepared for use, delivered and examined
in the same manner as hereinbefore provided, and shall
thereafter proceed to conduct the election. When the
polls are closed, both the original and reserve voting ma-
chines shall be examined and the votes thereon registered
shall be counted as provided in section twenty-three of
this article and the aggregate number of votes cast on
both machines for each candidate and on each question
shall be certified as the result of the election in that pre-
cinct.

Sec. 18. Conducting Voting Machine Elections.—(1)

The election officers shall constantly and diligently main-
tain a watch in order to see that no person votes more
than once and to prevent any voter from occupying the
voting machine for more than three minutes.

(2) In primary elections before a voter is permitted to
use the voting machine, the election officer representing
the party to which the voter belongs shall adjust the ma-
chine so that the voter will be able to vote only for the
candidates who are seeking nomination on the ticket of
the party with which the voter is affiliated.
(3) If the machine is so constructed as to require adjust-
ment after one person has voted before another person
can vote, the election officers shall so adjust it after each
person has voted.
(4) The election officers shall issue to each voter when
he signs the poll book a card or ticket numbered to cor-
respond to the number on the poll book of such voter, and
in the case of a primary election, indicating the party
affiliation of such voter, which numbered card or ticket
shall be presented to the election officer in charge of the
voting machine.

Sec. 19. “Independent” Voting in Primary Elections.—
If at any primary elections nonpartisan candidates for
office and public questions are submitted to the voters
and on which candidates and questions persons registered
as "independent" are entitled to vote, as provided in section eighteen of article two of this chapter, the election officers shall adjust the voting machines, if mechanically possible to do so, so that such "independent" voters may vote only those portions of the voting machine ballot relating to the nonpartisan candidates and the public questions submitted.

If the voting machines cannot be so adjusted for the "independent" voters, then such "independent" voters, under the close supervision of two commissioners of the election of different political party affiliation, shall be permitted to use the voting machines for voting only those parts of the ballot relating to such nonpartisan candidates and public questions so submitted to the voters.

In lieu of using the voting machines, such "independent" voters may request official printed ballots relating to such nonpartisan candidates and public questions. Such ballots, when signed on the back by the poll clerks as in other elections, shall be voted and folded by the "independent" voter and shall be delivered to one of the election commissioners who shall secure same in a sealed
or locked container until canvassed and counted in the same manner as provided for handling and recording absent voter ballots as provided in the section next hereafter.

Sec. 20. Recording and Disposition of Absent Voters' Ballots.—When absent voters' ballots have been voted and delivered to the election board of any precinct, the election commissioners shall as time permits proceed to determine the legality of such ballots as prescribed in article six of this chapter, and shall prior to the close of the polls, before sealing the operating lever and before unlocking the counter compartment, vote or record such votes on the voting machine. Such recording of absent voters' ballots shall be done by one of the election commissioners and the act of casting such votes shall be performed in the presence, and under the careful observation and full view, of all members of the precinct election board, and the votes as indicated by the voting pointers shall not be registered until each member of such board is satisfied that the arrangement of such voting
 pointers fully carries out the intent of the voter as shown by the cross marks on the paper ballot.

After completion of the count, absentee ballots shall be enclosed in a sealed package, properly endorsed, and returned and filed with the statement of returns.

Sec. 21. Assistance to Illiterate and Disabled Voters.—

Any duly registered voter, who shall have indicated on his registration record that he is unable, because of illiteracy or physical disability, to write or whose physical disability, in the opinion of the election officers, prevents him from operation of the voting machine, may ask for assistance from two election officers of opposite political party affiliation to whom he shall thereupon declare his choice of candidates and his position on public questions appearing on the ballot labels. Such election officers, in the presence of the voter and in the presence of each other, shall thereupon cause such voter’s declared choices to be registered by the voting machine as votes.

Sec. 22. Persons Prohibited About Voting Machines; Penalties.—Excepting the election officials acting under authority of sections eighteen, nineteen, twenty and twen-
ty-one of this article in the conduct of the election, no per-
son other than the voter alone may be in, about or within
five feet of the voting machine during the time such voter
is in the process of voting at any election, and, during such
time, no person may communicate in any manner with the
voter and the voter may not communicate with any other
person or persons. Any conduct or action of an election of-
official about or around the voting machine while the voter
is in the process of voting, in excess of the authority vested
in such official by provisions of this article, shall consti-
tute a violation of the provisions hereof. Any person vi-o-
lating any provision or provisions of this section shall
be guilty of a misdemeanor and, upon conviction thereof,
shall be fined not exceeding one thousand dollars or be
sentenced to imprisonment in the county jail for a period
not exceeding twelve months, or, in the discretion of the
court, shall be subject to both such fine and imprison-
ment.

Sec. 23. Voting by Challenged Voters.—If the right of
any person to vote be challenged in accordance with pro-
visions of article one of this chapter relating to the chal-
lenging of voters, such person shall not be permitted to cast his vote by use of the voting machine but he shall be supplied by the election officer at the polling place with an official printed ballot of such election. Such ballot shall not be indorsed on the back by the poll clerks but, when voted by the challenged voter, shall have affixed thereto by the poll clerks their statement of information as to the challenge on the form prescribed therefor. Such challenged ballots shall be secured, handled and disposed of as challenged ballots in other elections, as provided in article one of this chapter.

Sec. 24. Closing Polls; Counting and Reporting Returns; Duties and Procedures.—(1) At the count of the votes in any such precinct, any candidate or his individual representative may witness and check the count of the votes therein.

(2) As soon as the polls are closed, and the last voter has voted, the election officers shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and shall then compare the num-
ber of voters, as shown by the public counter of the ma-
chine, with the number of those who have voted, as shown
by the protective or accumulative counter or device. The
election officers of each precinct shall then sign a certifi-
cate stating: (a) that the machine has been locked against
voting and sealed; (b) the number of voters, as shown by
the public counters; (c) the number registered on the
protective or accumulative counter or device, if any; and
(d) the number or other designation of the voting ma-
chine; and such certificate shall be returned by the pre-
cinct election officers to the ballot commissioners.

(3) The election officers in the presence of any candi-
date or his individual representative, if any, shall then
make visible the registering counters, and for that pur-
pose shall unlock and open the doors or other covering
concealing the same, giving full view of all the counter
numbers. The election officers shall, under the scrutiny
of such representatives, if any, and in the order of the of-
fices as their titles are arranged on the machine, read and
announce, in distinct tones, the results as shown by the
counter numbers for each candidate and for and against
The counters shall not be read consecutively along the party rows or columns but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the election officers, in ink, on triplicate return sheets, and also on a general return sheet and statement, all of which, after the count is completed, shall be signed by the election officers. The total vote cast for each candidate, and for and against each question, shall then be computed and entered on the general and triplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the poll books, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective counter on each machine immediately prior to the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, tripli-
cate return sheets shall be prepared for each party. The registering counters of the voting machine shall remain exposed to view until the returns and all other reports have been fully completed.

(4) The proclamation of the results of the votes cast shall be announced distinctly and audibly by one of the election officers, who shall read the name of and votes cast for each candidate, and the votes cast for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the election officers, after which the doors or other cover of the voting machine shall be closed and locked and the return sheets shall be signed by each of the election officers. If any election officer shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in a separate envelope, which shall be securely sealed with sealing wax, or other sealing
material, and each of the election officers shall write his
or her name across the fold of the envelope. One of the
triple returns shall be directed and delivered to the
clerk of the county court of the county in which the election
is being held, one to the circuit court clerk of such county
and one to the secretary of state at Charleston, West
Virginia, and the general return sheet and statement shall
be directed and immediately delivered to the clerk of the
county court of such county. The envelope shall have
endorsed thereon a certificate of the election officers,
stating the number of the machine, the precinct where it
has been used, the number of the seal, and the number
registered on the protective counter at the close of the
polls.

(5) As soon as possible after the completion of the
count, the election officers shall return to the county court
and the ballot commissioners the keys to the voting ma-
chine received and receipted for by them, and the clerk
of the county court shall have the voting machine prop-
erly boxed or securely covered and removed from the
polling place to a proper and secure place of storage.
Sec. 25. Form and Delivery of Return Sheets.—The general return sheet, triplicate return sheets, and statement, shall be printed to conform with the make of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be reprinted thereon opposite the candidate's name. Immediately after the vote has been ascertained, the above mentioned return sheets shall be forthwith delivered to the respective persons to whom they are addressed as provided in this chapter.

Sec. 26. Post-Election Custody and Inspection of Machines; Canvass and Recounts.—(1) The voting machines shall remain locked against voting during the canvass of the returns of the election and for a period of seven days after the canvass is finally concluded, during which time any candidate or the chairman of any county executive committee of any political party or their appointed representatives, shall be permitted to examine the voting machines under the supervision of the county court for the purpose of determining the number of votes cast for any candidate or for and against any question. After the expiration of the
seven-day period as herein provided, the voting machines may be unlocked by the clerk of the county court and the registering counters reset at zero (000) unless the board of canvassers or a court of competent jurisdiction by appropriate court order directs otherwise.

(2) During the period when such machine is required to be kept locked, the keys thereto shall remain in the possession of the county court. After such period, it shall be the duty of the county court to return such keys to the clerk of the county court.

(3) In canvassing the returns of the election, the board of canvassers shall examine all of the voting machines used in such election and shall determine the number of votes cast for each candidate and for and against each question and by such examination shall procure the correct returns and ascertain the true results of the election. Any candidate or his party representative may be present at such examination.

(4) If any candidate shall demand a recount of the votes cast at an election, the voting machines shall not be reexamined during such recount for the purpose of re-
ascertaining the total number of votes registered on the
voting machines for any candidate.

Sec. 27. Test of Machine Accuracy; Procedures and
Requirements.—(1) When during a canvass or a recount
of votes cast in an election it appears to the board of can-
vassers or if it is so alleged in a petition for a recount,
that a voting machine used in any precinct has by reason
of mechanical failure or improper or fraudulent prepara-
tion or tampering incorrectly recorded and tabulated the
actual votes cast on such machine, the board of canvassers
shall proceed to determine the error, if any, in the vote
registered on such voting machine. If an error is found,
the board of canvassers shall correct the election returns
from such precinct so as to accurately reflect the votes
cast in such precinct at such election if it is possible to
accurately correct such error. If the board of canvassers
are unable to accurately correct such errors made by said
voting machine and therefore cannot correct the returns
from such precinct to accurately reflect the actual votes
cast at such election, the total votes registered on such
voting machine, despite the fact that such vote may be
erroneous, shall be accepted in the canvass and in the
recount as the votes cast in such precinct.

(2) If it is necessary for the board of canvassers to test
any voting machine for its mechanical accuracy in record-
ing and tabulating the votes cast at such election, such
test shall be conducted by the clerk of the county court
in the presence of the board of canvassers and of any
candidate or his party representative. The registering
counter shall be reset at zero (000) before it is tested and
then the machine shall be operated at least 100 times.

After the completion of such test the clerk will then and
there prepare and file a statement in writing giving in
detail the result of the examination and test.

Sec. 28. Adjustments in Voting Precincts Where Ma-
chines Used.—The provisions of section five of article one
of this chapter, relating to the number of registered
voters in each precinct, shall not apply to and control in
precincts in counties in which voting machines have been
adopted and the county courts of such county, subject to
other provisions of this chapter with respect to the alter-
ing or changing of the boundaries of voting precincts,
may change the boundaries of precincts or consolidate
precincts, as practicable, to achieve the maximum ad-
vantage from the use of voting machines.

The county court may in the urban centers of any coun-
ty adopting voting machines designate a voting place
without the limits of a precinct, provided such voting
place is in a public building, and in an adjoining precinct.
In such event more than one precinct may vote in any
such public building.

Sec. 29. Use of Voting Machines in Municipal Elections.
The county court of any county which has adopted the
use of voting machines is hereby authorized to make such
machines available to any municipality in, or partly in,
such county for use in elections conducted by such mu-
nicipality, and the use of voting machines by such mu-
nicipality shall be upon such terms and conditions as may
be agreed upon between the county court and the mu-
nicipality.

Sec. 30. Applicability of General Laws Relating to
Elections.—Except as modified by this article, the gen-
eral laws applying to regular, special and primary elec-
tions shall apply to elections conducted with the use of voting machines.

If it shall be impracticable for the county court of any county, after the adoption of voting machines by such county, to supply the necessary voting machines to each precinct of such county for use in any election, the holding of any election in such precincts, which have not been supplied with voting machines, shall be governed by the general laws with respect to conducting a regular, special and primary election by the use of printed ballots.

Sec. 31. Tampering with Voting Machines; Attempts; Penalty.—Any person not an election officer or other public official who shall tamper or attempt to tamper with such voting machines, or in any way intentionally impair or attempt to impair, its use, and any such person who shall be guilty of or shall attempt any dishonest practice upon any such voting machine, or with or by its use, shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary for not less than one year nor more than ten years.

Any clerk of a county court, county commissioner, bal-
lot commissioner, election commissioner, or poll clerk, or any custodian, technician, or other public official authorized to take part in the holding of an election or in preparing for an election, who, with intent to cause or permit any voting machine to fail to register correctly all votes cast thereon, tampers with or disarranges such machine in any way, or any part or appliance thereof, or who causes or consents to the use of said machine for voting at any election with knowledge of the fact that the same is not in order, or not perfectly set and adjusted so that it will correctly register all votes cast thereon, or who, with the purpose of defrauding or deceiving any voter or of causing it to be doubtful for what ticket or candidate or candidates or proposition any vote is cast, or of causing it to appear on said machine that the votes cast for one ticket, candidate or proposition, were cast for another ticket, candidate or proposition, removes, changes or mutilates any ballot label on said machine or any part thereof, or does any other thing intended to interfere with the validity or accuracy of the election, shall be deemed guilty of a felony and upon conviction thereof
Sec. 32. Wilful Neglect of Duty by Officials; Penalties.—

Any public officer or election officer upon whom any duty is imposed by this article who shall wilfully omit or neglect to perform such duty, or who shall do any act prohibited in this article for which punishment is not otherwise provided herein, shall be guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or imprisonment in the county jail for not less than sixty days nor more than one year, or both, in the discretion of the court.

Article 5. Primary Elections and Nominating Procedures.

Section 1. Primary Elections; Time Held; Notice.—

Primary election shall be held at the voting place in each of the voting precincts in the state, for the purposes set forth in this article, on the second Tuesday in May in the year one thousand nine hundred sixty-four and in each second year thereafter.
Sec. 2. Delegates to National Conventions; Alternates.—

At the primary election to be held in the year nineteen hundred sixty-four, and in each fourth year thereafter, there shall be elected by the voters of each political party of the state the number of persons to which the party is entitled as delegates-at-large, and by the voters of each political party in each congressional district in the state the number of delegates to which the district is entitled, in the national convention of the party to be next held after the date of such primary. The persons receiving the highest number of votes in the state as delegates-at-large, to the number to which the state is entitled, shall be elected delegates. The persons receiving the highest number of votes as delegates in any congressional district, to the number to which the district is entitled, shall be elected delegates. Each delegate so elected shall then appoint an individual to serve as alternate delegate, and shall by registered letter notify the secretary of state of
such appointment within forty days after the primary election.

Sec. 3. Presidential Preference.—In presidential election years, in addition to the candidates required to be nominated at the primary election, the qualified voter of each political party shall have the opportunity of voting for their choice among those aspiring to be the candidates of their respective parties for president of the United States. The names of such aspirants shall be printed on the official election ballot of their respective parties, as provided in section thirteen of this article, upon the filing with the secretary of state of the announcement as provided in section seven of this article, and the ballot shall be marked and the vote shall be counted, canvassed and returned under the same conditions as to names, certificates and other matters, as the names and certificates of the party aspirants for the party nomination for the office of governor.

