

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963

## ENROLLED

SENATE BILL NO. 2

(By Mr. Cason, Mr. President)

PASSED March 7, 1963

In Effect Today & from 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)

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

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That chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new chapter three be enacted in lieu thereof to read as follows: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

#### Article 1. General Provisions and Definitions.

**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

14 voters of this state or any subdivision thereof elect per-  
15 sons to fill public offices or vote on public questions;

16 "Any election" or "all elections" shall include every  
17 general, primary, or special election held in this state, or  
18 in any of its subdivisions, for the purpose of nominating  
19 or electing federal or state officers, or county, city, town  
20 or village officers of any subdivision now existing or here-  
21 after created, or for voting upon any public question sub-  
22 mitted to the people of the state or any of the aforesaid  
23 subdivisions;

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

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

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

**Sec. 3. Persons Entitled to Vote.—**Citizens of the state



2 shall be entitled to vote at all elections held within the  
3 precincts of the counties and municipalities in which they  
4 respectively reside. But no person who has not been  
5 registered as a voter as required by law, or who is a  
6 minor, or of unsound mind, or a pauper, or who is under  
7 conviction of treason, felony or bribery in an election,  
8 or who, in the case of state-county elections has not been  
9 a bona fide resident of the state for one year and of the  
10 county in which he offers to vote for sixty days next  
11 preceding such election, or who in the case of municipal  
12 elections has not been a bona fide resident of the state  
13 for one year and of the municipality in which he offers  
14 to vote for sixty days next preceding such election, shall  
15 be permitted to vote at such election while such disability  
16 continues. Subject to the qualifications otherwise pre-  
17 scribed in this section, however, a minor shall be per-  
18 mitted to vote in a primary election if he will have  
19 reached the age of twenty-one years on the date of the  
20 general election next to be held after such primary elec-  
21 tion.

**Sec. 4. Manner of Voting.**—In all elections the mode

2 of voting shall be by ballot, but the voter shall be left  
3 free to vote by either open, sealed, or secret ballot, as  
4 he may elect. Voting by ballot may be accomplished as  
5 provided in articles three, four, five and six of this  
6 chapter.

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

12 Each precinct within any urban center shall contain  
13 not less than three hundred nor more than eight hundred  
14 registered voters. Each precinct in a rural or less thickly  
15 settled area shall contain not less than two hundred nor  
16 more than seven hundred registered voters. If, at any

17 time the number of registered voters shall exceed the  
18 maximum number in either case herein specified, it shall  
19 be the duty of the county court to, and it shall, rearrange  
20 the precincts within the political division so that the  
21 new precincts formed therefrom, or from any part there-  
22 of, shall each contain a number of registered voters  
23 within the limits above provided. If such county court  
24 fails to so act as herein directed, any qualified voter of  
25 the county may apply for a writ of mandamus to compel  
26 the performance of this duty.

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

34 The provisions of this section shall be subject to the  
35 provisions of section twenty-eight of article four of this  
36 chapter relating to the number of voters in precincts in  
37 which voting machines are used.

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

**Sec. 7. Precinct Changes; Procedure; Precinct Record.**  
2 —Subject to the provisions and limitations of section five  
3 of this article, the county court of any county may change  
4 the boundaries of any precinct within such county, or  
5 divide any precinct into two or more precincts, or con-  
6 solidate two or more precincts into one, or change any  
7 place of holding elections, whenever the public con-  
8 venience may require it. If by reason of the destruction  
9 of the house or structure at which a voting place is estab-  
10 lished, or if for any other reason the election cannot be  
11 held thereat, and no provision has been made by the  
12 county court for holding the election at another place,  
13 the commissioners of election at such place may hold the  
14 election at the place nearest thereto which they can

15 secure for the purpose; and in such case they shall make  
16 known by proclamation, to the voters assembled at such  
17 first named place of voting, the place at which the elec-  
18 tion will be held. The county court shall, in such case,  
19 establish another place of voting for said precinct as soon  
20 thereafter as practicable. No order effecting such change,  
21 division, or consolidation shall be made by the county  
22 court within ninety days next preceding an election nor  
23 without giving notice thereof at least one month before  
24 such change, division or consolidation, by publication  
25 once a week for two successive weeks in two newspapers  
26 published in said county, if such there be, representing  
27 the two political parties which cast the highest and next  
28 highest number of votes in the state at the last preceding  
29 general election, and by notices posted at four public  
30 places in each precinct affected thereby.

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

35 Such court shall also, before the next succeeding elec-

36 tion, cause the voters in the several precincts so affected  
37 by such order to be duly registered in the proper precinct  
38 or precincts.

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

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

**Sec. 9. Political Party Committees; How Composed.**—  
2 At the May primary election in the year one thousand

3 nine hundred sixty-four and in every fourth year there-  
4 after, the voters of each political party in each senatorial  
5 district shall elect two male and two female members of  
6 the state executive committee of the party. In senatorial  
7 districts containing two or more counties, not more than  
8 two such elected committee members shall be residents  
9 of the same county. The committee, when convened and  
10 organized as herein provided, shall appoint three addi-  
11 tional members of the committee from the state at large.

12 At such primary election, the voters of each political  
13 party in each county shall elect one male and one female  
14 member of the party's executive committee of the con-  
15 gressional district and of the senatorial district in which  
16 such county is situated. At the same time such voters in  
17 each magisterial district of the county shall elect one  
18 male and one female member of the party's county ex-  
19 ecutive committee and, in any county containing a city  
20 of ten thousand or more in population, such voters of each  
21 ward of such city within the county shall elect one male  
22 and one female member of such county party executive  
23 committee in addition to the members thereof chosen

24 from the magisterial district or districts in which such  
25 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



45 select a chairman, a treasurer, and a secretary, and such  
46 other officers as they may desire, each of which officers  
47 shall for their respective committees perform the duties  
48 that usually appertain to such offices.

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

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

10 Any party executive committee may create and ap-

11 point subcommittees, campaign, or central committees,  
12 and delegate to them such powers and authority in the  
13 executive and administrative work of the committee as  
14 they shall deem advisable; but no power or authority  
15 shall be delegated to such subcommittee, campaign com-  
16 mittee, or central committee, in contravention of any  
17 law of the state.

18 The state executive committee shall adopt a party  
19 emblem or device for the party to distinguish and identify  
20 the party ticket, and shall certify the same to the ballot  
21 commissioners, and it shall be printed on the party ticket.  
22 The device or emblem of no two parties shall be similar  
23 or of such a nature as to mislead or confuse the voter.  
24 If two or more parties seek the same device, or similar  
25 devices, preference shall be given to the party polling  
26 the largest number of votes for the candidate for gover-  
27 nor at the last election for such office.

**Sec. 12. Members of National Party Committee.—**The

2 members of the national party executive committee of  
3 any political party, to which the state is entitled under  
4 the national organization and the rules and regulations

5 of the national committee of the party, shall be elected  
6 by the state executive committee of such party, unless  
7 the rules of the national party otherwise provide, in  
8 which latter event they shall be selected in all respects  
9 as provided for the selection thereof by the rules and  
10 regulations of the national organization of the political  
11 party and the resolutions of the delegated representatives  
12 of the political party passed and adopted by any national  
13 convention of such political party. A vacancy in the  
14 membership of a national party executive committee  
15 shall be filled by the state committee of the party unless  
16 the rules of the national party otherwise provide.

**Sec. 13. Other Party or Group Committees.**—The mem-  
2 bers of any political party which, at the last preceding  
3 general election, polled, for its candidate for governor,  
4 fewer than ten per cent of the total number of votes cast  
5 for all candidates for that office in the state, and groups  
6 of citizens, not constituting a political party, which nomi-  
7 nate candidates for offices to be voted for at any election,  
8 may select members of committees and officers thereof,  
9 for such political parties and such groups of citizens, in  
10 such manner as they may devise and adopt.