Sec. 4. Nomination of Candidates in Primary Elections.

—At each primary election, the candidate or candidates of each political party for all offices to be filled at the en-
suing general election by the voters of the entire state, of each congressional district, of each state senatorial district, of each judicial circuit of West Virginia, of each county, and of each magisterial district in the state shall be nominated by the voters of the different political parties, except that no presidential elector shall be nominated at a primary election.

In primary elections a plurality of the votes cast shall be sufficient for the nomination of candidates for office. Where only one candidate of a political party for any office in a political division, including party committeemen and delegates to national conventions, is to be chosen, the candidate receiving the highest number of votes therefor in the primary election shall be declared the party nominee for such office. Where two or more such candidates are to be chosen in the primary election, the candidates constituting the proper number to be so chosen who shall receive the highest number of votes cast in the political division in which they are candidates shall be declared the party nominees and choices for such office, except that candidates for the office of commissioner of the county
court shall be nominated and elected in accordance with the provisions of section twenty-three of article eight of the constitution of this state and that members of county boards of education shall be elected at primary elections in accordance with the provisions of section six of this article.

In case of tie votes between candidates for party nominations or elections in primary elections, the choice of the political party shall be determined by lot by the executive committee of the party for the political division in which such persons are candidates.

Sec. 5. Candidates for County Board of Education.— Any person who is eligible to hold office as a member of a county board of education may file a certificate with the clerk of the circuit court of the county, declaring himself a candidate for election to such office. Such certificate shall be substantially in the following form: I, ______________, hereby certify that I am a candidate for non-partisan election to membership on the __________________________ County Board of Education, and desire my name printed on the ballot to be voted at the primary election to be held on the ______ day of __________, 19 ______; that I am a
legally qualified voter of the county of __________, State of West Virginia; that the address of my residence in __________ County is __________; that I am eligible to hold the office; and that I am a candidate therefor in good faith.

________________________
Candidate

Signed and acknowledged before me this ____ day of ____ , 19__

________________________
Signature and official title of certifying officer.

Such announcement shall be signed and acknowledged by the candidate before some officer qualified to administer oaths, who shall certify the same.

Such certificate shall be filed with the clerk of the circuit court not later than the first Saturday of February next preceding the primary election day, and must be received by the clerk before midnight, eastern standard time, of that day or, if mailed, shall be postmarked before that hour.
Sec. 6. Election of County Board of Education Members

An election for the purpose of electing members of the county board of education shall be held on the same date as the primary elections as now provided by law, but upon a nonpartisan ballot printed for the purpose. In such nonpartisan election the person receiving the highest number of votes shall be elected for a long term, and if more than one is to be elected for a long term, the one receiving the next highest shall be elected; and if more than two are to be elected the candidate or candidates receiving the next highest votes shall be declared elected for any short term or terms, as the case may be, to fill vacancies; but no more than two such members shall be elected from the same magisterial district, and then only when such magisterial district does not have a hold-over member of said board, and if such magisterial district has one hold-over member on said board only one member shall be elected as aforesaid; and if more persons from a magisterial district receive the highest number of votes in said election, then of such persons only the person or persons having the highest
vote who do not make the aggregate number of elected
members and hold-over members more than two from
such magisterial district shall be declared elected, and
the remaining members shall be declared from the high-
est from other magisterial districts; and in no event shall
any member be declared elected from the same magis-
terial district wherein reside two already elected or oth-
erwise qualified members of such board who will continue
to hold office after the beginning of the term for which
such election was held.

It is declared to be the intent of this statute that any
person declared to be elected under the preceding pro-
visions of the section shall take office as a duly elected
member or members, even though he, she or they may
not have received a majority or plurality of all votes cast
at such election.

In case of tie votes for county board of education mem-
ber candidates in any primary election, the provisions of
section twelve of article six of this chapter shall be in-
voked and shall control in determination of the election.

Sec. 7. Filing Announcements of Candidacies; Require-
ments.—Any person who is eligible to hold an office (in-
cluding that of member of a state or county executive
committee) shall file with the secretary of state, if it be
an office to be filled by the voters of more than one coun-
ty, or with the clerk of the circuit court, if it be for an
office to be filled by the voters of a county or a subdivision
less than a county, a certificate declaring himself a can-
didate for the nomination for such office; which certificate
shall be in form or effect as follows:

I, __________, hereby certify that I am a candidate for the
nomination for the office of __________ to represent the
__________ party, and desire my name printed on the of-
official ballot of said party to be voted at the primary elec-
tion to be held on the ___ day of ______, 19____; that I am
a legally qualified voter of the county of __________, State
of West Virginia; that my residence is number ____ of
__________ street in the city (or town) of __________ in
__________ county in said State; that I am eligible to hold
the said office; that I am a member of and affiliated with
said political party; that I am a candidate for said office
in good faith.
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<td>24</td>
<td>Candidate</td>
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<td>25</td>
<td>Signed and acknowledged before me this ___ day of ..., 19___</td>
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<td><img src="image2.png" alt="Image" /></td>
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<tr>
<td>27</td>
<td>Signature and Official title of</td>
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<td>person before whom signed.</td>
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<td>29</td>
<td>Such announcement shall be signed and acknowledged</td>
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<td>by the candidate before some officer qualified to admin-</td>
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<td>ister oaths, who shall certify the same.</td>
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<td>32</td>
<td>No person may be a candidate for nomination for of-</td>
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<td>fice in any political party unless it be openly known that</td>
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<td>such person is a bona fide member of such party.</td>
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<td>35</td>
<td>Such certificate shall be filed with the secretary of state</td>
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<td>or the clerk of the circuit court, as the case may be, not</td>
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<td>earlier than the first Monday in January next pre-</td>
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<td>ceding the primary election day, and not later than the</td>
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<td>first Saturday of February next preceding the primary</td>
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<td>election day, and must be received before midnight, east-</td>
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<td>ern standard time, of that day or, if mailed, shall be post-</td>
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<td>42</td>
<td>marked before that hour.</td>
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Sec. 8. Filing Fees and Their Disposition.—Every person who becomes a candidate for nomination for/or election to office in any primary election, shall, at the time of filing the certificate of announcement as required in this article, pay a filing fee as follows:

(a) A candidate for president of the United States, for vice-president of the United States, for United States senator, for member of the United States house of representatives, for governor and for all other state elective offices shall pay a fee equivalent to one per cent of the annual salary of the office for which the candidate announces;

(b) A candidate for the office of judge of a circuit court and judge of any court of record of limited jurisdiction shall pay a fee equivalent to one per cent of the total annual salary of the office paid from any and all sources for which the candidate announces;

(c) A candidate for member of the house of delegates shall pay a fee of fifteen dollars, and a candidate for state senator shall pay a fee of thirty dollars;

(d) A candidate for sheriff, prosecuting attorney, circuit clerk, county clerk, assessor, member of the county
court and member of the county board of education shall pay a fee equivalent to one per cent of the annual salary of the office for which the candidate announces: Provided, however, That the fee in no case shall be less than five dollars. A candidate for any other county office shall pay a fee of five dollars;

(e) A candidate for justice of the peace in districts having a population of five thousand or less shall pay a fee of ten dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, fifteen dollars; and in districts having more than twenty-five thousand population, each candidate shall pay a fee of twenty-five dollars;

(f) A candidate for constable in districts having a population of five thousand or less shall pay a fee of five dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, ten dollars; and in all other districts fifteen dollars;

(g) Delegates to the national convention of any political party shall pay the following filing fees:

A candidate for delegate-at-large shall pay a fee of
twenty dollars; and a candidate for delegate from a congressional district shall pay a fee of ten dollars;

(h) Candidates for members of political executive committees and other political committees shall pay the following filing fees:

A candidate for member of a state executive committee of any political party shall pay a fee of ten dollars; a candidate for member of a county executive committee of any political party shall pay a fee of one dollar; and a candidate for member of a congressional, senatorial or judicial committee of any political party shall pay a fee of one dollar.

Candidates filing for an office to be filled by the voters of one county shall pay the filing fee to the clerk of the circuit court, and candidates filing for an office to be filled by the voters of more than one county shall pay the filing fee to the secretary of state at the time of filing their certificates of announcement, and no certificate of announcement shall be received until the filing fee is paid.

All moneys received by such clerk from such fees shall be credited to the general county fund. Moneys received
by the secretary of state from fees paid by candidates for
deposited in a special fund for that purpose and shall be
apportioned and paid by him to the several counties on
the basis of population, and that received from candidates
from a district or judicial circuit of more than one coun-
ty shall be apportioned to the counties comprising the
district or judicial circuit in like manner. When such
moneys are received by sheriffs, it shall be credited to the
general county fund.

Sec. 9. Certification and Posting of Candidacies.—During
the week next following the last Saturday of Febru-
ary next preceding the day fixed for the primary elec-
tion, the secretary of state shall arrange the names of all
the candidates, who have filed announcements with him,
as provided in this article, and who are entitled to have
their names printed on any political party ballot, in ac-
cordance with the provisions of this chapter, and shall
forthwith certify the same under his name and the lesser
seal of the state, and file the same in his office.

Such certificate of candidates shall show the name and
residence of each candidate, the office for which he is a
candidate, the name of the political party of which he is
a candidate, and upon what ballot his name is to be
printed. The secretary of state shall post a duplicate of
such certification in a conspicuous place in his office and
keep same posted until after the primary election.
Immediately upon completion of such certification, the
secretary of state shall ascertain therefrom the candidates
whose names are to appear on the primary election bal-
lots in the several counties of the state and shall certify
to the clerk of the circuit court in each county the cer-
tificate information relating to each of the candidates
whose names are to appear on the ballot in such county.
He shall transmit such certificate to the several clerks by
registered or certified mail, but, in emergency cases, he
may resort to other reliable and speedy means of trans-
mission which may be available so that such certificates
shall reach the several clerks by the sixtieth day next
preceding such primary election day.

Sec. 10. Publication and Printing of Ballots; Number.—
3 the date of the primary election, the ballot commissioners
4 of each county shall prepare from the lists and certificates
5 of announcements, as provided in this article, a sample
6 official primary ballot for each party, placing thereon the
7 names of all the candidates of the political party, and, as
8 the case may be, the nonpartisan candidates to be voted
9 for at such primary election. During the two weeks next
10 preceding the primary election they shall publish such
11 sample official primary election ballot in two issues of
12 a newspaper of general circulation published in such
13 county and representing such party, if there be one, but,
14 if there be no such newspaper so published, then they
15 shall publish such ballot in two issues of some other news-
16 paper published and of general circulation in such county.
17 The ballot commissioners shall determine the total
18 number of official ballots required for conducting the
19 primary election in all of the election precincts of the
20 county and shall cause same to be printed at least thirty
21 days next preceding the date of the election and made
22 ready for delivery to the several precincts along with
23 other election supplies. The number of official ballots of
a political party prepared for delivery to a precinct shall not exceed one and one-twentieth times the number of registered voters of such party in that precinct.

Sec. 11. Candidacies Not Certified; Vacancies; Stickers.

—if, by satisfactory evidence, it shall appear to the ballot commissioners of any county that announcements have been made in conformity with the provisions of this chapter and no certificate thereof has been received by them, they shall include such persons among the names of candidates to be printed upon the ballots, as in this article provided.

If, after the time is closed for announcing as a candidate for any office, and not later than the fifth day preceding the date of the primary election, any person who has filed an announcement of candidacy shall withdraw and decline to stand as a candidate for the office, or shall die, leaving no primary election candidate for his party's nomination for such office, the executive committee of the party, for the political division within which such candidate was to be voted for, may, in its discretion, fill the vacancy caused by such withdrawal or death by
naming another candidate for such office. The chairman of such executive committee shall forthwith certify the candidate so named for such vacancy to the ballot commissioners of the county or counties concerned and shall immediately send a copy of such certification to the secretary of state. If the ballots have been printed before receipt of such certificate, the ballot commissioners shall cause the name of the candidate so certified by the chairman of the executive committee to be printed on "stickers" and supplied to the commissioners of election appointed to hold the primary election at the different precincts of the county wherein such candidate will stand for nomination. The procedures prescribed in section four of article six of this chapter, relating to the use of stickers in general elections, shall be adaptable and applicable in primary elections where not inconsistent with any provisions hereof.

Sec. 12. Official and Sample Ballots; Color.—There shall be a separate ballot printed on different colored paper, for each political party participating in the primary
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4 election, and the ballot of no two parties shall be of the
5 same color or tint. The secretary of state shall select and
6 determine the color of the paper of the ballot of each of
7 the parties, and shall notify the clerk of the circuit court
8 of each county thereof, at the time he certifies the names
9 of the candidates of the various parties to said clerk, as
10 herein provided.
11 The same color of paper selected and designated by the
12 secretary of state for any party shall also be used for
13 sample ballots of such party; but there shall be printed
14 across the face of such sample ballot in large letters the
15 words “sample ballot,” and no sample ballot shall be voted
16 or counted in any election.

Sec. 13. Form and Contents of Ballots.—The official
2 primary ballot shall contain at the left of each column
3 of names of candidates, a perpendicular column, and shall
4 be so printed as to leave a square at the left of each name
5 on the ballot.
6 On such primary ballot, the names of candidates for
7 president of the United States, for United States senator,
8 for representative in congress, and for delegates to the
national convention of the party, shall be placed in the first
column of candidates; the names of candidates for all state
offices, and all other offices to be filled by the voters of a
political division greater than a county, including the
state executive committee, in the second column; the
names of all candidates for county offices, including mem-
bers of the house of delegates and congressional and
senatorial executive committees, shall be placed in the
third column; and the names of all candidates for office in
the magisterial districts shall be placed in the fourth
column.

The face of every primary election ballot shall conform
as nearly as practicable to that used at the general elec-
tion.

The secretary of state, or the circuit court clerk, as the
case may be, shall arrange the names of the candidates
to be printed on the ballot in alphabetical order, accord-
ing to the surname, under the title of the respective offices
upon the ballot.

A separate ballot, in connection with a primary election,
for election of members of county board of education, shall
be printed in bold type, under the caption, "Nonpartisan Ballot for Election of Members of the County Board of Education." The names of the candidates for election to the county board of education, and the number of candidates for which each voter is entitled to vote shall be printed beneath the caption, without reference to political party affiliation, and without designation as to a particular term of office.

In printing each set of ballots the position of the names of the candidates shall be changed in each office division as many times as there are candidates in that office division. As nearly as possible an equal number of ballots shall be printed after each change. In making the change of position, the printer shall take the line of type containing the first name in the office division concerned and place it at the bottom of the list of names in that division and move up the column so that the name that before was second shall be first after the change. After the ballots are printed they shall be kept in separate piles, one pile for each change in position, and shall then be gathered by taking one from each pile. Sample ballots shall be in
the same form as the official ballot, but the order of the names thereon need not be alternated.

All ballots used in primary elections shall be printed on paper conforming as nearly as practicable in weight, texture, and color to the samples furnished by the secretary of state, and the paper shall be sufficiently thick so that the printing cannot be discernible from the back. On the back of the ballot shall be printed in black ink, and in plain legible, black face pica type, the name of the political party as contained in the heading or "Nonpartisan Board of Education," as the case may be, followed by the word "ballot." Under this designation shall be printed two blank lines followed by the words "poll clerks."

Sec. 14. General Provisions Applicable to Primary Elections.—Provisions of article one of this chapter relating to ballot commissioners, election commissioners and clerks, procedures for obtaining election supplies and conducting elections, loss and replacement of election supplies, challenge of voters, leaves of absence for voting, election expenses and recount procedures shall control and govern primary elections wherever applicable.
9 In all other particulars, when no specific provision is made in this article for the control, conduct and government of any phase of primary elections, resort shall be had to other provisions of this chapter which may be applicable thereto and controlling thereof.

Sec. 15. Ascertaining and Certifying Primary Election Results.—When the polls are closed, the commissioners of election and the poll clerks shall proceed to ascertain the result of the election as follows:

(a) The commissioners shall ascertain the number of ballots destroyed during the election and the number of ballots remaining not voted;

(b) The commissioners and clerks shall also ascertain from the poll books, and set down therein the total number of ballots of each party cast. The commissioners shall report, over their signatures, to the clerk of the county court, the number of votes of each party cast, the number of ballots destroyed during the election, and the number of ballots not voted. All unused ballots shall at the same time be returned to the clerk of the county court, who shall immediately destroy them by fire or otherwise;
(c) The ballot box shall be opened and one of the commissioners shall take therefrom one ballot at a time, in the presence of all the other officers, and shall announce what political party's ballot it is, and shall read therefrom the result of the vote on such ballot for each office, and hand the ballot to another of the commissioners differing in politics from himself, who, if satisfied that it is correctly read, shall string the same on thread. The ballots of each party shall be strung on separate threads. Each poll clerk shall keep an accurate tally of the contents of each ballot of each party on tally paper, which shall be provided for the purpose, so as to show the number of votes received by every person for any office. The ballots shall be counted as they are strung upon the thread, and whenever the number counted for any party shall equal the number of votes entered upon the poll book of that party, any other ballot of such party found in the ballot box shall be immediately destroyed by fire or otherwise, without unfolding the same, or allowing any one to examine or know the contents thereof;

(d) As soon as the results at the precinct are ascertained, the commissioners and clerks shall make out and
sign four certificates, for each party represented, of the vote for all candidates of such party, in the following form:

Certificate of result for __________ party candidates.

We, the undersigned commissioners and poll clerks of the primary election held at precinct No. __________ of __________
district of __________ county, W. Va., on the __________ day of __________, 19____, do hereby certify that having been
first duly sworn, we have carefully and impartially ascertained the result of said election at said precinct for the candidates on the official ballot of the __________ party, and the same is as follows:

For the office of governor, A. B. received ______________ votes.

For the office of governor, E. F. received __________ votes.

For the office of governor, G. H. received __________ votes.

(And so on as to each office for which any candidate was voted for, stating in words and figures the number of votes cast for each candidate.)

Given under our hands this __________ day of __________, 19____.

Three of such certificates of result of election, for each party, shall then be sealed in separately addressed envelopes, furnished for the purpose, and shall be disposed
of by the precinct commissioners as follows: One cer-
tificate for each party shall be returned, under seal, to
the clerk of the county court, with the election returns;
one for each party shall be delivered by the commissioners
to the clerk of the circuit court of the county; and one for
each party shall be sent by registered mail to the secretary
of state: Provided, however, That it shall not be neces-
sary for the precinct commissioners and clerks to include,
in the certificates to the secretary of state, the votes cast
for any candidates for county and district offices, other
than for members of the legislature. The one not sealed
up shall be posted on the outside of the front door of the
polling place in said precinct. All ballots voted for can-
didates of each party shall be sealed up in separate en-
velopes and the commissioners and clerks shall each sign
his name across the seal. In all precincts in which a re-
ceiving board and a counting board of election officers
are appointed, the work of counting the votes and of ascer-
taining and certifying the result shall be divided between
the two boards, and be performed by them, respectively,
for counting the votes and ascertaining and certifying
the result of a general election.

Sec. 16. Return of Supplies and Certificates.—Within
twelve hours after completion of the count, tabulation and
declaration of the result of the primary election in each
precinct, one of the commissioners at such precinct, desig-
nated for that purpose, shall return to the clerk of the
county court the ballot boxes, registration list, and the
several packages of ballots, poll books, tally sheets, cer-
tificates, and all other election supplies and returns, except
he shall deliver to the clerk of the circuit court, within
the same time, packages containing one poll book, one
tally sheet, and one certificate of each political party pre-
pared and sealed as provided in the next preceding section.

Sec. 17. Canvassing and Certifying Returns; Recount
Procedures.—The county court, sitting as a board of can-
vassers, shall meet at the courthouse of the county on
the Friday next succeeding any primary election and shall
proceed to canvass the returns of such election. The proced-
ures prescribed in section nine of article six of this chapter,
relating to canvass of general election returns, shall, where
adaptable, be applied in the canvass of the primary elec-
tion returns. The board shall proceed to ascertain the result of such election in the county and district, and election precincts thereof, and cause to be prepared and recorded in the primary election precinct record book, a table or tables which shall show, as to each candidate of each political party for each office, the number of votes cast for him at each precinct, and the total number thereof cast in the entire county. The board shall then make up and enter in said record book a certificate for each political party, showing, as to each candidate for each political party for each office, the total number of votes (in words and also in figures) cast for him in the entire county and the number of votes received by all the candidates of such party in such district, which shall be in the following form:

The board of canvassers of the county of ____________ State of West Virginia, having carefully and impartially examined the returns of the primary election held in said county on the __________ day of __________, 19_____, do hereby certify that in said county or district, at said election, on the official ballot of the ___________ party for the office of ___________, A.B. received ___________ (_____ ) votes; C. D. received ___________ (_____ ) votes.
And so on for each office for each political party according to the truth. When the certificates are all entered, the report shall be signed by the members of the board or a majority thereof. Such members shall also sign separate certificates of the result of said election, within the county, for each of the offices to be filled by each political party, as provided by the following section.

The provisions of article six of this chapter, relating to the recount of votes in general elections, shall, to the extent applicable, be operative in primary and other elections conducted under provisions of this article.

Sec. 18. Disposition of Certificates of Results.—The certificates of the board of canvassers made pursuant to the preceding section shall be by them disposed of as follows: One of the certificates showing the votes received by each candidate of each party for each office to be filled by the voters of a political division greater than a county, including members of the state executive committee, shall be filed with the secretary of state, and by him preserved in his office, and a copy thereof filed in the office of the clerk of the circuit court of the county of such board, to be preserved by such clerk, and which
shall be open to public inspection; one certificate showing the votes received by each candidate of each party for each office to be filled by the voters of the county or magisterial district within such county, including members of the county executive committee, shall be filed with the clerk of the circuit court, and by him preserved in his office. If requested, the board of canvassers shall furnish to the county chairman of each political party a certificate showing the number of votes received by each of the candidates of such party in the county or any magisterial district therein.

The secretary of state shall certify, under the seal of the state, to the clerk of the circuit court of each county in which a candidate is to be voted for, the name of the candidate of each political party receiving the highest number of votes in the political division in which he is a candidate, and who is entitled to have his name placed on the official ballot in the general election as the nominee of the party for such office. The secretary of state shall also certify in the same manner the names of all candidates nominated by political parties or by goups of
citizens, not constituting a political party, in any manner provided for making such nominations in this chapter.

Sec. 19. Vacancies in Nominations; How Filled; Fees.—

If any vacancy shall occur in the party nomination of candidates for office, caused by the death, withdrawal, failure to make a nomination for the office at the primary election, or otherwise, it may be filled and the name of the candidate certified by the executive committee of the political party for the political division in which the vacancy occurs. If such vacancy be not filled by the executive committee by the sixty-fifth day next preceding the date of the election, it shall be lawful for the chairman of the political party executive committee for the political division to fill such vacancy, make a certificate thereof, and file the same with the officer with whom the original certificate of nomination was or might have been regularly filed. Such certificate shall be filed not later than the sixtieth day next preceding the date of the election and, when filed, such officer shall proceed there- with in the same manner in all respects as in cases of original nominations. When any such vacancy exists be-
cause of failure to make a nomination for the office at
the primary election, no nomination for such office shall
be deemed filed under provisions of this section until the
required filing fee for such office candidacy shall have
been paid as provided in section eight of this article.

Sec. 20. Election Contests and Court Review.—Any
candidate for nomination for or election to an office to
be filled by the voters of the state or any political sub-
division thereof or any candidate for membership on any
county political party executive committee, may contest
the primary election before the county court of the
county in which any primary election procedures, prac-
tices or results may be in issue. The procedure in such
case shall be the same as that governing the contest of
a general election by candidates for county offices or
offices in magisterial districts. The decision of the county
court upon such contest may be reviewed by the circuit
court of the county and by the supreme court of appeals
of the state. Wherever practicable, the circuit court, on
review, may, by order entered of record, consolidate and
hear together any such primary election cases arising in
one or more counties of the circuit, and the supreme court
of appeals, on further review, may likewise consolidate
and hear together any such cases whenever considered
practicable by the court so to do.

Any action of a political party executive committee in
the discharge of any of the duties imposed upon such
committee by this article, or of any board of election
officials in conducting and ascertaining the result of the
primary election, or of any board of canvassers in can-
vassing and certifying the result of the primary election
for the county, may be reviewed by the circuit court of
the county, upon the petition of any candidate, political
committeeman or delegate voted for at such primary and
affected adversely by the action of such committee, board
of election officials, or board of canvassers. From the
judgment of the circuit court in any such proceeding,
an appeal shall lie to the supreme court of appeals of the
state.

Any such contest, or petition for review, of a candidate
for a nomination not finally determined within ten days
next preceding the date of the next election after the
primary, or of a candidate for delegate to any convention
within ten days next preceding the date fixed for holding
the convention, shall stand dismissed, and the person
shown by the face of the returns of the primary election
to be nominated for any office shall be entitled to have
his name printed upon the regular ballot to be voted at
the election, and the person shown upon the face of the
returns to have been elected as a delegate to any con-
vention shall be entitled to sit in such convention as a
delegate.

Sec. 21. Party Conventions to Nominate Presidential
Elector Candidates; Organization; Duties.—Candidates for
presidential electors shall be nominated by the delegated
representatives of the political party assembled in a state
convention to be held between the first and fifteenth days
of August next preceding any general election at which
presidential electors are to be elected. The state execu-
tive committee of the political party, by resolution, shall
designate the place and fix the date of such convention,
shall prescribe the number of delegates thereto, and shall
apportion the delegates among the several counties of
the state in proportion to the vote cast in the state for
the party's candidate for governor at the last preceding
general election at which a governor was elected. The
state executive committee shall also ascertain and desig-
nate all offices for which candidates are to be nominated
at such convention.

At least sixty days prior to the date fixed for holding
any state convention, the chairman of the party's state
executive committee shall cause to be delivered to the
party's county executive committee in each county of the
state a copy of the resolutions fixing the time and place
of holding the state convention and prescribing the num-
ber of delegates from each county to the convention.
Within ten days after receipt of the copy of such resolu-
tions, the party executive committee of each county shall
meet and, by resolution, shall apportion the delegates to
the state convention among the several magisterial dis-
tricts of the county, on a basis of the vote received in
the county by the candidate of the party for governor at
the last preceding general election at which a governor
was elected, but in such apportionment of county dele-
gates each magisterial district shall be entitled to at least one delegate to such state convention. The party's county executive committee shall call a meeting of the members of the political party in mass convention in the several magisterial districts of the county, which district meeting shall be held at least thirty days prior to the date fixed for the state convention and at which meeting the members of the political party in each magisterial district shall elect the number of delegates to which such district is entitled in the state convention.

The meeting place in the magisterial district shall be as central and convenient as can reasonably be selected, and all recognized members of the political party shall be entitled to participate in any such mass convention and in the selection of delegates. Notice of the time and place of holding the several magisterial district mass conventions and of the person who shall act as temporary chairman thereof shall be given by publication in at least two issues of a newspaper of the political party, if any such there be, published in the county, the first publication to be not more than fifteen and the second publica-
tion to be not less than five days prior to the date fixed for holding the convention. If no such newspaper be published in the county, notice may be given by posting the same in at least five conspicuous places in the magisterial district, at least ten days before the date of the mass convention. The notice published or posted shall specify the number of delegates which each magisterial district in the county is entitled to elect to the state convention.

Upon assembling, the mass convention of each magisterial district shall choose a chairman and a secretary, who, within five days after the holding of such convention, shall certify to the chairman of the state executive committee of the political party and the chairman of the county committee of the political party, the names and addresses of the parties selected as delegates to the state convention.

All contests over the selection of delegates to conventions shall be heard and determined by the party executive committee of the county from which the delegates are chosen, and such county executive committee shall,
upon written petition of any contestant, meet for such
hearings and determinations within ten days after the
holding of such magisterial district mass convention. The
circuit court of the county and the supreme court of ap-
peals of the state shall have concurrent original jurisdic-
tion to review, by mandamus or other proper proceeding,
the decision of a county executive committee in any
contest.

The delegates chosen and certified by and from the
several magisterial districts in the state, and, in the event
of any contest, those prevailing in the contest, shall make
up the state convention. The number present of those
entitled to participate in any convention shall cast the
entire vote to which the county is entitled in such con-
vention, and it shall require a majority vote to nominate
any candidate for office.

All nominations made at state conventions shall be
certified within fifteen days thereafter, by the chairman
and the secretary of the convention, to the secretary of
state, who shall certify them to the clerk of the circuit
court of each county concerned, and the names of the
persons so nominated shall be printed upon the regular
ballot to be voted at the ensuing general election, except
that the names of the presidential elector candidates shall
not be printed thereon.

The delegates to any state convention may formulate
and promulgate such party platform or declaration of
party principles as to them shall seem advisable.

Sec. 22. Other Party and Group Nominations; Procedure.—Any political party which polled less than ten per
cent of the total vote cast only for governor at the gen-
eral election immediately preceding may nominate can-
didates and select committees by party conventions, pro-
vided such nominations are made and the certificates
thereof filed within the time and in the manner provided
in section twenty-four of this article, or by certificate in
the same manner as groups of citizens may make nomi-
nations as provided in the following section.

No delegate or person participating in the selection of
delegates under this section shall vote in any primary
election held in that year.

Sec. 23. Certificate Nominations; Requirements and
Control; Penalties.—(a) Groups of citizens having no
party organization may nominate candidates for public
office otherwise than by conventions or primary elections.
In such case, the candidate or candidates, jointly or sev-
erally, shall file a declaration containing the name of the
political party he or they propose to represent, its plat-
form, principles or purposes, with the secretary of state
if the office is to be filled by the voters of more than one
county, or with the clerk of the circuit court of the
county if the office is to be filled by the voters of one
county or political subdivision thereof; such declaration
to be filed at least thirty days prior to the time of filing
the certificate provided by section twenty-four of this
article, and at the time of filing of such declaration each
candidate shall pay the filing fee required by law, and if
such declaration is not so filed or the filing fee so paid the
certificate shall not be received by the secretary of state,
or clerk of the circuit court, as the case may be;
(b) The person or persons soliciting or canvassing sig-
natures of duly qualified voters on such certificate or cer-
tificates, shall be residents and qualified, registered voters,
of the magisterial district of the county in which such
solicitation or canvassing is made, and may solicit or can-
vass duly registered voters resident within their own re-
spective magisterial district, but must first obtain from
the clerk of the county court of which such canvasser or
solicitor is a resident, credentials which must be exhibited
to each voter canvassed or solicited, which credentials
may be in the following form or effect:

State of West Virginia, County of _____________, ss:

This certifies that _____________, a duly registered voter of
Precinct No. _____________, _____________ District, of this county
and state; whose postoffice address is ________________, is
hereby authorized to solicit and canvass duly registered
voters residing in _____________ District of this County to
sign a certificate purporting to nominate ________________
(here place name of candidate heading list on certificate)
for the office of _____________ and others, to represent the
______________ Party at the general election to be held on
______________, 19_______.