**Sec. 14. Presidential Electors; How Chosen; Duties;**

2 **Vacancies; Compensation.**—Electors of president and vice-  
3 president of the United States shall be nominated as pro-  
4 vided in section twenty-one of article five of this chapter  
5 but their names shall be omitted from the general elec-  
6 tion ballot, as provided in section two of article six of  
7 this chapter, to be voted on the Tuesday next after the  
8 first Monday in November in the year nineteen hundred  
9 and sixty-four and every fourth year thereafter.

10 The presidential electors shall meet in the office of the  
11 governor at the capital of this state, on the day now  
12 appointed, or which shall hereafter be appointed, by the  
13 congress of the United States and vote for the president  
14 and for the vice-president of the United States in the  
15 manner prescribed by the constitution and the laws of  
16 the United States. If any of the electors so chosen fail  
17 to attend at the time appointed, the electors present shall  
18 appoint an elector in place of each one so failing to at-  
19 tend, and every elector so appointed shall be entitled to  
20 vote in the same manner as if he had been originally  
21 chosen by the people.

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

**Sec. 15. Election of United States Senators and Con-**  
2 **gressmen.**—At the general election in the year nineteen  
3 hundred and sixty-four and at each general election in  
4 every sixth year thereafter, and at the general election  
5 in the year nineteen hundred and sixty-six, and in each  
6 sixth year thereafter, there shall be elected a member  
7 of the United States senate, and at the general election in  
8 the year nineteen hundred and sixty-four, and in every  
9 second year thereafter, there shall be elected a member  
10 of the house of representatives in the congress of the  
11 United States for each congressional district of the state,  
12 each for the next ensuing term.

**Sec. 16. Election of State Officers.**—At the general elec-  
2 tion to be held in the year nineteen hundred and sixty-

3 four, and in every fourth year thereafter, there shall be  
4 elected a governor, secretary of state, treasurer, auditor,  
5 attorney general, and commissioner of agriculture. At the  
6 general election in the year nineteen hundred and sixty-  
7 four, and in every second year thereafter, there shall be  
8 elected a member of the state senate for each senatorial  
9 district, and a delegate or delegates to the legislature  
10 of the state from each county or each delegate dis-  
11 trict. At the general election to be held in the year  
12 nineteen hundred and sixty-eight, and in every twelfth  
13 year thereafter, there shall be elected one judge of  
14 the supreme court of appeals, and at the general elec-  
15 tion to be held in the year nineteen hundred and seventy-  
16 two, and in every twelfth year thereafter, two judges of  
17 the supreme court of appeals, and at the general election  
18 to be held in the year nineteen hundred and sixty-four,  
19 and in every twelfth year thereafter, two judges of the  
20 the supreme court of appeals.

**Sec. 17. Election of Circuit and Inferior Court Judges;**

2 **County and District Officers.**—There shall be elected, at  
3 the general election to be held in the year nineteen hun-

4 dred and sixty-eight, and in every eighth year thereafter,  
5 one judge of the circuit court of every judicial circuit,  
6 except the first circuit, and of the first circuit two judges  
7 of said court; and at the general election to be held in the  
8 year nineteen hundred and sixty-four, and in every fourth  
9 year thereafter, a sheriff, prosecuting attorney, surveyor  
10 of lands, and the number of assessors prescribed by law  
11 for the county, and the number of justices of the peace  
12 and constables in each magisterial district in the county  
13 to which the district is entitled by law, the number of jus-  
14 tices and constables to be prescribed from time to time  
15 by the county court; and at such election, and in every  
16 second year thereafter, a commissioner of the county court  
17 for each county; and at the general election to be held  
18 in the year one thousand nine hundred sixty-eight, and  
19 in every sixth year thereafter, a clerk of the county court  
20 and a clerk of the circuit court, for each county; and at  
21 each general election next preceding the expiration of the  
22 term of any judge of any common pleas, criminal or other  
23 inferior court, a judge of such court, each for the term  
24 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



16 commissioner having the qualifications of a voter, he shall  
17 be appointed. Ballot commissioners shall be appointed  
18 between the fifteenth and thirtieth days of March in each  
19 year in which a general election is to be held, for a term  
20 of two years beginning on the first day of April next  
21 ensuing. They shall perform the duties of such commis-  
22 sioners at all general, special and primary elections held  
23 in the county or any magisterial district thereof during  
24 their term of office. A vacancy shall be filled in the same  
25 manner as an original appointment, but immediate notice  
26 of a vacancy shall, where necessary, be deemed compliance  
27 with the five day notice provision.

**Sec. 20. Cards of Instructions to Voters.**—The board of  
2 ballot commissioners of each county shall cause to be  
3 printed in large, clear type, on cards, instructions for the  
4 guidance of voters in preparing their ballots. They shall  
5 furnish twelve of such cards to the commissioner of elec-  
6 tion at the same time they deliver to him the ballots for  
7 the precinct. The commissioners of election shall cause  
8 to be posted one of such cards in each place or compart-

9 ment provided for the preparation of ballots, and the  
10 others in and about the polling place, and one or more of  
11 the cards outside of the sixty foot limit provided for in  
12 this article, on the day of election. Such cards shall contain  
13 full instructions to the voters as to what shall be done:

14 (a) To obtain ballots for voting;

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

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

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

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

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

2 —It shall be the duty of the board of ballot commissioners

3 for each county to provide printed ballots for every elec-  
4 tion for public officers in which the voters or any of the  
5 voters within the county participate, and cause to be  
6 printed, on the appropriate ballot, the name of every can-  
7 didate whose name has been certified to or filed with the  
8 clerk of the circuit court of the county in any manner pro-  
9 vided for in this chapter. In any case wherein the constitu-  
10 tion or statutes limit or prescribe the number of candidates  
11 or elected officers to be selected by the voters in any dis-  
12 trict or other governmental subdivision, the ballot com-  
13 missioners, in the preparation of such ballots, shall cause  
14 to be printed thereon, in plainly worded language, the  
15 number of candidates to be voted for in each district or  
16 other governmental subdivision. The printing of the  
17 ballots, and all other printing caused to be done by the  
18 board of ballot commissioners, shall be contracted for  
19 with the lowest responsible bidder. Ballots other than  
20 those caused to be printed by the respective boards of  
21 ballot commissioners, according to the provisions of this  
22 chapter, shall not be cast, received, or counted in any  
23 election.

24 For each such election to be held in their county and  
25 at least thirty days before the date of such election, the  
26 board of ballot commissioners shall cause to be printed  
27 official ballots to not more than one and one-fifth times the  
28 number of registered voters in the county. Provisions of  
29 article five of this chapter shall govern the printing of  
30 ballots for primary elections. The ballots so printed shall  
31 be wrapped and tied in packages, one for each precinct  
32 in their county, containing ballots to the number of one  
33 and one-twentieth times the number of registered voters  
34 in such precinct. Each package of ballots shall be sealed  
35 with wax, and plainly marked with the number of ballots  
36 therein, the name of the magisterial district, and the num-  
37 ber of the voting place therein, to which it is intended to  
38 be sent. The names of the ballot commissioners shall also  
39 be indorsed thereon.

**Sec. 22. County Court Clerks to Provide Election Sup-**

2 **plies.**—The clerk of the county court of each county shall  
3 provide poll books, tally sheets, ballot boxes, voting  
4 booths, registration records and forms, strong and durable  
5 envelopes upon which to make returns, blank forms for

6 certifying returns and whatever further supplies are  
7 needed for holding the elections and making the returns  
8 thereof. The poll books shall bear upon each page the fol-  
9 lowing heading: "Names of persons voting at precinct  
10 No.\_\_\_\_\_ in the District of\_\_\_\_\_ in the county of\_\_\_\_\_  
11 on this (the)\_\_\_\_\_ day of\_\_\_\_\_ in the year\_\_\_\_\_."