Given under my hand and the seal of my office this
____________ day of ________________, 19_______.
The clerk of each county court, upon proper application made as herein provided, shall issue such credentials and shall keep a record thereof;

(c) The certificate shall be personally signed by duly registered voters, in their own proper handwriting or by their marks duly witnessed, who must be residents within the magisterial district of the county wherein such canvass or solicitation is made by the person or persons duly authorized. Such signatures need not all be on one certificate. The number of such signatures shall be equal to not less than one per cent of the entire vote cast at the last preceding general election for the office in the state, district, county or other political division for which the nomination is to be made, but in no event shall the number be less than twenty-five. Where two or more nominations may be made for the same office, the total of the votes cast at the last preceding general election for the candidates receiving the highest number of votes on each ticket for such office shall constitute the entire
vote. No signature on such certificate shall be counted unless it be that of a duly registered voter of a precinct within the magisterial district wherein such certificate was presented. No person signing such certificate shall vote at any primary election to be held to nominate candidates for office to be voted for at the election to be held next after the date of signing such certificate;

(d) Such certificates shall state the name and residence of each of such candidates; that he is legally qualified to hold such office; that the subscribers are legally qualified and duly registered as voters and desire to vote for such candidates; and shall designate, by not more than five words, a brief name of the party which such candidates represent and may adopt a device or emblem to be printed on the official ballot. All candidates nominated by the signing of such certificates shall have their names placed on the official ballot as candidates, as if otherwise nominated under the provisions of this chapter. At the top of each certificate shall be the following form or to the following effect:

State of West Virginia, County of _____________, ss:
This is to certify that we, the undersigned, are duly registered voters, resident within the magisterial district of ______, County of ______, State of West Virginia, and do hereby make the following nominations for public office, to-wit:

For House of Delegates

A_________________ B_________________ Residence_____________________

(And so on for each nomination so made)

And, we further certify that each of said candidates is legally qualified to hold the office for which he is nominated; that we are legally registered and qualified voters and desire to vote for said candidates and acknowledge that we are aware that no person signing this certificate can legally vote at the primary election next ensuing after the date of filing of this certificate. The name of the party which the candidates represent is (here state name) and the device or emblem of the party is (here affix device).

Signature       Precinct No.       Residence       Postoffice

Address

(Names of       (Number of       (Describe       (Name of
(e) The secretary of state, or the clerk of the circuit court, as the case may be, may investigate the validity of such certificates and the signatures thereon, and if upon such investigation there may be doubt as to the legitimacy and the validity of such certificate, he may request the attorney general of the state, or the prosecuting attorney of the county, to institute a quo warranto proceeding against the nominee or nominees by certificate to determine his or their right to such nomination to public office, and upon request being made, the attorney general or prosecuting attorney shall institute such quo warranto proceeding; and

(f) Any person violating the provisions hereof, in addition to penalties prescribed elsewhere for violations of this chapter, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.
Sec. 24. Filing of Nomination Certificates; Time.—All certificates nominating candidates for office under the preceding section, including a candidate for the office of presidential elector, shall be filed, in the case of a candidate to be voted for by the voters of the entire state or by any subdivision thereof other than a single county, with the secretary of state, and in the case of all candidates for county and magisterial district offices, including all offices to be filled by the voters of a single county, with the clerk of the circuit court of the county, not later than the day preceding the date on which the primary election is held. After such date no such certificate shall be received by such officers.

Article 6. Conduct and Administration of Elections.

Section 1. Provisions Governing Elections.—The provisions of this article shall govern the conduct and administration of general elections. Other provisions of this chapter, where applicable, shall be considered supplementary and complementary to the provisions of this article regulating and controlling general elections.

In all voting precincts in which voting machines have
8 been approved, procured, and are in use, the provisions
9 of article four of this chapter shall be applicable to the
10 conduct and administration of general elections.
11 Where applicable and not inconsistent with other posi-
12 tive provisions of law, the provisions of this article shall
13 govern the conduct of and procedures in primary and
14 special elections.

Sec. 2. Preparation and Form of General Election Bal-
2 lots.—All ballots prepared under the provisions of this
3 article shall be printed in black ink on number two white
4 book paper sufficiently thick so that the printing cannot be
5 distinguished from the back, and shall contain the names
6 of every candidate whose nomination for any office to be
7 voted for at the election has been certified and filed ac-
8 cording to law, and no others, except that if it shall appear
9 to the satisfaction of the ballot commissioners that a per-
10 son has been legally nominated as a candidate for an office
11 and is lawfully entitled to have his name upon the ballot
12 and no certificate of the nomination has been received by
13 the clerk of the circuit court, they shall print the name of
14 such candidate upon the ballot in its proper place.
The tickets, except the heading, which shall be in display type, shall be printed in eight point type; the name or designation of the office and the residence of the candidate in lower case letters, and the name of the candidate in capital letters. The name and residence of the candidate may be printed in the same line. The name of each candidate shall be printed in a space defined by ruled lines, and with a black square on its left inclosed by heavy dark lines. If, upon any ticket, there be no candidate or candidates for a designated office, a blank space equal to the space that would be occupied by such name or names, if they were printed thereon, with the blank space herein provided for, shall be left. The heading of each party ticket including the name of the party and the device or emblem above and the large circle between the device or emblem and such name, shall be separated from the rest of the ticket by heavy lines and the circle above the name of the party in which the voter is to place the cross mark, if he desires to vote the straight ticket, shall be defined by heavier lines than the lines defining the blank spaces before the names of candidates, and such circle shall be surrounded by the following words printed
in heavy face six point type: "For a straight ticket mark within this circle." Each party ticket shall be separated from other party tickets and bordered on either side by a heavy border, or a broad solid line, at least one sixteenth of an inch wide, and the edges of the ballot on either side trimmed off to within one-half inch of the border or solid line described.

The names of the candidates shall be arranged on the ballot in tickets or lists, in separate columns under the respective party or political or other designation certified, each column or ticket containing the names of candidates nominated by the same political party and no others. In elections for presidential electors, the names of candidates for electors of any political party or group of petitioners, shall not be placed on the ballot, but shall, after nomination, be filed with the secretary of state. In place of their names, there shall be printed first on the ballots the names of the candidates for president and vice-president, respectively, of each such party or group of petitioners, and they shall be arranged under the title of the office. Before the names of such candidates for president and vice-
president of each party, or group, a single square shall be printed, in front of a brace, in which the voter shall place the cross mark for the candidate of his choice for such offices. A vote for any of such candidates shall be a vote for the electors of the party by which such candidates were named, and whose names have been filed with the secretary of state.

The names of the candidates on each ticket shall be arranged in groups, with a heading over each group printed in heavy faced eight point type to indicate the political divisions in which such group is to be voted for. The arrangement of the ballot shall conform as nearly as practicable to the plan here given:

<table>
<thead>
<tr>
<th>Device</th>
<th>Device</th>
<th>Device</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Republican Ticket</th>
<th>Democratic Ticket</th>
<th>Prohibition Ticket</th>
</tr>
</thead>
<tbody>
<tr>
<td>For Governor</td>
<td>For Governor</td>
<td>For Governor</td>
</tr>
<tr>
<td>Name.</td>
<td>Name.</td>
<td>Name.</td>
</tr>
</tbody>
</table>

![Ballot Diagram]
The tickets of the several political parties shall be printed on the ballot in parallel columns, each ticket in a separate column headed by the chosen device, and the tickets in such order on the ballot and the names of the office in such order on the ticket as the secretary of state shall direct, preference, however, being given to the political party which cast the highest number of votes for the head of the ticket at the last preceding presidential election, and so on. No ticket or list of candidates shall be printed under the name of any party containing more candidates for any office than are to be elected.

The ballot shall be so printed as to give each voter a clear opportunity to designate by a cross-mark in a large, blank, circular space, three-quarters of an inch in diameter, below the device and above the name of the party at the head of the ticket or list of candidates, his choice of a party ticket and desire to vote for each and every candidate thereon; and by a cross mark, in a blank, inclosed space on the left and before the name of each candidate, his choice of particular candidates.

On the back of the ballot shall be printed or stamped
in black ink the words "Official Ballot," with the date of
the election, and underneath shall be two blank lines, fol-
lowed by the words "Poll Clerks."

Sec. 3. Publication of Nominations.—At least ten days
before an election to fill any public office at which the
voters of any county are entitled to vote, the clerk of the
circuit court of such county shall cause to be published
in two newspapers, if such there be published within the
county, representing the political parties which at the last
preceding general election cast the largest and second
largest number of votes in the state, or, if there be only
one newspaper published therein, then in such newspaper,
the nominations for office certified to him and filed in his
office, excepting nominations for office to be filled by the
voters of any subdivision less than a county. He shall
make two publications thereof in each of such newspapers
before the election, the second of which in each newspaper,
shall be on the last day upon which such newspaper is
issued before the election. If there be no newspaper pub-
lished in the county, the clerk of the circuit court shall,
at least ten days before the election, cause to be posted
in his office, and at some public place in each voting pre-
cinct in the county, a printed notice of the nominations for
office certified to and filed by him as aforesaid. Whenever
it shall appear by affidavit that an error or omission has
occurred in the publication of the names or description
of candidates nominated for public office, or in the printing
of the ballots, the board of ballot commissioners shall cor-
rect such error. The list of nominations published or
posted by clerks of the circuit courts of the several coun-
ties shall be arranged in the order and form in which
they will be printed upon the ballot.

Sec. 4. Late Nominations; Stickers.—If a nomination to
fill a vacancy be made by a political party executive com-
mittee or, on its failure to so act within the time pre-
scribed by law, be made by the chairman of such commit-
tee, and be certified to the clerk of the circuit court after
the ballots to be used at the ensuing election shall have
been printed, the clerk shall forthwith lay such certificates
before the ballot commissioners who, without delay, shall
prepare, or cause to be prepared, and deliver, or cause to
be delivered, to the election commissioners of each pre-
cinct in which such candidate is to be voted for, a number of stickers, containing only the name of such candidate, at least equal to the total number of ballots provided for such precinct; but no such stickers shall be furnished to or received by any person except a commissioner of election. It shall be the duty of the commissioners holding the election to deliver such stickers to the poll clerks, who shall, in the presence of the election commissioners, affix one of such stickers in a careful manner at the proper place for the name of the candidate, upon each ballot to be voted at the election, before the poll clerks shall sign their names on the ballots. Such stickers may be delivered to the election officers, by the clerk of the county court, with the ballots, poll books and other supplies.

Sec. 5. Rules and Procedures in Elections Other Than Primaries.—The provisions of article one of this chapter relating to elections generally shall govern and control arrangements and election officials for the conduct of elections under this article. The following rules and procedures shall govern the voter in his voting for candidates in general and special elections.
(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 can-
didate 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 can-
didates 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 lead 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 im-
possible 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.

Sec. 6. Ballot Counting Procedures.—When the polls
are closed in an election precinct where two election
boards have served, both the receiving and counting
boards shall conclude the counting of the votes cast, the
tabulating and summarizing of the number of the votes
cast, unite in certifying and attesting to the returns of
the election, and join in making out the certificates of the
result of the election provided for in this article. They
shall not adjourn until the work shall be completed.

In all election precincts wherein the election shall be
conducted by a single election board, immediately on closing the polls the commissioners and clerks shall proceed to ascertain the result of the election in the following manner: The ballot box shall then be opened, and one of the commissioners taking therefrom one ballot at a time, in the presence of all the other officers, shall read therefrom the designations of the offices to be filled, and the names of the persons voted for, for each office, and hand the ballot to another of such commissioners, differing in politics from himself, who, if satisfied that it was correctly read, shall string it on a thread. The contents of the ballots, as they are read, shall be entered by the poll clerks, under the supervision of the commissioners, on tally sheets for the purpose, by suitable marks, in ink, made opposite to or under the name of each person voted for, so as to show the number of votes received by every person, for any office to be filled. The ballots shall be counted as they are strung upon the thread, and whenever the number counted shall be equal to the number of votes entered upon the poll books, the excess, if any, remaining in the ballot box shall immediately be de-
strowed by fire or otherwise, without unfolding or unrolling the same, or allowing any one to examine or know the contents thereof.

They shall not adjourn until all of the votes are counted and certificates of the result made and signed by them.

In precincts wherein there are double boards, the counting boards, in counting the ballots, shall proceed in the manner prescribed in this section.

Sec. 7. Ballot Irregularities; Procedures.—If two or more ballots be found folded or rolled together and the names voted for thereon be the same, one of them only shall be counted; but if the names voted for thereon be different, in any particular, neither of them shall be counted except as hereinbefore provided; and in either case, the commissioners of election shall, in writing in ink, place a common number on such ballots and state thereon that they were folded or rolled together when voted. If any ballot be found to contain more than the proper number of names for any office, such ballot shall not be counted as to such office. In any election for state senator, if a person be voted for on any ballot who is not
a resident of the proper county, as required by the fourth
section of the sixth article of the Constitution, such ballot
shall not be counted for said office. Any ballot which is
not indorsed with the names of the poll clerks, as pro-
vided in this chapter, shall be void and shall not be
counted; and any ballot, or part of a ballot from which
it is impossible to determine the elector's choice of candi-
dates, shall not be counted as to the candidates affected
thereby.

Sec. 8. Precinct Returns; Certificates; Procedures.—As
soon as the results are ascertained, the commissioners of
election and poll clerks at each place of voting, shall
make out and sign four certificates thereof, in the fol-
lowing form or to the following effect: "We, the under-
signed, who acted as commissioners and poll clerks of
the election held at precinct No. ______ in the district
of __________, and county of __________, on the ___
day of ______, do certify that, having been first duly
sworn, we have fairly and impartially held the said elec-
tion according to law, and the result thereof is as follows:
For the office of __________, (here designate the office,
as for example, 'Delegate for the county of Barbour,' or
'Senator for the first senatorial district,' 'Judge of the first
circuit,' 'Representative in the congress of the United
States for the first congressional district,' 'Governor of the
State,' 'Judge of the supreme court of appeals,' 'Justice
of the peace of said district,' and so forth, as the case may
be), 'A. B. received ______ votes, C. D. ______ votes, E. F.
______ votes,' and so on throughout stating, according to
the truth, the full name of every person voted for, for
every office, and in words at length, and also in figures,
the number of votes received; and concluding as follows:
Given under our hands this ______ day of ___________ .”
The certificates shall contain complete returns of the polls
taken at such place of voting for every office to be filled,
and shall be sealed and disposed of as is provided in sec-
tion fifteen of article five of this chapter for certificates
as to the result of a primary election. When the certifi-
cates are signed, the ballots shall be inclosed by the com-
missoners in an envelope which they shall seal up, and
write their names in ink across the place or places where
it is sealed, and indorse in ink on the outside of the
envelope as follows: "Ballots of the election held at
precinct No. ______, in the district of ___________, and
county of __________, the ______ day of _____________."

One of the commissioners of the election shall, within
twelve hours after the completion of the count, tabula-
tion and declaration of the result, deliver the ballots so
sealed up, one set of the poll books and tally sheets, one
of such certificates, the registration book and the ballot
box or boxes, to the clerk of the county court, and one
certificate and set of poll books and tally sheets, to the
clerk of the circuit court, all of which shall be preserved
in the respective offices of said clerks as in this chapter
provided.

Sec. 9. Canvass of Returns; Recounts; Contests.—The
commissioners of the county court shall be ex officio a
board of canvassers, and, as such, shall keep in a well-
bound book, marked "election record," a complete record
of all their proceedings in ascertaining and declaring the
result of every election in their respective counties. They
shall convene as such canvassing board at the courthouse
on the fifth day (Sundays excepted) after every election
9 held in their county, or in any district thereof, and the
10 officers in whose custody the ballots, poll books, registra-
11 tion records, tally sheets and certificates have been placed
12 shall lay the same before them for examination. They
13 may, if deemed necessary, require the attendance of any
14 of the commissioners, poll clerks or other persons present
15 at the election, to appear and testify respecting the same,
16 and make such other orders as shall seem proper, to
17 procure correct returns and ascertain the true result of
18 the election in their county; but in such case all the
19 questions to the witnesses and all the answers thereto,
20 and evidence, shall be taken down in writing and filed
21 and preserved. All orders made shall be entered upon
22 the record. They may adjourn from time to time, but
23 no longer than absolutely necessary, and, when a ma-
24 jority of the commissioners are not present, their meeting
25 shall stand adjourned until the next day, and so from day
26 to day, until a quorum be present. The board shall pro-
27ceed to open each sealed package of ballots so laid before
28 them, and, without unfolding them, count the number in
29 each package and enter the same upon their record. The
ballots shall then be again sealed up carefully in a new envelope, and each member of the board shall write his name across the place where such envelope is sealed. After canvassing the returns of the election, the board shall, upon the demand of any candidate voted for at such election, open and examine any one or more of the sealed packages of ballots, and recount the same; but in such case they shall seal the same again, along with the envelope above named, and the clerk of the county court and each member of the board shall write his name across the place or places where it is sealed, and indorse in ink, on the outside: "Ballots of the election held at precinct No. __________, in the district of __________, and county of __________, on the ______ day of __________." Every candidate who demands such recount shall be required to furnish bond in a reasonable amount with good sufficient surety to guarantee payment of the costs and the expenses of such recount in the event the result of the election be not changed by such recount; but the amount of such bond shall in no case exceed three hundred dollars. When they have made their certificates and
declared the results as hereinafter provided, they shall
deposit the sealed packages of ballots, absent voter bal-
lots, registration records, poll books, tally sheets, and
precinct certificates with the clerks of the county and
circuit courts from whom they were received, who shall
carefully preserve the same for sixty days, and if there
be no contest pending as to any such election, and their
further preservation be not required by any order of a
court, such ballots, poll books, tally sheets and certificates
shall be destroyed by fire or otherwise, without opening
the sealed packages of ballots; and if there be such contest
pending, then they shall be so destroyed as soon as the
contest is ended. If the result of the election be not
changed by such recount, the costs and expenses thereof
shall be paid by the party at whose instance the same
was made.

Sec. 10. Certificates of Election Results.—Whenever an
election is held in any county or district to fill any na-
tional, state, county, or district office, the board of can-
vassers of the county, or a majority of them, under the
regulations prescribed in the next preceding section, shall
carefully and impartially ascertain the result of the election in their county and in each district thereof, and shall record the same in the following form, or to the following effect: "The board of canvassers of the county of _________, having carefully and impartially examined the returns of the election held in said county, in each district thereof, on the _____ day of ________, do hereby certify that in said county for the office of ____________, A. ______ B. _______ received ______ votes, C. ______ D. _______ received ______ votes, and E. ______ F. _______ received ______ votes. And we further certify that at said election held in the district of ________, in the said county, for the office of ____________, G. ______ H. ______ received ______ votes, and I. ______ J. _______ received ______ votes." (And so on as to each particular office.) In such certificates shall be set forth, according to the truth, the full name of every person voted for, and, in words at length, the number of votes received for any office. When the certificates are all entered, the record shall be signed by the board or majority of them. The board shall then sign separate certificates of the result of the election within
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Sec. 11. Disposition of Certificates; Procedures Thereon.—The separate certificates of the board of canvassers, made pursuant to the preceding section, shall be by them disposed of as follows: Of the certificates respecting the election for delegate or delegates in the Legislature, they shall transmit one to each person voted for as delegate, and shall transmit one to the secretary of state, who shall submit the same to the house, on the first day of the next ensuing session, together with a list of the persons appearing thereby to be elected. Of the certificates respecting the election of state senator, they shall transmit one to each person voted for as state senator, and shall transmit one to the secretary of state, to be submitted by him to the senate, on the first day of the next ensuing session, together with a list of persons appearing thereby to be elected. Of the certificates respecting the election of state officers, one, as to each of such officers, except judge of the supreme court of appeals, shall be sealed and transmitted by such commissioners to the secretary of state indorsed on the envelope as follows: "Returns of the
election for state officers." The secretary of state shall deliver the same to the speaker of the house of delegates, on the first day of the next session of the Legislature; and the speaker shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same, in the presence of a majority of each house of the Legislature, which bodies shall, for that purpose, assemble in the hall of the house of delegates. The person having the highest number of votes for any one of such offices shall be declared duly elected thereto; but if two or more persons have the same and the highest number of votes for the same office, the legislature shall, by a joint vote of the two houses, choose one of said persons for such office; and one of each of such last mentioned certificates shall also be transmitted, under seal, to the governor, who shall immediately tabulate the vote in all the counties, for each office, and cause the same to be printed in some newspaper published at the seat of government. Of the certificates respecting the election for United States senator, member of the house of representatives in the congress of the United States, judge of
the supreme court of appeals, judge of a circuit court,
and president and vice-president of the United States,
respectively, the commissioners shall transmit one in each
case to the person voted for, and one to the governor; and
the governor shall ascertain who are elected, and make
proclamation thereof. Of the certificates respecting the
election of all county and district officers, one shall be
transmitted to each person for whom votes were cast.

Sec. 12. Tie Vote Procedures.—Whenever the governor
or the board of canvassers of a county is to declare the
result of an election, and it appears to him or them that
two or more of the persons voted for have received the
highest and an equal number of votes for the same office,
so that the election to the office is not decided by the re-
turns, he, or they, being required to declare the result,
shall decide the tie by the election of one of such persons,
but in the event the board of canvassers shall have failed
to decide the tie within thirty days after such tie shall
have been found by them to exist, upon application to the
governor by any one of such persons so voted for, he shall
break the tie by the selection of one of such persons and
shall certify his choice to such board of canvassers and declare such person duly elected for the office for which such person was a candidate.

Article 7. Contested Elections.

Section 1. State Officers and Judge Contests; Procedure.

If the election of governor, secretary of state, treasurer, auditor, attorney general, commissioner of agriculture, a judge of the supreme court of appeals, or a judge of a circuit court, be contested, the contestant shall give notice, with specifications and affidavit, to the person whose election is contested, within sixty days after the day upon which the election was held, in case the election of governor, secretary of state, treasurer, auditor, attorney general, or commissioner of agriculture, be contested, and within forty-five days after the day upon which the election was held in case the election of a judge of the supreme court of appeals, or a judge of a circuit court, be contested; and within thirty days thereafter the return notice shall be given to the contestant. The parties shall finish taking depositions within forty days after the last mentioned notice is delivered. The depositions shall be
transmitted to the clerk of the house of delegates, to be
delivered by him to the joint committee or special court
hereinafter provided for. In other respects the regula-
tions contained in this article respecting contests for a
seat in the Legislature shall be observed, so far as they
are applicable.

Sec. 2. Procedure of Legislature on Governor Contest.—
When the election of governor is contested, the notice of
contest and the depositions shall be referred to a joint
committee of the two houses, for examination and re-
port, which committee shall consist of two senators
elected by ballot by the senate, and three delegates elect-
ed in the same manner by the house of delegates. The con-
test shall be determined by the Legislature, both houses
thereof sitting in joint session in the hall of the house of
delegates, and the president of the senate shall preside.

Sec. 3. Contests before Special Court; Procedure; En-
forcement.—Where the election of secretary of state, au-
ditor, treasurer, attorney general, commissioner of ag-
riculture, or of a judge of the supreme court of appeals,
or of a circuit court, is contested, the case shall be heard
and decided by a special court constituted as follows:
The contestee shall select one, the contestant another, and the governor a third person, who shall preside in said court; and the three, or any two of them, shall meet at a time and place within the state to be appointed by the governor, and, being first duly sworn impartially to decide according to law and the truth upon the petition, returns and evidence to be submitted to them, shall proceed to hear and determine the case and certify their decision thereon to the governor. They shall be entitled to ten dollars a day each, and the same mileage as members of the Legislature, to be paid out of the treasury of the state, and such special court is hereby given authority to employ a stenographer at a reasonable compensation, to be also paid out of the treasury of the state. In all hearings or proceedings before such special court, the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing by such special court, or any member thereof; and in case of disobedience to a subpoena or other process of such special court, of any member thereof, such special
court, or any member thereof, or either of the parties to
such contest, may invoke the aid of any circuit court in
requiring the evidence and testimony of witnesses and
the production of papers, books and documents. And
such circuit court, in case of a refusal to obey the subpoena
issued to any person, shall issue an order requiring such
person to appear before such special court and produce
all books and papers, if so ordered, and give evidence
touching the matter in question. Any failure to obey
such order of the circuit court may be punished by such
court as a contempt thereof. A written record shall be kept
of all testimony and other proceedings before such special
court.

Either party to such contest feeling aggrieved by the
final decision of such special court may present his peti-
tion in writing to the supreme court of appeals, or a judge
thereof in vacation, within thirty days after such final
decision is certified to the governor, as hereinbefore pro-
vided, praying for the suspension, setting aside, or vaca-
tion of such final decision. The applicant shall deliver,
or cause to be delivered, a copy of such petition to the
other party to such contest, or, in case of his absence from
the state or from his usual place of abode, he shall mail,
or cause to be mailed a copy of such petition addressed to
his last known postoffice address, before presenting the
same to the court, or the judge. The court, or the judge,
shall fix a time for the hearing on the application, but
such hearing shall not be held sooner than five days, un-
less by agreement of the parties, after the presentation of
such petition, and notice of the time and place of such
hearing shall be forthwith delivered to the other party to
such contest, or, in case of absence from the state or from
his usual place of abode, such notice may be given by
mailing, or causing to be mailed, the same, or a copy
thereof, addressed to him at his last known postoffice
address. If the court, or the judge, after such hearing,
be of the opinion that a suspending order should issue,
the court in its, or the judge in his, discretion, may sus-
pend such final decision and may require bond upon such
conditions and in such penalty, and impose such terms
and conditions upon the petitioner, as are just and rea-
sonable; and the court, or the judge, shall fix a time for
the final hearing on the application. The hearing of the matter shall take precedence over all other matters before the court. For such final hearing, and before the day fixed therefor, the special court shall file with the clerk of the supreme court of appeals all papers, documents, testimony, evidence, and records, or certified copies thereof, which were before it at the hearing resulting in the final decision from which the petitioner appeals, together with a copy in writing of its final decision; and, after argument by counsel, the court shall decide the matter in controversy, both as to the law and the evidence, as may seem to it to be just and right. The supreme court of appeals is hereby given jurisdiction to enforce the provisions of this section by writ of prohibition, mandamus and certiorari, as may be appropriate.

Sec. 4. Contests of Seats in Legislature; Notices and Procedure.—Any person intending to contest the election of another as senator or delegate shall, within twenty-one days after the election, in case of a delegate, and within thirty days after the election, in case of a senator, give him notice thereof in writing, and a list of the votes he
will dispute, with the objections to each, and of the votes rejected for which he will contend. If the contestant objects to the legality of the election, or the qualification of the person returned, the notice shall set forth the facts on which such objection is founded. The person whose election as delegate is contested shall, within fourteen days after receiving such notice, and the person whose election as senator is contested shall, within twenty days after receiving such notice, deliver to the contestant a like list of the votes he will dispute and of the objection to each, and of the rejected votes he will claim; and, if he has any objection to the qualification of the contestant, shall specify in such notice the facts on which the objection is founded. Each party shall append to the notice an affidavit that the matters therein set forth, so far as they are stated of his knowledge, are true, and that, so far as they are stated on the information of others, he believes them to be true. If new facts be discovered by either party after he has given notice as aforesaid, he may give an additional notice or notices to his adversary, with specifications and affidavit as above prescribed.
The notice of contest shall be presented to the proper branch of the Legislature, within ten days after its meeting.

Sec. 5. Depositions; Subpoenas; Time; Tie Vote Decision.—Either party may begin to take the depositions in such contests for seats in the legislature at any time after the delivery of the original notice by the contestant. But reasonable notice of every such deposition shall be given, and such notice shall specify the names of the witnesses to be examined. The depositions may be taken before a justice, notary, or any officer authorized to take depositions in civil suits; and the officer before whom they are taken shall certify and seal the same, and indorse his name across the place where they are sealed, and address and transmit the same, by mail or otherwise, to the clerk of the body in which the seat is contested. When the contest is referred to a committee, the clerk shall deliver the depositions to such committee for examination and report. The parties shall finish taking depositions five days at least before the second Wednesday of January next following. Neither party shall have the benefit of
any deposition taken otherwise than as aforesaid, unless
further time be given by resolution of the proper branch
of the Legislature.

Subpoenas for witnesses shall be issued by the clerk of
the circuit court, or by a justice, upon application of either
party; and witnesses shall be entitled to the same al-
lowances and privileges, and be subject to the same pen-
alties, as if summoned to attend before the circuit court
in civil suits.

If it be ascertained that an equal number of legal votes
was given for the contestant and the person returned, the
senate or the house of delegates, as the case may be, in
which the contest is pending, shall declare which of them
is elected.

Sec. 6. County and District Contests; Notices; Time.—

In all cases of contested elections, the county court shall
be the judge of the election, qualifications and returns
of their own members, and of all county and district offi-
cers.

A person intending to contest the election of another to
any county or district office, including judge of any crimi-
nal, intermediate, common pleas, or other inferior court,

or any office that shall hereafter be created to be filled by the voters of the county or of any magisterial or other district therein, shall, within ten days after the result of the election is declared, give the contestee notice in writing of such intention, and a list of the votes he will dispute, with the objections to each, and of the votes rejected for which he will contend. If the contestant object to the legality of the election, or the qualification of the person returned as elected, the notice shall set forth the facts on which such objection is founded. The person whose election is so contested shall, within ten days after receiving such notice, deliver to the contestant a like list of the votes he will dispute, with the objections to each, and of the rejected votes for which he will contend; and, if he has any objection to the qualification of the contestant, he shall specify in writing the facts on which the objection is founded. Each party shall append to his notice an affidavit that he verily believes the matters and things set forth to be true. If new facts be discovered by either party after he has given notice as aforesaid, he may, within ten
29 days after such discovery, give an additional notice to his
30 adversary, with the specifications and affidavit prescribed
31 in this section.

Sec. 7. County Court to Hear County and District Con-
2 tests; Procedure; Review.—The county court shall hear
3 and decide election contests initiated pursuant to the
4 provisions of the preceding section. Subpoenas for wit-
5 nesses for either party shall be issued by the clerk of the
6 county court, and served as in other cases, and the wit-
7 nesses shall be entitled to the same allowances and privi-
8 leges, and be subject to the same penalties, as witnesses
9 attending a circuit court in a civil suit. The notice of
10 contest shall be presented to the county court at its first
11 term after the same is delivered to the person whose elec-
12 tion is contested, and the same shall be docketed for trial
13 in such court. At the trial of such contest, the court shall
14 hear all such legal and proper evidence that may be
15 brought before it by either party, and may, if deemed
16 necessary, require the production of the poll books, cer-
17 tificates and ballots deposited with its clerk, and examine
18 the same. The hearing may be continued by the court
from time to time, if it be shown that justice and right require it, but not beyond three months from the day of election. At the final trial of such contest the court shall declare the true result of such election, and cause the same to be entered on the records of the court. When the result of the election is declared, as aforesaid, a certified copy of the order declaring such result shall, if required, be delivered by the clerk of the court to the person declared elected, if such be the result of the trial, and such copy shall be received in all courts and places as legal evidence of the result of the election therein declared. Either the contestant or contestee shall have the right of appeal to the circuit court of the county from the final order or decision of the county court in such proceeding, upon the filing of a bond with good personal security, by the party desiring the appeal, to be approved by the county court, in a sum deemed sufficient by such court, with condition to the effect that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal. But such appeal shall not be granted unless the party
desiring the appeal shall make application for such appeal, and file such bond, within thirty days from the entering of the final order in such proceeding; and the circuit court may at any time require a new bond or increase the penalty thereof when the court deems it necessary. When such appeal is taken to the circuit court, as hereinbefore provided, it shall be heard and determined upon the original papers, evidence, depositions and records filed before and considered by the county court, and the circuit court, shall decide the contest upon the merits. From the decision of the circuit court, an appeal shall lie to the supreme court of appeals, as in other cases, but such appeal shall be heard upon the original papers and copies of all orders made, without requiring the same to be printed.