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

**Sec. 23. County Court to Arrange Polling Places and**  
2 **Equipment.**—The county court in each county, before  
3 each election, shall secure, in each voting precinct in the  
4 county, a suitable room or building in which to hold the

5 election, and shall cause the same to be suitably provided  
6 with a sufficient number of booths or compartments, each  
7 containing a table, counter or shelf, and furnished with  
8 proper supplies for preparing ballots, at or in which  
9 voters may conveniently prepare their ballots, so that  
10 in the preparation thereof they may be secure from the  
11 observation of others. The number of such booths or com-  
12 partments shall not be less than two nor more than five.

**Sec. 24. Obtaining and Delivering Election Supplies.—**

2 It shall be the duty of the board of ballot commissioners  
3 to appoint one or more of the commissioners of election  
4 at each precinct of the county to attend at the offices of the  
5 clerks of the circuit and county courts, as the case may be,  
6 at least three days before each election to receive the  
7 ballots, ballot boxes, poll books, registration records  
8 and forms and all other supplies and materials for  
9 conducting the election at the respective precincts. The  
10 clerks shall take a receipt for the respective materials  
11 delivered to the above commissioner or commissioners of  
12 election, and shall file such receipt in their respective  
13 offices. It shall be the duty of such commissioners to re-

14 ceive such supplies and materials from the respective  
15 clerks and to deliver the same with the seal of all sealed  
16 packages unbroken, at the election precinct in time to  
17 open the election.

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

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

29 For primary elections one copy of the poll books, in-  
30 cluding the forms for oaths of commissioners of election  
31 and poll clerks written or printed thereon, shall be sup-  
32 plied at each voting precinct for each political party ap-  
33 pearing on the primary ballot.

34 There shall be two ballot boxes for each election precinct

35 for which a receiving and a counting board of election  
36 commissioners have been appointed.

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

**Sec. 26. Election Supplies in Emergencies.**—If, by any  
2 accident or casualty, the ballots or ballot box or boxes



3 delivered to a commissioner of election, or to any mes-  
4 senger, shall be lost or destroyed, it shall be the duty of  
5 such commissioner or messenger to report the loss forth-  
6 with to the board of ballot commissioners and clerk of the  
7 county court from whom the same were, or was, obtained,  
8 and make affidavit of the circumstances of the loss; where-  
9 upon such board and clerk shall at once send a new supply  
10 by special messenger, as provided in other cases. If, for  
11 any reason, there should be found no ballots, or ballot  
12 box, or other necessary means or contrivances for voting,  
13 at the opening of the polls, it shall be the duty of the com-  
14 missioners of election to secure the same as speedily as  
15 possible and, if necessary, the ballot commissioners may  
16 have ballots printed or written, and the election commis-  
17 sioners may have a ballot box or boxes made.

**Sec. 27. Municipal Precinct Registration Records.—At**

2 least three days prior to every municipal election, it shall  
3 be the duty of the appropriate officer designated by the  
4 municipality to procure from the municipal precinct file  
5 in the office of the clerk of the county court the registra-  
6 tion records necessary for the conduct of such election.

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

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

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

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

**Sec. 28. Election Commissioners and Clerks.**—The  
2 county court of each county shall hold a regular or spe-

3 cial session at the court house of the county on the first  
4 Tuesday of the month next preceding the date on which  
5 any election is to be held and appoint three commissioners  
6 and two clerks to hold the election in each precinct in  
7 the county. In primary and general elections and in any  
8 special election in which political party candidates are  
9 to be nominated or elected, the election commissioners  
10 and clerks shall be selected from the two political parties  
11 which at the last preceding general election cast the  
12 highest and the second highest number of votes in this  
13 state. For every precinct in which there are three hun-  
14 dred, but not more than four hundred, registered voters,  
15 there may be two boards of election officers, and for all  
16 precincts in which there are more than four hundred  
17 registered voters, there shall be two boards of election offi-  
18 cers, and where two boards are used, each board shall  
19 consist of three election commissioners and two poll clerks,  
20 one of which boards shall be designated the "receiving  
21 board" and the other the "counting board" and not more  
22 than two commissioners and one poll clerk of each board  
23 shall be appointed from the same political party. If, at

24 any time before or during the session of the county court,  
25 the county executive committee of either or both of the  
26 political parties, from which commissioners and clerks of  
27 election are to be selected, shall file with or present to  
28 the county court a writing signed by them, or by the  
29 chairman or secretary of such committee on their behalf,  
30 requesting the appointment of a member and of one clerk  
31 of each board of the political party for which such com-  
32 mittee, chairman or secretary is acting, and designating  
33 persons who are qualified under this article for such ap-  
34 pointment for each election precinct in the county, the  
35 county court shall appoint the persons so designated.

36 The county court shall by mail notify all commissioners  
37 and poll clerks of their appointment, and include with  
38 such notice an appropriate form for each person so ap-  
39 pointed to return indicating whether or not he will serve  
40 as such commissioner or poll clerk. It shall be the duty  
41 of all persons so appointed to immediately return said  
42 form to the county court. In the event any of the persons  
43 so appointed refuse to serve as such commissioners or poll  
44 clerks, the county court shall immediately notify the chair-

45 man of the county executive committee of the political  
46 party from which such commissioners and poll clerks are  
47 to be selected. The chairman of the political committee  
48 so notified shall recommend the person or persons to  
49 be appointed to replace those declining to serve and  
50 it shall be the duty of the county court to appoint the  
51 person or persons so recommended.

52 If any person appointed receiving commissioner or clerk  
53 of election shall fail to appear at the voting place at the  
54 hour for opening the polls, the remaining commissioner  
55 or commissioners of election of the political party to which  
56 the absentee belongs shall select another commissioner  
57 or clerk, as the case may be, of such political party. But if  
58 the qualified voters of his party present at the polls shall  
59 nominate a voter of his party qualified to act under the  
60 provisions of this section, such nominee shall be ap-  
61 pointed. If none of the receiving commissioners of the  
62 election or poll clerks shall appear at the voting place  
63 at the hour appointed for opening the polls, the qualified  
64 voters present, being at least ten in number, of the politi-  
65 cal party which cast the highest number of votes in the

66 county at the last preceding election, shall select two  
67 commissioners and one clerk and those of the political  
68 party which cast the next highest number of votes in the  
69 county at such election shall select one commissioner and  
70 one clerk of the receiving board of such precinct, and the  
71 persons so selected shall constitute the receiving board for  
72 the precinct. A vacancy or vacancies on the counting  
73 board shall be filled in the manner herein provided for  
74 filling a vacancy or vacancies on the receiving board, ex-  
75 cept that such vacancy or vacancies shall be determined  
76 and filled as of the hour appointed in this chapter for the  
77 counting board to attend at the polls. Any commissioner  
78 of election acting at any election precinct is hereby em-  
79 powered and authorized to administer oaths and to take  
80 and certify affidavits in relation to any matter or thing  
81 required or permitted to be done by any of the provisions  
82 of this article in conducting and holding the election.

**Sec. 29. Qualifications of Commissioners of Election**

2 **and Poll Clerks.**—No person shall be eligible to be ap-  
3 pointed as a commissioner of election or as a poll clerk

4 in any election precinct who is not a qualified voter in the  
5 magisterial district in which such precinct is situated;  
6 or who has anything of value bet or wagered on the result;  
7 or who is a candidate to be voted for at the ensuing election  
8 or who is addicted to drunkenness; or who is not of good  
9 character and standing; or who has in his employment, or,  
10 as agent or superintendent, has under his control or man-  
11 agement ten or more employees who are voters entitled to  
12 vote in the precinct; or who has served or acted in the  
13 capacity of deputy sheriff within six months prior to the  
14 date of holding any such primary or general election.

15 Whenever a nonpartisan or public question election is  
16 to be conducted separate and apart from a primary or  
17 general election, the provisions of this article relating to  
18 the selection, appointment and qualifications of commis-  
19 sioners of election and poll clerks shall govern and con-  
20 trol, except that persons duly registered as "independent"  
21 or as adherents to a political party or group other than  
22 the two majority political parties then recognized, when  
23 otherwise qualified to be election officials, may be ap-  
24 pointed commissioners of election and poll clerks for the

25 conduct of such nonpartisan and public question elections.

**Sec. 30. Oaths of Election Officers.**—Each commission-

2 er of election and poll clerk, appointed or selected as  
3 aforesaid, shall, before entering upon the discharge of his  
4 duties, take and subscribe an oath, respectively, to the  
5 following effect:

6 (Commissioner's Oath)

7 State of West Virginia. )

8 ) ss.

9 \_\_\_\_\_County. )

10 I, A\_\_\_\_\_ B\_\_\_\_\_, do solemnly swear that I will sup-  
11 port the Constitution of the United States and the Consti-  
12 tution of this State; that I will faithfully and impartially  
13 discharge the duties of commissioner of election assigned  
14 by law; that I will not knowingly permit any person to  
15 vote who is not qualified, and will not knowingly refuse  
16 the vote of any qualified voter, or cause any delay to a  
17 person offering to vote further than is necessary to pro-  
18 cure satisfactory information of the qualifications of such  
19 person as a voter; that I have been a resident of the  
20 State of West Virginia for one year, and of the county



21 and magisterial district in which I am to act as com-  
 22 missioner of election, for sixty days next preceding this  
 23 date; that I will not disclose nor communicate to any  
 24 person how any voter has voted at such election, nor  
 25 how any ballot has been folded, marked, printed or  
 26 stamped; that I have nothing of value bet or wagered  
 27 upon the result of said election; that I have not received  
 28 any promise, agreement or understanding that I am to  
 29 receive appointment as deputy from any candidate to be  
 30 voted for at such election; that I do not have any agree-  
 31 ment, understanding or arrangement that I shall receive  
 32 any sum of money or any portion of the salary, fees or  
 33 emoluments of any office for which any candidate is to be  
 34 voted for at such election, should such candidate be  
 35 elected to such office at such election or any subsequent  
 36 election; that I am not a candidate at this election. So  
 37 help me God.

38

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

40

41

Signature and official title of

42

person before whom sworn.

43 (Clerk's Oath)

44 State of West Virginia, .....county, ss:

45 I, ....., do solemnly swear that I will faithfully  
46 and honestly discharge my duties as clerk of the elec-  
47 tion now about to be held in precinct No. ...., in the  
48 district of ....., county of ....., State of  
49 West Virginia; that I will not disclose nor communicate  
50 to any person how any elector voted, or how any ballot  
51 was folded, marked, printed or stamped; that I do not  
52 have any promise, agreement or understanding that I am  
53 to be appointed as deputy by any candidate to be voted  
54 for at such election; that I do not have any agreement,  
55 understanding or arrangement that I shall receive any  
56 sum of money or any portion of the salary, fees or emolu-  
57 ments from any office for which any candidate is to be  
58 voted for at such election, should such candidate be  
59 elected at such election or any subsequent election. So  
60 help me God.

61 .....

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

63

64

---

Signature and official title of person

65

before whom sworn.

66

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.

76

**Sec. 31. Days and Hours of Elections.**—General elec-

2

tions 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.

6

At every primary, general or special election the polls shall be opened in each precinct on the day of such elec-

7

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

20 the time when it was made must be entered on the poll  
21 books by the clerks. After such minute has been made  
22 and entered, no ballot of any voter shall be cast or re-  
23 ceived.

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

2 In all precincts wherein two election boards shall have  
3 been appointed, the receiving board shall attend at the  
4 opening of the polls, shall open the polls, and shall pro-  
5 ceed with the election. The counting board shall attend  
6 at the voting place not later than three hours after the  
7 opening of the polls, and shall take charge of the ballot  
8 box containing the ballots theretofore cast in that pre-  
9 cinct. They shall retire to a partitioned room or space  
10 in the voting place and there proceed to count and tabu-  
11 late the ballots cast, as they shall find them deposited  
12 in the ballot box. The receiving board shall continue to  
13 receive the vote of electors in the other box, until such  
14 time as the counting board shall have finished counting  
15 and tabulating the ballots cast in the first ballot box.  
16 The counting board shall, before exchanging the ballot  
17 boxes as herein provided, seal the ballots counted by it

18 in envelopes to be provided for the purpose, which shall  
19 not be opened until the two boards shall together proceed  
20 with counting, tabulating and summarizing the votes as  
21 by this chapter provided. The two boards shall then  
22 exchange the first box for the second box, and so continue  
23 until the hour of closing the polls arrives.

**Sec. 34. Voting Procedures.**—Any person offering to  
2 vote in an election shall, upon entering the election room,  
3 clearly state his name and residence to one of the poll  
4 clerks who shall thereupon announce the same in a clear  
5 and distinct tone of voice. If such person is found to be  
6 duly registered as a voter at that precinct, he shall be  
7 required to sign his name in the space marked “signature  
8 of voter” on the poll book prescribed and provided for  
9 the precinct. If such person be physically or otherwise  
10 unable to sign his name, his mark shall be affixed by  
11 one of the poll clerks in the presence of the other and  
12 the name of the poll clerk affixing the voter’s mark shall  
13 be indicated immediately under such affixation. No ballot  
14 shall be given to such person until he so signs his name  
15 on the poll book or his signature is so affixed thereon.

16 When the voter's signature is properly on the poll  
17 book, the two poll clerks shall sign their names in the  
18 places indicated on the back of the official ballot and  
19 shall deliver the ballot to the voter to be voted by him  
20 then without leaving the election room. If he returns  
21 the ballot spoiled to the clerks, they shall immediately  
22 destroy the spoiled ballot and deliver to the voter another  
23 official ballot, signed by the clerks on the reverse side as  
24 before done. The voter shall thereupon retire alone to  
25 the booth or compartment prepared within the election  
26 room for voting purposes and there prepare his ballot,  
27 using a black lead pencil or other means for the purpose.  
28 In voting for candidates in general and special elections,  
29 the voter shall comply with the rules and procedures  
30 prescribed in section five of article six of this chapter.

31 Any person whose registration record indicates his  
32 inability to write may declare his choice of candidates  
33 to the poll clerks who, in the presence of the voter and  
34 in the presence of each other, shall prepare the ballot for  
35 voting in the manner hereinbefore provided, and, on  
36 request, shall read over to such voter the names of candi-

37 dates on the ballot as so prepared; or such voter may re-  
38 quire the poll clerks to indicate to him the relative posi-  
39 tion of the names of the candidates on the ballot, where-  
40 upon the voter shall retire to one of the booths or  
41 compartments to prepare his ballot in the manner herein-  
42 before provided, or may request the poll clerks to mark  
43 the ballot as he directs.

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

49 After preparing the ballot the voter shall fold the same  
50 so that the face shall not be exposed and so that the  
51 names of the poll clerks thereon shall be seen. The voter  
52 shall then announce his name and present his ballot to  
53 one of the commissioners who shall hand the same to  
54 another commissioner, of a different political party, who  
55 shall deposit it in the ballot box, if such ballot is the  
56 official one and properly signed. The commissioners of  
57 election may inspect every ballot before it is deposited



58 in the ballot box, to ascertain whether it is single, but  
59 without unfolding or unrolling it, so as to disclose its  
60 content. When the voter has voted, he shall retire im-  
61 mediately from the election room, and beyond the sixty-  
62 foot limit thereof, and shall not return, except by per-  
63 mission of the commissioners.