Sec. 8. Correction of Returns; Extent.—Though illegal votes be received, or legal votes be rejected, at any place of voting, the returns of the votes taken at such place shall not be set aside for that cause, but it may be shown, by proper evidence before the tribunal authorized by law to hear and determine contested elections, for whom such illegal votes of any of them were cast, or for whom the
legal votes which were rejected would have been given,
and the returns shall be corrected only to the extent that
it is so shown.

Sec. 9. Costs in Election Contests.—The cost of every
contested election shall include only the expenses of
serving notices, taking depositions and the allowances to
witnesses; and shall be noted at the foot of every deposi-
tion or set of depositions, by the person taking the same.
If the contestant fails in setting aside the election, there
shall be awarded against him the amount of such costs
incurred or expended by the person who was returned
or declared elected. Otherwise, each party shall pay his
own costs; unless it appears that the person returned or
declared elected was guilty of fraud or malpractice in the
election, or in procuring such return or declaration, in
which case costs shall be awarded against him in favor
of the contestant. Where costs are awarded in favor of
either party, the amount thereof shall be ascertained under
direction of the house joint session, or court, which decides
the case, and a certificate thereof, authenticated by the
signature of the presiding officer, shall be delivered to
the party in whose favor they are awarded, which cer-
tificate shall have the force of a judgment, and if such
costs be not paid within ten days after the date thereof,
the clerk of the circuit court, of the county in which the
party against whom the costs were awarded resides, may
issue execution on such certificate, upon its delivery to
such clerk, in like manner as upon a judgment of the cir-
cuit court. But no person contesting the seat of another
in the legislature shall be entitled to pay or mileage if
the contest fails.

Article 8. Regulation and Control of Elections.

Section 1. Provisions to Regulate and Control Elections.

—Political campaign contributions, receipts and expend-
itures of money, advertising, influence and control of
employees, and other economic, political and social con-
trol factors incident to primary, special and general elec-
tions shall be regulated and controlled by the provisions
of this article and other applicable provisions of this
chapter.

Sec. 2. Accounting for Receipts and Expenditures in
Elections.—In all elections for nomination of candidates,
3 for party committeemen, and for officers, except elections for officers in towns and cities and for magisterial and school district officers, records of receipts and expenditures for political purposes shall be kept by or on behalf of all candidates. All such receipts and expenditures shall be subject to regulation by provisions of this article. Verified statements of such receipts and expenditures shall be made and filed as public records by all candidates and by their political agents, representatives, or any person acting for and on behalf of any candidate, and by the treasurers of all political party committees.

Sec. 3. Committee Treasurers; Requirements.—Every political party committee shall appoint and retain a treasurer to receive, keep and disburse all sums of money which may be collected or received by such committee, or by any of its members, for election expenses, and, unless such treasurer is first appointed and thereafter retained, it shall be unlawful for any such committee or any of its members to collect, receive or disburse money for any such purposes. All moneys collected or received by any such committee, or by any of its members, for
election expenses, shall be paid over to, and pass through
the hands of, the treasurer, and shall be disbursed by
him, and it shall be unlawful for any such committee,
or any of its members, to disburse any money for election
expenses unless such money shall be paid to, and dis-
bursed by the treasurer. The same person may be desig-
nated to act as treasurer for two or more political party
committees.

Sec. 4. Treasurers and Financial Agents; Requirements.
—No person shall act as the treasurer of any political
party committee, or as financial agent for any candidate
for nomination or election to any office to be filled by the
voters of the entire state, delegates-at-large to a na-
tional convention, and candidates for president of the
United States, unless a written statement designating
him as such treasurer or financial agent shall be filed
with the secretary of state, at least sixty days before the
election at which he is to act. No person shall act as
treasurer of any such committee or as financial agent for
any candidate to be nominated or elected by the voters
of any political division less than the entire state, and
greater than a county, including delegates to national
conventions, unless a written statement designating him
as such treasurer or financial agent is filed with the clerk
of the county court of each county within such political
division at least sixty days before the election at which
he is to act. No person shall act as treasurer of any such
committee, or as financial agent for any candidate to be
nominated or elected by the voters of a county or district
therein, or as the treasurer or financial agent for a can-
didate for the nomination or election to any other office
not herein mentioned, unless a written statement desig-
nating him as such treasurer or financial agent shall be
filed with the clerk of the county court at least sixty days
before the election at which he is to act.

As used in this article:
The term “person” shall include an individual, part-
nership, committee, association, corporation, and any
other organization or group of persons; and

The term “financial agent” shall include any person
acting for and by himself, or any two or more natural
persons acting together or cooperating in a financial way
to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party or principal at any election, or any proposition submitted to a vote at a public election.

Sec. 5. Detailed Accounts and Verified Financial Statements.—Every candidate, financial agent, person and association of persons, organization of any kind, including the treasurer, or equivalent officer of such association or organization, opposing or advocating the defeat or passage of any matter, thing or item to be voted upon, or touching upon or pertaining to the holding or the conduct of any election and the treasurer of every political party committee, shall keep detailed accounts of all money, or its equivalent, received by them, and of all expenditures and disbursements made, and liabilities incurred, by such candidate, agent, such person, association or organization or committee, for political purposes, or by any of the officers or members of such committee, or any person acting under its authority or on its behalf.

Not less than seven nor more than fifteen days before
each primary or other election, and again within thirty
days after each primary or other election, every candidate
for public office, and every financial agent, person, the
treasurer or equivalent officer of any association, or organ-
ization of any kind opposing or advocating the defeat or
passage of any matter, thing or item to be voted upon or
touching upon or pertaining to the holding or conduct of
any election and the treasurer of every political party com-
mittee, shall file with the officers hereinafter prescribed a
detailed itemized statement subscribed and sworn to be-
fore an officer authorized to administer oaths, setting forth
all financial transactions in connection with such primary
or other election. Such statement shall show each and
every sum of money or other thing of value contributed
or advanced; the name of each person, firm, association or
committee by whom it was contributed or advanced; the
amount and purpose of every expenditure made or liabil-
ity incurred, and the name of each person, firm, association
or committee to whom such expenditure was made or
liability incurred, with dates of each transaction. Any un-
expended balance, remaining in the hands of any financial agent, or of the treasurer of any such committee at the time of making the statements herein provided for, shall be properly accounted for in said statement, and shall appear as a balance in the next following report of such agent or treasurer or his successor in office. Such sworn statements shall be filed with the secretary of state, by candidates for state and other offices to be nominated or elected by the voters of a political division greater than a county, and with the clerk of the county court, by candidates for offices to be nominated or elected by the voters of a county or district therein, and by all candidates for other offices not otherwise provided for.

The term "contribution," as used in this article, shall include a gift, subscription, loan, advance, or deposit of money, or anything of value given or offered in connection with political activity. It shall also include a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

Sec. 6. Financial Statement Forms; Filing; Disposition.

—Blank forms for all financial statements required under this article shall be prepared by the secretary of state,
and copies thereof, together with a copy of this article, shall be furnished through the county clerk or otherwise, as the secretary of state may deem expedient, to all treasurers of political committees, to all political financial agents, and to all candidates for nomination or election to any office, upon the filing of a petition or announcement for nomination, and to all other persons required by law to file such statements who shall apply therefor. All statements filed in accordance with the provisions of this article shall be received, indorsed and filed by the secretary of state and county clerks, and shall be preserved for one year after the election to which they relate, after which time they may be destroyed, if not required to be further preserved by the order of any court.

Sec. 7. Failure to File Statement; Penalty.—Any candidate, financial agent, or treasurer of a political party committee, who shall fail to file a sworn, itemized statement as in this article provided, within the time required, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty dollars, or imprisoned in the county jail for not more than one year, or both, in
the discretion of the court. Forty days after any such
primary or other election, the secretary of state, or county
clerk, as the case may be, shall give notice of any failure
to file such statement by any candidate, financial agent
or treasurer of such committee, to the prosecuting at-
torney of the county where such delinquent resides. No can-
didate nominated at a primary election, who has failed to
make a sworn statement as required by this article, shall
have his name placed on the official ballot for the ensuing
election, unless there has been filed by or on behalf
of such candidate, or by his financial agent, if any, the
financial statement relating to nominations required by
this article. It shall be unlawful to issue a commission
or certificate of election, or to administer the oath of of-
office, to any person elected to any public office who has
failed to file a sworn statement as required by this ar-
ticle, and no such person shall enter upon the duties of
his office until he has filed such statement, nor shall he
receive any salary or emolument for any period prior to
the filing of such statement.
Sec. 8. Corporation Contributions Forbidden; Penalties.

No officer of any corporation, or agent or person on behalf of such corporation, whether incorporated under the laws of this or any other state, or foreign country, shall pay, give or lend, or authorize to be paid, given or lent, any money or other thing of value belonging to such corporation, to any candidate, financial agent or political committee or other person, for the payment of any primary or other election expenses whatever. No person shall solicit or receive such payment, contribution or other thing from any corporation, officer or agent thereof, or other person acting on behalf of such corporation. Any person or corporation violating any provision of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined not more than five thousand dollars.

Sec. 9. Lawful and Unlawful Election Expenses.—No candidate, financial agent, or treasurer of a political party committee, shall pay, give or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following purposes:

(a) For rent, maintenance and furnishing of offices to
be used as political headquarters and for the payment of necessary clerks, stenographers, typists, janitors and messengers actually employed therein;

(b) For printing and distributing books, pamphlets, circulars and other printed matter and radio and television broadcasting and painting, printing and posting signs, banners and other advertisements, all relating to political issues and candidates;

(c) For renting and decorating halls for public meetings and political conventions; for advertising public meetings, and for the payment of traveling expenses of speakers and musicians at such meetings;

(d) For the necessary traveling and hotel expenses of candidates, political agents and committees, and for stationery, postage, telegrams, telephone, express, freight and public messenger service;

(e) For preparing, circulating and filing petitions for nomination of candidates;

(f) For examining the lists of registered voters, securing copies thereof, investigating the right to vote of the
persons listed therein, and conducting proceedings to prevent unlawful registration or voting;

(g) For conveying voters to and from the polls; and

(h) For securing publication in newspapers and by radio and television broadcasting of documents, articles, speeches, arguments and any information relating to any political issue, candidate, or question or proposition, submitted to a vote.

Every liability incurred and payment made shall be at a rate and for a total amount which is proper and reasonable and fairly commensurate with the services rendered.

Sec. 10. Limitations on Election Expenses.—No payment shall be made and no liability shall be incurred by or on behalf of any candidate for office in this state to aid in securing his nomination or election, or both, which shall in the aggregate exceed the amounts herein provided for, that is to say: Candidates for United States senate or any state office, the sum of seventy-five dollars for each county in the state, for the primary election, and a like amount for the general election; candidates for members of the Legislature, the sum of one hundred and
twenty-five dollars for each county in which such candidate is voted for, for the primary election, and a like amount for the general election; for members of the United States house of representatives, the sum of seventy-five dollars for each county in the district for the primary election, and a like amount for the general election; for any county office, a sum not to exceed two hundred dollars in each county, for the primary election, and a like amount for the general election; and for any other office, not hereinbefore mentioned, a sum not to exceed fifty dollars in the political division in which such person is a candidate, for the primary election, and a like amount for the general election. Any candidate may delegate to a financial agent or a political party committee, in a writing duly subscribed by him, the expenditure of any portion of the total expenses authorized to be incurred by him, or on his behalf; but the aggregate of all expenses made and incurred by such candidate, by any political agent on his behalf and by any such committee on his behalf, shall not exceed the amounts hereinbefore provided. No payments shall be made and no liability shall be in-
curred by any financial agent or political party commit-
tee which shall exceed in the aggregate the sum of the
amounts theretofore delegated to such agent or committee
by the candidate, in writing, as herein provided. There
shall not be included in arriving at the several amounts
which may be expended, or liability incurred for, items
mentioned in subdivisions (b) to (h), both inclusive, of
the next preceding section.

Any person violating the provisions of this section shall,
upon conviction, be disqualified from holding any public
office or employment during a period of five years subse-
quently to the date of conviction. If elected to occupy any
public office or employment, such person shall immedi-
ately, upon conviction, be deemed to have vacated such
office or to have ceased such employment.

Sec. 11. Specific Acts Forbidden; Penalties.—(a) Any
person, other than a financial agent or a member of a
political party committee duly appointed and designated
as provided in this article, who shall solicit from any
candidate for nomination or election to any public office,
any money, gift, contribution, emolument, or other valu-
able thing, for the support, assistance, benefit or expenses
of any person or persons, club, company, organization,
religious body, society, association, or for any other pur-
poses except as herein provided, or for the expenses of
any primary or other election campaign; or

(b) Any person who shall demand, solicit, ask or in-
vite any candidate to make any contribution or incur
any obligation to any religious, charitable or fraternal
cause, or organization other than political committees
duly designated under the provisions of this article, or
to buy tickets to any entertainment or ball, or to sub-
scribe or pay for space in any book, program, periodical,
newspaper or other publication; or any candidate who
shall make or promise any such payment or contribution
with the apparent hope or intent to influence the result
of any election, but this paragraph shall not apply to the
solicitation of any business advertisements in a periodi-
cal in which such candidate regularly advertised prior
to his candidacy, nor to ordinary business advertising,
or to the regular and normal payments to any religious,
charitable or other organization to which he may have
been a contributor for more than six months before his candidacy; or

(c) Any person who shall, directly or indirectly, by himself, or by any other person on his behalf, make use of, or threaten to make use of, any force, violence or restraint, or inflict, or threaten to inflict, any damage, harm or loss, upon or against any person, or by any other means attempt to intimidate or exert any undue influence, in order to induce such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who shall, by abduction, duress or any fraudulent device or contrivance, impede or prevent the free exercise of the suffrage by any elector, or shall thereby compel, induce or prevail upon any elector either to vote or refrain from voting for or against any particular candidate or measure; or

(d) Any person who, being an employer, or acting for or on behalf of any employer, shall give any notice or information to his employees, containing any threat, either express or implied, intended or calculated to in-
fluence the political view or actions of the workmen or employees; or

(e) Any person who shall, knowingly, make or publish, or cause to be made or published, any false statement in regard to any candidate, which statement is intended or tends to affect any voting at any election whatever; or

(f) Any person who shall pay any owner, publisher, editor or employee, or any newspaper or other periodical, to advocate or oppose editorially, any candidate for nomination or election, or any political party, or any measure to be submitted to the vote of the people; or any owner, publisher, editor, or employee, who shall solicit or accept such payment:

Shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than ten thousand dollars, or confined in jail for not more than one year, or, in the discretion of the court, shall be subject to both such fine and imprisonment.