64 It shall be the duty of a poll clerk, in the presence of  
65 the other poll clerk, to indicate by a check mark inserted  
66 in the appropriate place on the registration record of  
67 each voter the fact that such voter voted in the election.  
68 In primary elections the clerk shall also insert thereon a  
69 distinguishing initial or initials of the political party for  
70 whose candidates the voter voted. If a person is chal-  
71 lenged at the polls, such fact shall be indicated by the  
72 poll clerks on the registration record together with the  
73 name of the challenger. The subsequent removal of the  
74 challenge shall be recorded on the registration record  
75 by the clerk of the county court.

**Sec. 35. Ballots to Be Furnished Voters.**—In general  
2 and special elections the ballots for all voters of an elec-  
3 tion precinct shall be the same. In primary elections the

4 ballot of the voter's political party at that election in that  
5 precinct shall be furnished to the voter together with  
6 separate ballots, if any, on any nonpartisan candidates  
7 and any public questions submitted to the voters gener-  
8 ally at such primary election. In the event the voter is  
9 lawfully registered as "independent" or as an adherent  
10 of a political party not appearing on any primary elec-  
11 tion ballot to be voted in his precinct, he shall not, in a  
12 primary election, be given or entitled to vote any party  
13 ballot but shall be furnished any separate ballots to be  
14 voted thereat on nonpartisan candidates and public  
15 questions.

**Sec. 36. Report on and Disposition of Ballots Spoiled or**

2 **Not Used.**—Any voter who shall spoil, deface or mutilate  
3 the ballot delivered to him, on returning the same to the  
4 poll clerks, shall receive another in place thereof. Every  
5 person who does not vote any ballot delivered to him  
6 shall, before leaving the election room, return such ballot  
7 to the poll clerks. When a spoiled or defaced ballot is  
8 returned, the poll clerks shall make a minute of the fact  
9 on the poll books, at the time, and such ballot shall then

10 be destroyed by them in the presence of the commis-  
11 sioners of election.

12 Immediately on closing the polls, the commissioners  
13 of election shall ascertain the number of ballots destroyed  
14 during the election and the number of ballots remaining  
15 not voted. The commissioners of election shall also ascer-  
16 tain from the poll books the number of persons who  
17 voted and shall report, over their signatures, to the clerk  
18 of the county court, the number of votes cast, the number  
19 of ballots destroyed during the election and the number  
20 of ballots not voted. All unused ballots shall at the same  
21 time be returned to the clerk of the county court, who  
22 shall immediately destroy them by fire or otherwise.

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

29 The board of ballot commissioners of each county, or  
30 the chairman thereof, shall preserve the ballots that are

31 left over in their hands, after supplying the precincts as  
32 provided, until the close of the polls on the day of elec-  
33 tion, and such ballots shall then be destroyed by such  
34 board, or the chairman thereof, by fire or otherwise.

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

2 No person, except the election officers and voters while  
3 going to the election room to vote and returning there-  
4 from, shall be or remain within sixty feet of such room  
5 while the polls are open; but this section shall not apply  
6 to persons living or carrying on business within that  
7 distance of the election room, while in the discharge of  
8 their legitimate business, or to persons whose business  
9 requires them to pass and repass within sixty feet of  
10 such room.

11 Not more than one voter for each compartment or  
12 booth at the precinct shall be allowed in the election room  
13 at one time, and no person shall approach nearer than  
14 five feet to any booth or compartment while the election  
15 is being held, except the voters to prepare their ballots, or  
16 the poll clerks when called on by a voter to assist in the  
17 preparation of his ballot, and no person, other than elec-

18 tion officers and voters engaged in receiving, preparing  
19 and depositing their ballots, shall be permitted to be  
20 within five feet of any ballot box, except by authority of  
21 the board of election commissioners, and then only for  
22 the purpose of keeping order and enforcing the law.

23 Not more than one person shall be permitted to occupy  
24 any booth or compartment at one time; and no person  
25 shall remain in or occupy a booth or compartment longer  
26 than may be necessary to prepare his ballot, and in no  
27 event longer than five minutes. No voter, or person offer-  
28 ing to vote, shall hold any conversation or communication  
29 with any person other than the poll clerks or commis-  
30 sioners of election, while in the election room.

31 The provisions of this section shall not apply to persons  
32 rendering assistance to blind voters as provided in section  
33 thirty-four of this article.

**Sec. 38. Disorder at Polls; Procedure.**—The commis-  
2 sioners of election shall preserve order at, and in the vi-  
3 cinity of, the polls, and keep the way to the polls open  
4 and free from obstruction, and may direct disorderly per-  
5 sons to be removed therefrom, and, if necessary and prop-

er, to be taken and held in custody until sunrise of the next day, or for any shorter time, which may be done by any sheriff or constable or other person or persons designated by the commissioners of election. For such purpose no warrant or authority in writing shall be necessary. The jail of the county or other place designated by the commissioners of election may be used as the place of custody. But any person so arrested shall have an opportunity to vote, if he be entitled to do so, before he shall be committed to jail, if he so desires and shall be prepared to do so promptly.

**Sec. 39. Illegal Voting; Arrest; Procedure.**—If at any time during the election any qualified voter shall make affidavit, before a commissioner of election, that any person who has voted is an illegal voter in such precinct, the person accused shall at once be arrested by any constable or other person designated by the election commissioners to make the arrest, and by him delivered to the civil authorities. Any person desiring to make such affidavit shall be admitted to the election room for that purpose. Immediately after the close of the election, the commis-

11 sioners of election shall deliver such affidavit to some  
12 justice of the peace in the magisterial district, who shall  
13 proceed thereon as if the affidavit had been made before  
14 him.

**Sec. 40. Disposition of Other Affidavits; Procedure.—**

2 All affidavits provided for in this chapter, to be used on  
3 the day of election, at the several polling places, shall,  
4 unless in this chapter otherwise directed, at the close of  
5 the count, be placed in a strong and durable envelope, by  
6 the commissioners of election, and be securely sealed by  
7 them, and each of them shall indorse his name on the  
8 back of such envelope, which shall, within two days after  
9 the election, be delivered by one of the commissioners of  
10 election to the clerk of the circuit court of the county,  
11 whose duty it shall be to carefully preserve the same and  
12 deliver it, with the seal unbroken, to the foreman of the  
13 grand jury when next in session. It shall be the duty of  
14 such grand jury to inquire into the truth or falsity of such  
15 affidavits.

**Sec. 41. Challenged Voter Procedures.—**It shall be the

2 duty of the members of the receiving board, jointly or

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

11 Any person so challenged shall nevertheless be per-  
12 mitted to vote in the election, but for that purpose he  
13 shall be furnished an official ballot not endorsed by the  
14 poll clerks. In lieu of such endorsements, the poll clerks  
15 shall fill and sign an appropriate form indicating the chal-  
16 lenge and the reason thereof, and the name or names of  
17 the challengers. Such form shall be securely attached to  
18 the voter's ballot and deposited together with the ballot  
19 in a separate box or envelope marked "challenged bal-  
20 lots."

21 The ballot of any voter so challenged shall not be  
22 counted by the election officials. The county court shall,  
23 on its own motion, at the time of canvassing of the elec-



24 tion returns, sit in session to determine the validity of  
25 such challenges. If the county court shall determine that  
26 the challenges are unfounded the ballot of each chal-  
27 lenged voter, if otherwise valid, shall be counted and  
28 tallied together with the regular ballots cast in the elec-  
29 tion. In such determinations the county court shall dis-  
30 regard technical errors, omissions or oversights, if it can  
31 reasonably be ascertained that the challenged voter was  
32 entitled to vote.

33 Any person duly appointed as an election commissioner  
34 or clerk under the provisions of section twenty-eight of  
35 this article and who serves in such capacity in a precinct  
36 other than the precinct in which such person is legally  
37 entitled to vote, may cast a challenged ballot in the pre-  
38 cinct in which such person is serving as a commissioner  
39 or clerk, and such ballot shall not be deemed invalid for  
40 the sole reason of having been cast in a precinct other  
41 than the precinct in which such person is legally entitled  
42 to vote, and the county court shall record the challenged  
43 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-

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.—**

2 Each ballot commissioner shall be allowed and paid a  
3 sum, to be fixed by the county court, not exceeding twen-  
4 ty dollars for each day he shall serve as such, but in no  
5 case shall a ballot commissioner receive allowance for  
6 more than ten days' services for any one primary, general  
7 or special election. Each commissioner of election and  
8 poll clerk shall be allowed and paid a sum, to be fixed by  
9 the county court, not exceeding ten dollars for one day's  
10 services for attending the school of instructions for elec-  
11 tion officials and a sum not exceeding twenty dollars for  
12 his services at any one election. The commissioners of  
13 election obtaining and delivering the election supplies,  
14 as provided in section twenty-four of this article, and re-  
15 turning them as provided in articles five and six of this  
16 chapter, shall be allowed and paid an additional sum,  
17 likewise fixed by the county court, not exceeding ten  
18 dollars for all such services at any one election and, in  
19 addition, shall be allowed and paid mileage at the rate of  
20 seven cents per mile necessarily traveled in the perform-  
21 ance of such services. The compensation of election of-

22 ficers, cost of printing ballots, and all other expenses in-  
23 curred in providing for holding and making the return of  
24 elections shall be audited by the county court and paid  
25 out of the county treasury.

**Sec. 45. Court Proceedings; Duties; Enforcement.**—Any  
2 officer or person, upon whom any duty is devolved by this  
3 chapter, may be compelled to perform the same by writ of  
4 mandamus. The circuit courts, or the judges thereof in  
5 vacation, shall have jurisdiction by such writ, and shall,  
6 upon affidavit filed, showing a proper case, issue such  
7 writ, to be returned, heard and determined without un-  
8 necessary delay. If a circuit court, or a judge thereof in  
9 vacation, shall proceed against any board of canvassers by  
10 mandamus, or otherwise, to control, in any manner, the  
11 action of such board in the performance of its duties, un-  
12 der the provisions of this article, in any case concerning  
13 the election of a member of the house of delegates, or a  
14 state senator, and shall fail to enter a final order in such  
15 proceedings, settling all questions presented therein with-  
16 in fifteen days from the commencement of such proceed-  
17 ings, unless delayed by proceedings in the supreme court

18 of appeals, or a judge thereof in vacation, the same shall  
19 thereupon be dismissed; and such board shall convene  
20 within not less than five days thereafter, and proceed  
21 forthwith to the performance of its duties under the pro-  
22 visions of this article. A mandamus shall lie from the  
23 supreme court of appeals, or any one of the judges there-  
24 of in vacation, returnable before said court, to compel any  
25 officer herein to do and perform legally any duty herein  
26 required of him. And respecting the election of a mem-  
27 ber of the house of delegates and state senator, a writ of  
28 certiorari, mandamus or prohibition shall lie from the  
29 supreme court of appeals, or a judge thereof in vacation,  
30 returnable before said court, to correct any error of law,  
31 and review and correct the proceedings of any circuit  
32 court, or the judge thereof in vacation, or any board of  
33 canvassers. When any such writ of mandamus, prohibi-  
34 tion or certiorari shall be issued by said court, or a judge  
35 thereof in vacation, it shall be the duty of said court to  
36 convene in special session at the state capital, not later  
37 than ten days from the date of the writ, to hear and de-  
38 termine all matters arising upon such writ, which matters

39 shall have precedence over all other business pending in  
40 said court, and be determined within five days from the  
41 assembling thereof, and, in any case, in ample time for  
42 the case to be remanded and final action taken by the  
43 circuit court and the board of canvassers, in order that  
44 such board may perform its duty and issue the certificate  
45 of election before the second Wednesday in January, then  
46 next following. In mandamus and prohibition proceed-  
47 ings under this section the same may be upon affidavit  
48 alone.

## **Article 2. Registration of Voters.**

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

**Sec. 2. Voter Registration Requirements.**—No voter  
2 otherwise qualified shall be permitted to vote at any elec-  
3 tion unless he shall have been duly registered or shall  
4 have placed himself within the “challenged voters” pro-  
5 vision of this chapter, and only those persons who pos-  
6 sess the constitutional and statutory qualifications for

7 voting shall be permitted to register, except that minors,  
8 otherwise qualified, who shall have attained the age of  
9 twenty-one years by the time of the next ensuing elec-  
10 tion, may be permitted to register.

**Sec. 3. Registration, Cancellation and Reinstatement.—**

2 A permanent registration system shall hereby be estab-  
3 lished which shall be uniform throughout the state and  
4 all of its subdivisions. No voter so registered shall be  
5 required to register again for any election while he con-  
6 tinues to reside at the same address, or, having moved  
7 from such address, is properly transferred according to  
8 the provisions of section twenty-seven of this article, un-  
9 less his registration is cancelled as provided in this ar-  
10 ticle. If a voter fails to vote at least once during a period  
11 covering two primary and general elections, his registra-  
12 tion shall be cancelled and he shall, by letter, be given  
13 proper notice thereof by the clerk of the county court, to  
14 the effect that in order to vote he must register again or  
15 execute and file, not later than thirty days before the next  
16 primary or general election, with the clerk, an affidavit,  
17 the form of which shall be prescribed by the secretary of



18 state, stating that he desires to be reinstated as a quali-  
19 fied voter at the same address and the clerk shall replace  
20 the registration card of the voter in the registration rec-  
21 ords. A blank form of such affidavit shall be included  
22 with and accompany the aforesaid notice to the voter.

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

**Sec. 5. Qualifications of Members.**—No member of the  
2 commission shall be a candidate for or hold any public  
3 office other than that of membership in the commission;  
4 nor shall he be a member of any committee of a political  
5 party. At least one member shall be selected with spe-  
6 cial reference to his expert knowledge as a student of the  
7 problems of public elections. Of the remaining four

8 members, not more than two shall be affiliated with the  
9 same major political party. In case a member becomes  
10 a candidate for or is appointed to any other public office  
11 or political committee, his office as member of the com-  
12 mission shall be deemed immediately vacated.

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

**Sec. 7. Commission's Office and Meetings.**—The office

2 and place of meeting of the commission shall be the of-  
3 fice of the secretary of state in the state capitol.

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

**Sec. 8. Commission Powers and Duties.**—The commis-  
2 sion shall serve as a body advisory to the secretary of  
3 state, and, as such, shall have the following powers and  
4 duties:

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

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

11 (3) To consider and study the election practices of  
12 other jurisdictions, with a view to determining the tech-  
13 niques used in eliminating fraud in elections and in sim-  
14 plifying election procedure;

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

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

**Sec. 9. Election Rules, Powers and Duties of Secretary**

2 **of State.**—The secretary of state shall be the chief reg-  
3 istration official of the state. He shall have authority,  
4 upon consultation with the state election commission, of  
5 which he is hereby created an ex officio member, to make,  
6 amend and rescind such rules, regulations and orders as  
7 may be necessary to carry out the policy of the legisla-  
8 ture, as contained in this article. It shall be the duty of  
9 all registration officials to abide by such rules, regulations  
10 and orders, which shall include:

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

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

16 (c) Uniform rules for challenging registrants; and

17 (d) Any other rules, regulations, or directions neces-

18 sary to standardize and make effective the administration  
19 of the provisions of the article.