Sec. 12. Additional Acts Forbidden; Written Matters;

Solicitation; Promises; Public Contractors.—(a) No per-
son shall publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, or other publication tending to influence voting at any election;

(b) No owner, publisher, editor, or employee of a newspaper or other periodical shall insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends to influence the voting at any election whatever, unless distinctly designating it as a paid advertisement and stating the name of the person authorizing its publication and the candidate in whose behalf it is published;

(c) No person shall, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision thereof, solicit orally or by written communication delivered therein, or in any other manner, any contribution of money or other thing of value for any party or political purpose whatever, from any postmaster or other officer or employee of the federal government, or officer or employee of the state, or a political subdivision thereof. No
officer, agent, clerk, or employee of the federal government, or of this state, or any political subdivision thereof, who may have charge or control of any building, office or room, occupied for any official purpose, shall knowingly permit any person to enter the same for the purpose of therein soliciting or receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state, or a political subdivision thereof;

(d) No person entering into any contract with the state or its subdivisions, or any department or agency thereof, either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land or building is to be made in whole or in part from public funds shall, during the period of negotiation for or performance under such contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly make any contribution
to any political party, committee or candidate for public
office or to any person for political purposes or use; nor
shall any person or firm solicit any contributions for any
such purpose during any such period;

(e) No person shall, directly or indirectly, promise any
employment, position, work, compensation, or other bene-
fit provided for, or made possible, in whole or in part by
act of the legislature, to any person as consideration,
favor, or reward for any political activity for the support
of or opposition to any candidate, or any political party in
any election;

(f) No person shall directly or indirectly, make any con-
tribution in excess of the value of five thousand dollars in
connection with any campaign for nomination or election
to or on behalf of any elective office in the state or any of
its subdivisions, or in connection with or on behalf of any
committee or other organization or person engaged in fur-
thering, advancing or advocating the nomination or elec-
tion of any candidate for any such office; and

(g) No person shall solicit any contribution from any
non-elective salaried employee of the state government
or of any of its subdivisions or coerce or intimidate any
such employee into making such contribution. No per-
son shall coerce or intimidate any non-salaried employee
of the state government or of any of its subdivisions into
engaging in any form of political activity. The provisions
hereof shall not be construed to prevent any such em-
ployee from making such a contribution or from engag-
ing in political activity voluntarily, without coercion, in-
timidation or solicitation.

Any person violating any provision of this section shall
be guilty of a misdemeanor, and, on conviction thereof,
shall be fined not more than one thousand dollars, or con-
fined in jail for not more than one year, or, in the discre-
tion of the court, be subject to both such fine and impris-

Sec. 13. Parties Liable and Subject to Penalties.—In
all cases of violation of the provisions of this article by
any partnership, committee, association, corporation, or
other organization or group of persons, the officers, di-
rectors, or managing or controlling heads thereof, who
knowingly and willingly participate in such violation,
Article 9. Offenses and Penalties.

Section 1. Felony Offenses; Penalties.—Every person named and identified in this section, who shall violate any of the provisions of the election laws as herein specified, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one nor more than ten years:

(a) Any commissioner of election or poll clerk who shall knowingly make or cause to be made, or conspire with others to make, a false return of the result of the votes cast for any candidate at any precinct in an election held pursuant to law; or

(b) Any commissioner of election receiving the ballot of a voter to be deposited in the ballot box at any election precinct, who shall put another ballot in the box instead of the one received by him; or

(c) Any commissioner of election or poll clerk, who knowingly shall count and string a ballot not taken from
the ballot box, in lieu of one taken, or which should have
been taken from such ballot box; or

(d) Any commissioner of a county court, whether acting as such or ex officio as a member of a board of canvassers or otherwise, clerk of a county court, or other person, who shall, except as authorized by law, abstract any ballot from any package of ballots voted, sealed or returned from any election precinct, either before or after they are filed with the clerk of the county court, or who shall in any manner change any such ballot from what it was when voted by the voter, or who shall put another ballot in such package in the place of the one so abstracted therefrom; or

(e) Any commissioner of a county court, whether acting as such commissioner or ex officio as a member of a board of canvassers, or otherwise, who shall knowingly make and enter of record, or in any way aid, counsel, or advise the same to be done, or permit the same to be done without objection on his part, any false or fraudulent statement of the result of any election held within the county; or
(f) Any person who shall falsely make, or fraudulently deface, or fraudulently destroy, any certificate of nomination, or any part thereof, or file any certificate of nomination, knowing the same, or any part thereof, to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof; or erase, deface, or change in any manner, any election record, or any ballot, poll book, tally sheet or certificate of election, deposited with either of the clerks of the county or circuit courts; or conspire with another to do any of said acts; or induce or attempt to induce any other persons to do any of said acts; or

(g) Any person who shall aid, assist, counsel or advise in the commission of any of the offenses above specified, whether or not said acts, or any of them be committed or attempted to be committed; or

(h) Any person, who, without the assent of another, shall sign the name of such other person to any certificate, affidavit, ballot, report, statement or writing, required under any provision of this chapter, with intent to mislead and deceive; or who shall use or employ any certifi-
cate, affidavit, ballot, report, statement or writing to which the name of a person has been signed without the authority of such person, knowing that such name has been so signed with intent to mislead or deceive; or

(i) Any clerk of a court, poll clerk, member of the board of ballot commissioners, commissioner of election, or messenger intrusted with the custody of the ballots, who shall open unlawfully any of the packages in which the ballots are contained, or permit any of them to be opened, or destroy any of such ballots, or permit them to be destroyed, or give, or deliver any such packages or ballots to any person not lawfully entitled to receive them, as in this chapter provided, or conspire to procure, or in any way aid, abet, or connive at any robbery, loss or unlawful destruction of any such ballots or packages; or

(j) Any person not duly authorized by law who shall, during the progress of any election in this state, or after the closing of the polls and before the ballots are counted and the results ascertained, or within twelve months thereafter, open without breaking, or break open or violate, the seals or locks of any ballot box, paper, envelope,
or bag, in which ballots have been deposited at or after
such election, or who shall obtain possession of such bal-
lot box, paper, envelope or bag containing such ballots,
and cancel, withhold, or destroy such ballots, or who shall
fraudulently or forcibly add to or diminish the number
of ballots legally deposited therein, or who shall fraudu-
ently make any erasure or alteration of any kind, upon
any tally sheet, poll book, list of voters, or election re-
turns, deposited therein.

Sec. 2. Unlawful Printing, Possession, or Delivery of
Ballots; Penalties.—No one, except the person employed
and authorized by the ballot commissioners to do so, shall
print any ballot for any election. No person engaged or
employed in printing such ballots shall deliver any ballot
to any person except a member of the board of ballot
commissioners, or knowingly permit any other person to
obtain possession of any ballot; or print, or cause to be
printed, any ballot in any other form, or with the names
of any other persons thereon, or with the names thereon
spelled or arranged in any other manner than that pre-
scribed by the ballot commissioners. No person shall
print, have in his possession, or deliver, any imitation ballot having a similitude or likeness to the official ballot, and which would be calculated to deceive: Provided, however, That nothing herein contained shall prohibit any person from printing or having in his possession a sample ballot printed on paper of a color different from the official ballot, and not calculated to deceive. Any person violating any provision of this section shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the state penitentiary for not less than one nor more than ten years.

Any person who shall unlawfully take or remove, with or without the consent of the lawful custodian thereof, any ballot from the place at which such ballots are lawfully kept for the time being; or unlawfully remove or attempt to remove any ballot from the election room; or have in his possession outside of the election room during the election any ballot, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than five years, or, in the discretion of the court, be confined in jail for not more than one year.
Sec. 3. False Swearing; Penalties.—If any election official, or other person, making any affidavit required under any provision of this chapter, shall therein knowingly swear falsely, or if any person shall counsel, advise, aid or abet another in the commission of false swearing, he shall be guilty of a misdemeanor, and, on conviction therefor, shall be fined not more than one thousand dollars and imprisoned in the county jail for a period of not more than one year.

If any person making any declaration required under any provision of this chapter shall knowingly make a false statement or representation therein, or if any person shall counsel, advise, aid or abet another to make such a declaration containing any false statement or representation, any such person shall be deemed to be guilty of false swearing although no oath were administered, and such offense is hereby declared to be a misdemeanor. Upon conviction of such offense, any such person shall be fined not more than one thousand dollars and imprisoned in the county jail for a period of not more than one year.

Sec. 4. Commissioner's Failure to Get Supplies; Penalties.—Any commissioner of election designated to call for
3 and deliver election supplies as provided in article one of
4 this chapter who shall wilfully or negligently fail to ap-
5 pear at the offices of the clerks of the circuit and county
6 courts of his county and procure and deliver such sup-
7 plies, or who shall wilfully or negligently fail or refuse
8 to return such supplies, as provided in articles five and six
9 of this chapter, shall be guilty of a misdemeanor, and, on
10 conviction thereof, shall be fined not less than ten nor
11 more than one hundred dollars.

Sec. 5. Destruction or Removal of Election Supplies
2 and Equipment; Attempts; Penalties.—If any person shall,
3 during the election, remove or destroy any of the supplies
4 or other conveniences placed in the booths or compart-
5 ments as aforesaid, or delivered to the voter for the pur-
6 pose of enabling the voter to prepare his ballot or shall,
7 during an election, remove, tear down or deface, the cards
8 printed for the instruction of the voters, or shall, during
9 an election, destroy or remove any booths or other con-
10 venience provided for such election, or shall induce or at-
11 tempt to induce any person to commit any of such acts,
12 whether or not any of such acts be committed, or attempt-
ed to be committed, then such person shall be guilty of a
misdemeanor, and, on conviction thereof, shall be fined
not more than one thousand dollars or confined in the
county jail for not more than one year, or both, in the
discretion of the court.

Sec. 6. Unauthorized Presence in Election Room; Sixty-Foot Limit; Penalties.—If any person, not herein au-
thorized so to do, shall enter or attempt to enter the elec-
tion room, except upon a lawful errand and for a proper
purpose, or shall remain within sixty feet of the polling
place, contrary to the provisions of this chapter, he shall
be guilty of a misdemeanor, and, on conviction thereof,
shall be fined not more than five hundred dollars, or con-
fined in the county jail for not more than thirty days.

Sec. 7. Refusal or Allowing Votes; Challenges; Penalties.—Any election officer who refuses the vote of a duly
registered and qualified voter, whom he knows is entitled
to vote or who accepts the vote of a person whom he
knows to be not lawfully registered, without challenging
such persons, shall be guilty of a misdemeanor, and upon
conviction fined not more than one thousand dollars or
confined in the county jail for not more than one year, or
both, at the discretion of the court.

Any person who shall maliciously or frivolously, and
without probable cause, challenge the right of any person
to vote, shall be guilty of a misdemeanor, and upon con-
viction be fined not more than one hundred dollars or
confined in the county jail for not more than ninety days,
or both, at the discretion of the court.

Sec. 8. Distinguishing Marks on Ballots; Conspiracies;

Penalties.—If any person shall induce, or attempt to in-
duce, any voter to write, paste or otherwise place on his
ballot the name of any person, or any sign or device of
any kind, as a distinguishing mark by which to indicate
to any other person how such voter voted, or shall enter
into or attempt to form any agreement or conspiracy with
any other person to induce or attempt to induce a voter
to so place a distinguishing name or mark on his ballot,
whether or not such act be committed or attempted to be
committed, such person so offending shall be guilty of a
misdemeanor, and, on conviction thereof, shall be fined
not more than one thousand dollars, or be imprisoned in
the county jail for not more than one year, or both, in
the discretion of the court.

Sec. 9. Unlawful Acts at Polling Places; Penalties.—
2 No officer of election shall disclose to any person the name
3 of any candidate for whom a voter has voted. No officer
4 of election shall do any electioneering on election day.
5 No person shall do any electioneering on election day
6 within any polling place, or within sixty feet of any poll-
7 ing place. No person shall apply for or receive any ballot
8 in any polling place, other than that in which he is en-
9 titled to vote, nor shall any person examine a ballot which
10 any voter has prepared for voting, or solicit the voter to
11 show the same, nor ask, nor make any arrangement, di-
12 rectly or indirectly, with any voter, to vote an open bal-
13 lot. No person, except a commissioner of election, shall
14 receive from any voter a ballot prepared by him for vot-
15 ing. No voter shall receive a ballot from any person other
16 than one of the poll clerks; nor shall any person other
17 than a poll clerk deliver a ballot to a commissioner of
18 election to be voted by such commissioner. No voter
19 shall deliver any ballot to a commissioner of election to
be voted, except the one he receives from the poll clerk.

No voter shall place any mark upon his ballot, or suffer or permit any other person to do so, by which it may be afterward identified as the ballot voted by him. Whoever shall violate any provisions of this section shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than one thousand dollars, or confined in jail for not more than one year, or both, in the discretion of the court.

Sec. 10. Disorder at Polls; Prevention; Assistance; Penalties.—Any person who shall, by force, menace, fraud or intimidation, prevent or attempt to prevent any officer whose duty it is by law to assist in holding an election, or in counting the votes cast thereat, and certifying and returning the result thereof, from discharging his duties according to law; or who shall, by violence, threatening gestures, speeches, force, menace or intimidation, prevent or attempt to prevent an election being held; or who shall in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to pre-
vent any voter from attending any election, or from freely exercising his right of suffrage at any election at which he is entitled to vote, shall be guilty of a misdemeanor, and, upon conviction, fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.

Any person who, being thereto commanded by the commissioners of election, or either of them, shall fail or refuse to assist to the utmost of his power, in whatever may be necessary or proper to prevent intimidation, disorder or violence at the polls, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars.

Sec. 11. Failure to Make Returns; Disclosing Results; Penalties.—Any election officer who shall wilfully fail, neglect or refuse to prepare and return certificates of the result of the election in the manner provided, within twelve hours after the completion of the count, tabulation and declaration of the results, shall be guilty of a misdemeanor, and, upon conviction, fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.
Sec. 12. Candidate Influence and Bribes; Penalties.—

Whoever, being a candidate for any office, loans or gives, directly or indirectly, or offers or promises to loan, or give, any money, or other thing of value, to any elector, for the purpose of influencing or retaining the vote of such elector, or inducing such elector to work or labor for the election of such candidate, or to refrain from working or laboring for the election of any other candidate; or to any person to secure or to retain the influence or vote of such elector, in his behalf as such candidate, or to be used by such person in any way to influence the vote of any elector, or of electors generally, for himself or any candidate or ticket, shall be guilty of a misdemeanor and on conviction thereof, shall be fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.

Sec. 13. Unlawful Influence Acts; Penalties.—Any person who shall hire, or otherwise employ for consideration, another to work at the polls on election day, for the elec-
tion of any candidate to be voted for at such election, or
shall, directly or indirectly, by himself or by any other
person on his behalf, give, lend or agree to give or lend,
or offer, promise, or promise to procure, any money or
valuable consideration, or any place of employment, pub-
lic or private, to or for any voter, or to or for any person
on behalf of any voter, or to or for any person in order to
induce any voter to vote or refrain from voting, or to vote
for any particular person or candidate or object, or to re-
frain therefrom; or shall do any such act as aforesaid on
account of such voter having voted or refrained from
voting at an election, or having voted for any particular
person or candidate or object, or refraining therefrom;
or shall advance, pay or contribute, or cause to be paid
or contributed, any money or other thing of value to or
for the use of any other person with the intent that such
money or other thing of value, or any part thereof, shall
be expended in bribery at any primary or other election;
shall be guilty of a misdemeanor, and, upon conviction
thereof, shall be fined not more than one thousand dol-

24 lars, or be confined in jail for not more than one year, or
25 both, in the discretion of the court.

Sec. 14. Unlawful Acts by Corporations; Penalties.—
2 Any corporation which shall, by its officers, agents or
3 otherwise, offer, give or use, or cause to be offered, given
4 or used, or place or cause to be placed, in the possession,
5 under the control or at the disposal of another, to be of-
6 fered, given or used, directly or indirectly, money or other
7 thing of value, for the purpose of influencing any voter
8 or voters to vote for a particular candidate, or in any par-
9 ticular manner, or upon any particular side of any ques-
10 tion to be decided at any such election, or to influence
11 the result of any such election, it shall be guilty of a mis-
12 demeanor, and, upon conviction, shall be fined not less
13 than five thousand nor more than twenty thousand dol-
14 lars for every such offense, at the discretion of the jury.

Sec. 15. Unlawful Acts by Employers; Penalties.—Any
2 employer or agent of any employer or corporation, who
3 prints or authorizes to be printed upon any pay envelope
4 or who distributes directly or indirectly, or gives directly
5 to any employee any statement intended or calculated
to influence the political action of his employees for any candidate for public office, or posts or exhibits in the establishment, any posters, placards, or handbills, or delivers verbally any message to any such employees, containing any threat, notice or information that if any such candidate is elected or defeated, work in the establishment will cease, in whole or in part, or other threats expressed or implied, intended to influence the political opinions or votes of his employees, shall be guilty of corrupt practices, and upon conviction shall be fined not less than one thousand dollars nor more than twenty thousand dollars or be imprisoned in jail not more than one year, or both.

Sec. 16. Voter Bribes and Influence; Penalties.—Any voter who shall, before or during any election, directly or indirectly, by himself, or by any other person on his behalf, solicit, demand, receive, agree or contract for any money, gift, loan, or valuable consideration, office, place of employment, or solicit any indorsement on a note or other paper, public or private, for himself or for any other person, for voting or agreeing to vote, or for voting
for any person or candidate or object, or agreeing so to vote,
or from refraining or agreeing to refrain from voting at
any election; or any person who shall, after any election,
directly or indirectly, by himself, or by any other person
on his behalf, solicit, demand or receive any money or
valuable consideration on account of any person having
voted or refrained from voting, or having induced any
other person to vote or refrain from voting at any elec-
tion, shall be guilty of a misdemeanor, and, on conviction
thereof, shall be fined not more than one thousand dol-
lars, or confined in jail for not more than one year, or
both, in the discretion of the court.

Sec. 17. Illegal Voting; Deceiving Voters; Penalties.—
If any person knowingly votes when not legally entitled;
or votes more than once in the same election; or know-
ingly votes or attempts to vote more than one ballot for
the same office, or on the same question; or procures or as-
sists in procuring an illegal vote to be admitted, or re-
ceived, at an election, knowing the same to be illegal; or a
legal vote to be rejected, knowing the same to be legal; or,
with intent to deceive, alters the ballot of a voter by mark-
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ing out the name of any person for whom such voter de-
sires to vote; or, with like intent, writes the name of any
person on such ballot other than those directed by the
voter; or with like intent, makes any alteration thereof,
whether such ballot be voted or not; or defrauds any voter
at any election, by deceiving and causing him to vote for
a different person for any office than he intended or de-
sired to vote for, he shall be guilty of a misdemeanor,
and, on conviction thereof, shall for each offense be fined
not more than one thousand dollars or confined in the
county jail for not more than one year, or both, in the
discretion of the court.

Sec. 18. Unlawful Voting in Primary Elections; Pen-
alties.—Any person voting, in any primary election, any
ticket of a party other than that of which he is registered
as a member, and any election officer receiving the vote of
any such person, knowing, or having reason to believe,
that such voter is not a member of the party the ticket
of which he is voting; or who, having signed or joined
in any petition or certificate nominating any candidate
for office, shall, at the primary election to be held to nom-
inate candidates for the same office, vote at such primary election; shall in each instance be guilty of a misde-
meanor, and, on conviction thereof, shall be fined not more than one thousand dollars, or be confined in the county jail for not more than one year, or both, in the discretion of the court.

Sec. 19. Absent Voter Ballot Acts Unlawful; Penalties.—

Any person who, having procured an absent voter's official ballot or ballots, shall wilfully neglect or refuse to return the same as provided in article three of this chapter, or who shall otherwise wilfully violate any of the provisions of said article three of this chapter, shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than two hundred and fifty dollars, or confined in the county jail for not more than three months. If the clerk of the circuit court of any county, or any member of the board of ballot commissioners, or any member of the board of canvassers shall refuse or neglect to perform any of the duties required of him by any of the provisions of articles three, five and six of this chapter relating to voting by absentees or shall disclose
to any other person or persons how any absent voter voted, he shall, in each instance, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or confined in the county jail for not more than six months.

Sec. 20. Freedom to Vote; Time; Penalties.—Any corporation violating any provision of section forty-two of article one of this chapter or preventing or attempting to prevent any voter in its employ from attending any election, or from freely exercising his right of suffrage, at any election at which he is entitled to vote, by any threat, direct or indirect, express or implied, to discharge such voter or deprive him of his employment, or shall discharge such voter or deprive him of his employment because of any vote he may cast, or refuse to cast, at any election at which he is entitled to vote, under the provisions of this chapter, shall, in each instance, be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than one thousand dollars. Any employer, other than a corporation, whether an individual or member of an association or partnership, and any officer,
agent or manager of any corporation violating any provision of this section or of section forty-two of article one of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five hundred dollars or imprisoned in the county jail for a period not exceeding six months, or, in the discretion of the court, be subject to both such fine and imprisonment.

Sec. 21. Duty to Destroy Unused Ballots; Penalty.—

For failure to destroy the ballots left over after supplying the polls, as provided in article one of this chapter, each member of the board of ballot commissioners shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one hundred dollars.

Sec. 22. Election Bets and Wagers Unlawful; Penalties.—

It shall be unlawful to bet or wager money or other thing of value on any election held in this state. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, he shall forfeit the value of the money or thing so bet or wagered and shall be fined not more than fifty dollars.
Sec. 23. Unlawful Acts Not Covered; Penalties.—Any person who shall commit any act made an offense by any provision of this chapter, for which no penalty or punishment is prescribed by any other provision contained therein, or any person who shall fail to perform any duty prescribed therein which has not been specifically made an offense, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, or, in the discretion of the court, be confined in jail for not more than one year.

Sec. 24. Limitations on Prosecutions.—No person shall be prosecuted for any crime or offense under any provision of this chapter, unless upon an indictment found and presentment made within one year after the date of the commission of the crime or offense.

Article 10. Filling Vacancies.

Section 1. Elections to Fill Vacancies in Offices.—Elections to fill vacancies shall be for the unexpired term, and shall be held at the same places, and superintended, conducted and returned, and the result ascertained, certified and declared, in the same manner, and by the same
officers, as in general elections. The persons elected, having first duly qualified, shall enter upon the duties of their respective offices.

Sec. 2. Vacancy in Office of Governor.—In case of the death, conviction or impeachment, failure to qualify, resignation or other disability of the governor, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above named causes, shall be or become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of delegates; and in all other cases where there is no one to act as governor, one shall be chosen by the joint vote of the Legislature. Whenever a vacancy shall occur in the office of governor before the first three years of the term shall have expired, a new election for governor shall take place to fill the vacancy. If the vacancy shall occur more than thirty days next preceding a general election, the vacancy shall be filled at such election and the acting governor for the time being shall issue a proclamation accordingly, which shall be published once each week for
four successive weeks prior to such election in one newspaper, in each county, of each of the two political parties which polled the highest and the second highest number of votes at the preceding general election in the state, published and having the largest circulation in such county. But if it shall occur less than thirty days next preceding such general election, and more than one year before the expiration of the term, such acting governor shall issue a proclamation, fixing a time for a special election to fill such vacancy, which shall be published as hereinbefore provided.

If the vacancy is to be filled at a general election and shall occur before the primary election to nominate candidates to be voted for at such general election, candidates to fill the vacancy shall be nominated at such primary election in accordance with the time requirements and the provisions and procedures prescribed in article five of this chapter. When nominations to fill such vacancy cannot be so accomplished at such primary election, and in all cases wherein the vacancy is to be filled at a special election, candidates to be voted for at such general or
special elections shall be nominated by a state convention
to be called, convened and held under the resolutions,
rules and regulations of the political party executive com-
mittees of the state. The laws prescribing the manner
of calling, constituting and holding conventions to nomi-
nate candidates for presidential electors shall, in so far
as applicable, govern conventions to nominate candidates
to fill any vacancy in any office to be filled by the voters
of the state as a whole, except that, in lieu of the mag-
isterial district conventions in the several counties, the
county executive committee shall call and convene a
county convention at the county seat with delegates
thereof apportioned to and representative of the several
magisterial districts of the county as provided in section
twenty-one of article five of this chapter. The county
convention shall proceed to select the county's prescribed
number of state convention delegates from the several
magisterial districts thereof and the chairman and sec-
retary of the convention shall promptly certify the names
and addresses of the persons so selected as delegates to
the state convention to the chairman of the state executive committee of the political party.

Sec. 3. State Officials, U. S. Senator and Judge Vacancies.—Any vacancy occurring in the office of secretary of state, auditor, treasurer, attorney general, commissioner of agriculture, United States senator, judge of the supreme court of appeals, or in any office created or made elective, to be filled by the voters of the entire state, or judge of a circuit court, a common pleas, intermediate, criminal or other inferior court, shall be filled by the governor of the state by appointment. If the unexpired term of a judge of the supreme court of appeals, or a judge of the circuit court, a common pleas, intermediate, criminal or other inferior court, be for less than two years; or if the unexpired term of any other office named in this section be for a period of less than two years and six months, the appointment to fill the vacancy shall be for the unexpired term. If the unexpired term of any office be for a longer period than above specified, the appointment shall be until the next general election and until the election and qualification of a successor to the
person appointed, at which election the vacancy shall be filled by election for the unexpired term. Proclamation of any election to fill an unexpired term shall be made by the governor of the state, and, in the case of an office to be filled by the voters of the entire state, shall be published once a week for four successive weeks prior to the election in at least one newspaper of general circulation in each county in the state, of each of the two political parties which, at the last general election in the state, cast the highest and second highest number of votes. If the election be to fill a vacancy in the office of judge of a circuit court, the proclamation shall be published for a like period in the two leading newspapers of opposite party politics, having the largest and second largest circulation in each county in the judicial circuit. If the election be to fill a vacancy in the office of judge of a common pleas, intermediate, criminal or other inferior court, the proclamation shall be published for a like period in the two leading newspapers of opposite party politics, having the largest and second largest circulation in the county. Candidates to fill any vacancy in any office named
in this section shall be nominated in the manner pro-
vided in this article for nominating candidates to fill a
vacancy in the office of governor, to be voted for at a
general election, but, in selecting candidates for the office
of judge to serve in a single county, the county executive
committee of the county shall perform the duties relat-
ing thereto, and, in selecting candidates for the office of
due to a circuit court in circuits embracing more than
one county, the county executive committees of the coun-
ties concerned shall resolve themselves into a judicial
circuit committee for discharge of the duties relating to
such nominations.

Sec. 4. Congressmen Vacancies.—If there be a vacancy
in the representation from this state in the house of rep-
resentatives in the congress of the United States, the gov-
ernor shall, within ten days after the fact comes to his
knowledge, give notice thereof by proclamation, to be
published once each week for two successive weeks in
two newspapers of opposite politics in each county in the
district where such vacancy may occur. In such procla-
mation he shall appoint some day, not less than thirty
nor more than seventy-five days from the date thereof, for holding the election to fill such vacancy. Nominations to fill such vacancy shall be made in the manner prescribed for nominating a candidate to fill a vacancy in the office of governor, to be voted for at a special election. The congressional district executive committee of a party shall perform the duties devolving upon the state executive committee in filling a state office.

Sec. 5. Vacancies in State Legislature.—Any vacancy in the office of state senator or member of the house of delegates shall be filled by appointment by the governor, in each instance from a list of three legally qualified persons submitted by the county party executive committee in the case of a member of the house of delegates, and by the party executive committee of the state senatorial district in the case of a state senator, of the party with which the person holding the office immediately preceding the vacancy was affiliated, and of the county or state senatorial district, respectively, in which he resided at the time of his election or appointment. The appointment to fill a vacancy in the house of delegates shall be for the
unexpired term. If the unexpired term in the office of
state senator be for less than two years and two months,
the appointment shall be for the unexpired term. If the
unexpired term be for a period longer than two years
and two months, the appointment shall be until the
next general election and until the election and quali-
fication of a successor to the person appointed, at which
general election the vacancy shall be filled by election
for the unexpired term. Notice of an election to fill
a vacancy in the office of state senator shall be given
by the governor by proclamation and shall be pub-
lished once a week for two successive weeks prior to
the date of the election, in two newspapers having the
largest and second largest circulation, and of opposite
party politics, published in each county in the senatorial
district. Nominations for candidates to fill such vacancy
shall be made in the manner prescribed for nominating a
candidate to fill a vacancy in the office of governor to be
voted for at a general election. The state senatorial dis-

trict executive committee of the political party shall dis-
charge the duties incident to state senator nominations
devolving upon the party state executive committee in nominating a candidate for a state office.

Sec. 6. Circuit Court Clerk Vacancies.—When a vacancy occurs in the office of clerk of the circuit court, the circuit court, or the judge thereof in vacation, shall fill the same by appointment until the next general election, and the person so appointed shall hold office until his successor is elected and qualified. At such general election a clerk shall be elected for the unexpired term. The circuit court, or the judge thereof in vacation, shall cause a notice of such election to be published once each week for two successive weeks in two newspapers of opposite politics, printed in the county, if there be any such papers printed therein, or in such other manner as will give ample notice of such election. If the vacancy occurs before the primary election held to nominate candidates to be voted for at the general election, at which any such vacancy is to be filled, candidates to fill such vacancy shall be nominated at such primary election in accordance with the time requirements and the provisions and procedures prescribed in article five of this chapter.
Otherwise, they shall be nominated by the county executive committee in the manner provided in section nineteen, article five, of this chapter, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the circuit court of such county, shall be placed upon the ballot to be voted at such next general election.

Sec. 7. County Commissioner, Clerk of County Court, Justice and Constable Vacancies.—Any vacancy in the office of county court commissioner, clerk of county court, justice or constable shall be filled by the county court of the county, unless the number of vacancies in a county court deprive that body of a quorum, in which case the governor of the state shall fill any vacancy in such county court necessary to create a quorum thereof, until the next general election, at which election every such vacancy shall be filled by election for the unexpired term. In the case of a vacancy in the office of the county court commissioner in any county in the state, if the remaining members of such county court fail, refuse or neglect to fill such vacancy within sixty days from the time it occurs,
then the governor of the state shall appoint some qualified citizen of said county belonging to the same political party as the vacating member to serve as county court commissioner until the next general election. Notice of such election shall be given by order of the county court, and published as prescribed in the next preceding section, except that such notice in case of an election to fill a vacancy in the office of justice of the peace or constable, instead of being published in a newspaper, may, in the discretion of such court, be posted at the front door of the court house of the county, and at each voting place in the district wherein such vacancy occurs. Nominations of candidates to fill any vacancy in the office of county commissioner, clerk of the county court, justice or constable shall be made in the manner prescribed for making nominations to fill a vacancy in the office of the clerk of the circuit court.

Sec. 8. Prosecuting Attorney, Sheriff, Assessor and Surveyor Vacancies.—Any vacancy occurring in the office of prosecuting attorney, sheriff, assessor or county surveyor shall be filled by appointment by the county court until the
next general election at which time such vacancy shall be
filled by election for the unexpired term. Notice of an
election to fill a vacancy in any of the offices named in this
section shall be given by the county court, or by the presi-
dent thereof in vacation, and published or posted in the
manner prescribed in section six of this article. Nomina-
tion of candidates to fill any such vacancy shall be made
in the manner prescribed in said section six of this article
for nominating candidates to fill a vacancy in the office
of the clerk of the circuit court.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Ray Parker  
Chairman Senate Committee

Kate L. Chardell  
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

J. Sewall Keyes  
Clerk of the Senate

C. A. Blakenship  
Clerk of the House of Delegates

Howard M. Baker  
President of the Senate

Julius E. Angle Hood  
Speaker House of Delegates

The within approved this the 16th day of March, 1963.

T.T. Bannon  
Governor