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

29 The secretary of state shall also have the power to is-  
30 sue subpoenas, administer oaths and affirmations, sum-  
31 mon witnesses, compel the production of books, papers,  
32 records and other evidence, and fix the time and place for  
33 hearing any matters relating to the administration and  
34 enforcement of this article. In case of disobedience to a  
35 subpoena or other process, he may invoke the aid of any  
36 circuit court in requiring the evidence and testimony of  
37 witnesses and the production of papers, books and docu-  
38 ments.

39 All powers and duties vested in the secretary of ~~state~~  
40 under this article may be exercised by appointees of ~~the~~  
41 ~~secretary of state at~~ his discretion, but the secretary of  
42 state shall be responsible for their acts.

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

7 The county court shall have power on its own motion  
8 to summon and to interrogate any person concerning the  
9 registration of voters, to investigate any irregularities in  
10 registration, to summon and examine witnesses, to re-  
11 quire the production of any relevant books and papers,  
12 and to conduct hearings on any matters relating to reg-  
13 istration of voters.

**Sec. 11. Appointment of Registrars; Qualifications and**  
2 **Duties.**—The county court of each county shall, not less  
3 than eighteen nor more than twenty weeks prior to the  
4 date of a state-wide primary election, appoint two com-

5 petent persons, for one or more but not to exceed ten vot-  
6 ing precincts in the county, to act as registrars for the  
7 purpose of making a biennial or quadrennial check-up  
8 required by this article. No person shall be eligible to  
9 appointment as a registrar, or in any way act as such, if  
10 he has been convicted of a felony or if he holds any elec-  
11 tive or appointive office, or is a public employee, under  
12 the laws of this state or of the United States; or cannot  
13 read or write the English language; or is a candidate to  
14 be voted for at such election. If any such registrar shall  
15 fail or refuse to serve or is properly dismissed, the va-  
16 cancy shall be filled either by the county court or by the  
17 clerk thereof in vacation, in the manner provided for the  
18 appointment of registrars. Each registrar, before enter-  
19 ing upon the discharge of his duties, shall take an oath  
20 that he will perform the duties of the office to the best of  
21 his ability, which oath shall be filed in the office of the  
22 clerk of the county court.

23 An equal number of such registrars shall be selected  
24 from the two political parties which at the last preceding  
25 election, cast the highest number and next highest num-

26 ber of votes in the county in which the election is to be  
27 held. The county court shall, at least four weeks prior  
28 to making such appointment, request the county execu-  
29 tive committee of each of the said two political parties to  
30 submit a list of names, equal to one-half of the total num-  
31 ber to be appointed, of persons qualified to act as reg-  
32 istrars; and the county court shall, if such lists are sub-  
33 mitted, appoint the respective registrars therefrom, and  
34 shall notify each registrar of his appointment. Every  
35 such list so presented shall be filed and preserved for one  
36 year by the clerk of such court in his office. Any and  
37 every act performed by any registrar under the provisions  
38 of this article shall be void unless performed in conjunc-  
39 tion with a registrar of the opposite political party at the  
40 same time and place.

41 Before acting, all such registrars shall attend a session,  
42 or sessions, of instruction by the clerk of the county court,  
43 or some person designated by him, concerning the per-  
44 formance of their duties.

45 Immediately following such instruction the clerk of the  
46 county court shall deliver to the registrars a copy of the



47 laws and regulations relating to registration of voters  
48 and all necessary forms and other supplies, including a  
49 certified list of all registered voters within the precinct or  
50 precincts for which such registrars were appointed, upon  
51 such form as may be prescribed by the secretary of state.  
52 Such registrars shall thereupon proceed together to make  
53 a house-to-house canvass in their precincts for the pur-  
54 pose of making the biennial or quadrennial check-up re-  
55 quired by section twenty-one of this article. In making  
56 such check-up the registrars shall not again register any  
57 person who is already registered in such precinct, but  
58 shall determine whether or not such person is duly regis-  
59 tered and qualified to vote therein.

**Sec. 12. Additional Duties of Registrars and Clerks;**

2 **Checking; Notices.**—Upon the completion of the biennial  
3 or quadrennial check-up, the registrars shall return the  
4 records and lists to the clerk of the county court, together  
5 with an affidavit that the returns, records and lists re-  
6 turned to the clerk are true and correct to the best of  
7 their knowledge and belief. The clerk of the county  
8 court shall make the necessary changes in his other regis-

9 tration records. The list checked by the registrars in each  
10 precinct shall be compared with the register of deaths  
11 kept by the clerk of the county court in his office. Each  
12 person named in the list who is not shown to have been  
13 found and so checked by the registrars and whose death  
14 is not shown on such register shall be given proper notice  
15 by the clerk of the county court that his registration has  
16 been cancelled and that in order to vote he must register  
17 again. The notice shall be mailed to such person's last  
18 address appearing on the registration record.

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

**Sec. 13. Compensation of Registrars.**—As compensation  
2 for his services during the house-to-house canvass each  
3 registrar shall be paid at a rate, to be fixed by the county  
4 court, of not less than ten nor more than twenty cents  
5 for each person newly registered; and for each transfer  
6 and for each previous registration checked, whether

7 cancelled or not, he shall be paid not less than eight nor  
8 more than twelve cents. Each registrar shall be paid not  
9 more than ten dollars for each day he attends a session  
10 of instruction for registrars conducted by the clerk of  
11 the county court.

12 Registrars shall be paid for their services by the county  
13 court, but part or all of the compensation of any registrar  
14 may be withheld by the county court until such time as  
15 the county court shall have agreed that the duties of such  
16 registrar have been fulfilled.

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

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

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

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

**Sec. 16. Custody of Registration Records; Public In-**  
2    **spection.**—The registration records shall not be removed  
3    from the custody of the county court except for use in  
4    an election, or by the order of a court of record. The  
5    registration records shall be open for public inspection  
6    under reasonable regulations prescribed by the county  
7    court.

**Sec. 17. Administration of Oaths.**—Whenever in any  
2    matter concerning registration an oath or affirmation is

3 required, the clerk of the county court and registrars  
4 shall have the power to administer the same.

**Sec. 18. Party Affiliation; Primary and Nonpartisan**  
2 **Voting.**—Any person claiming the right to be registered  
3 shall be requested to state the name of the political party  
4 with which he desires to affiliate, and such affiliation shall  
5 be indicated on the registration record in the proper  
6 space. Any person desiring to be registered, who declines  
7 to state any preference for party affiliation, shall be regis-  
8 tered as an “independent” and such person, while such  
9 registration continues, shall not be permitted to vote a  
10 political party ballot in any primary election, but he shall  
11 be entitled to vote any nonpartisan ballots for candidates  
12 or on public questions submitted to the voters at such  
13 primary election.

**Sec. 19. Voter Registration Forms.**—The voter registra-  
2 tion forms for county-state elections and for municipal  
3 elections shall be identical, except for color. The forms  
4 shall be prescribed by the secretary of state and may be  
5 by him revised and supplemented from time to time so  
6 as to provide thereon for a continued record of voter  
7 registration and voter election participation. The forms  
8 shall be substantially as follows:



**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,

10 amend, correct or cancel the registration records of the  
11 voters of the respective precincts, so as to provide a com-  
12 plete and accurate record of all persons qualified to vote.  
13 During the year one thousand nine hundred sixty-six and  
14 every two years subsequent thereto, except in those years  
15 in which a quadrennial check-up is held as aforesaid,  
16 there may be a biennial check-up for voter registration  
17 if in the discretion of the county court such check-up is  
18 deemed necessary and advisable.

**Sec. 22. Registration in Clerk's Office.**—The clerk of  
2 the county court may register any qualified person as a  
3 voter by having him fill in and complete the prescribed  
4 voter registration form and having him sign same under  
5 oath or affirmation. The clerk, upon proper proof, may  
6 alter, amend, correct, or cancel the registration record  
7 of any voter. Such registration or alteration, amendment,  
8 correction or cancellation of registration records shall be  
9 carried on throughout the year. If found necessary, the  
10 county court may order and direct the clerk of the county  
11 court to maintain additional office hours in the evening  
12 or at other proper times and places for accommodation  
13 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

15 together with a notation of the nature of the disability.

**Sec. 25. Post-Registration Disabilities.**—Any voter,  
2 who has since the time of registration suffered a physical  
3 disability which renders him unable to sign his name,  
4 may personally make application under oath to the clerk  
5 of the county court to have such fact entered on his regis-  
6 tration record, together with a statement of the exact  
7 nature of his physical disability, and such entry shall be  
8 made accordingly. If such applicant is physically unable  
9 to appear before the clerk of the county court to cause  
10 such change to be made on the registration record, he  
11 may request the clerk of the county court to mail him  
12 the necessary forms, and the clerk of the county court  
13 upon receipt of such forms properly completed, together  
14 with a physician's certificate affirming such disability,  
15 shall alter the registration record of the voter accordingly.  
16 When the clerk of the county court shall ascertain that  
17 any voter, who has declared himself physically disabled  
18 or illiterate, no longer suffers from such physical dis-  
19 ability or illiteracy, he shall forthwith cancel on the  
20 registration record the entry relating to physical dis-

21 ability or illiteracy and shall notify such voter by mail  
22 of his action.

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

**Sec. 27. Registration Transfers.**—Whenever a voter re-  
2 moves his residence from one place to another within  
3 the same county he shall request that the change be made  
4 on his registration record. Such request shall be made by

5 filling in, and, if he is able, signing under oath or affirma-  
6 tion the necessary form, which may be procured in person  
7 or by mail from the office of the clerk of the county court,  
8 or from the registrars during the biennial check-up. The  
9 form of such notice shall be prescribed by the secretary  
10 of state.

11 Upon receipt of such notice the clerk of the county court  
12 shall cause the signature thereon to be compared with  
13 the signature of the applicant upon his registration card  
14 and, if such signatures correspond, shall make entry of  
15 such change of residence upon all the registration records  
16 and the necessary transfers in the files. If the clerk of  
17 the county court is not satisfied as to the genuineness of  
18 the signature on the notice of change of residence, and  
19 if the right of such applicant to register is challenged  
20 according to the procedure herein prescribed, such trans-  
21 fer shall not be made.

22 Transfers of the registration record may be made  
23 throughout the year except during the thirty days im-  
24 mediately preceding any election, and if any voter shall  
25 move from one place to another within the county within

26 the thirty-day period, he shall, for that election only, vote  
27 in the precinct from which he moved.

**Sec. 28. Procedure on Change of Registered Voter's**

2 **Name.**—Whenever a voter, previously registered, shall  
3 change his name, such person shall be required to regis-  
4 ter again. For this purpose such person may register by  
5 mail in the same manner as an absentee registrant, ac-  
6 cording to the procedure prescribed in section twenty-  
7 three of this article. Upon such registration, the clerk of  
8 the county court shall cancel the registration record  
9 bearing the voter's former name. When such a change  
10 of name is made during the thirty days immediately pre-  
11 ceding any election, such voter, if duly registered, may  
12 vote at the election under his former name.

**Sec. 29. Challenges; Notice; Cancellation of Registra-**

2 **tion.**—Any person claiming the right to be registered as  
3 a voter may be challenged by the clerk of the county  
4 court or by any registrar of the county or by the chair-  
5 man of any political party committee or any voter who  
6 shall appear in person at the clerk's office. Such challenge  
7 shall be entered upon a form prescribed by the secretary

8 of state and shall be filed as a matter of record in the office  
9 of the clerk of the county court. Upon the receipt and  
10 filing of such challenge, the clerk of the county court  
11 shall mail to the person so challenged a notice thereof  
12 requesting such person to appear in person during business  
13 hours at the clerk's office within a period of thirty days  
14 from and after the mailing of such notice to show cause,  
15 if any he can, why such challenge should be removed. The  
16 form of the notice of challenge shall be prescribed by the  
17 secretary of state and shall be mailed by registered or cer-  
18 tified mail with return receipt requested. Failure of the  
19 challenged person to appear and show cause within the  
20 prescribed time shall constitute immediate cancellation  
21 of his voter registration, if any, theretofore effected and  
22 shall be prima facie evidence of his ineligibility to be  
23 registered as a voter. If he does timely appear and show  
24 cause, the clerk shall determine his eligibility to be regis-  
25 tered as a voter as in any other case.

**Sec. 30. Time of Registration Prior to Election;**

2 **Changes.**—No person may vote in an election when he  
3 has registered or his voter registration has been altered,

4 amended or corrected within a period of thirty days next  
5 preceding such election, but this inhibition shall not pre-  
6 vent, during such period of thirty days, additional regis-  
7 trations and changes in voter registrations with reference  
8 to future elections. If, during such period of thirty days  
9 preceding an election, a voter is registered or his voter  
10 registration is altered, amended or corrected, he shall not  
11 be permitted or qualified to vote at such election.

**Sec. 31. Registration When Precincts Changed; Re-Reg-**  
2 **istration When Deemed Necessary.**—Whenever a new  
3 precinct has been created or the boundaries of any pre-  
4 cinct have been changed, the clerk of the county court  
5 shall correct and transfer accordingly the registration rec-  
6 ords of the voters whose voting precincts have been thus  
7 changed. The registration of a voter shall not be invali-  
8 dated by such alteration or transfer.

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

**Sec. 32. Preparation and Furnishing of Precinct Voter**

2 **Lists.**—Prior to any election the clerk of the county court  
3 shall, upon request, prepare lists which may be photo-  
4 stated, typed, printed, or mimeographed at the discretion  
5 of such clerk. Such lists shall contain exact copies of the  
6 names, addresses and political affiliation of the registered  
7 voters in the order of their arrangement in the respective  
8 county or municipal precinct registration files. Such copies  
9 shall be known as the “precinct registration lists.”

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

### **Sec. 33. Hearings on Registration Issues in County**

2 **Court; Review in Circuit and Supreme Court.**—Any per-



3 son affected adversely in regard to any matter pertaining  
4 to his registration may obtain a hearing before the county  
5 court. The county court shall preserve and keep all record  
6 evidence offered at such hearing and shall have all oral  
7 evidence heard reduced to writing and preserved and kept  
8 with other records. From the decision of the county court  
9 such person or the person challenging his registration shall  
10 have, within thirty days, an appeal of right by petition to  
11 the circuit court of the county. Such appeal may be taken by  
12 petition without formal bill of exceptions or certification.  
13 The clerk of the county court shall give reasonable notice  
14 of such appeal thereof in writing to the party or parties  
15 to the proceedings.

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

21 The circuit court may affirm the order of the county  
22 court, whether the order be affirmative or negative; but if  
23 it deems such order not to be reasonably justified by the

24 evidence considered, it may reverse such orders of the  
25 county court in whole or in part as it deems just and right;  
26 and if it deems the evidence considered by the county  
27 court in reaching its decision insufficient, it may remand  
28 the proceedings to the county court for further hearing.  
29 Any such order or orders of the circuit court shall be cer-  
30 tified to the county court.

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

39 It shall be the duty of the circuit court and the supreme  
40 court of appeals, in order to expedite registration and  
41 election procedure, to hold such sessions as may be neces-  
42 sary to determine any cases involving the registration of  
43 voters.

44 Judges of the circuit court and supreme court of ap-

45 peals in vacation shall have the same power as that pre-  
46 scribed in this section for their respective courts.

**Sec. 34. County Court Appropriations.**—The county  
2 court shall budget the funds necessary for the payment  
3 of the compensation of registrars and other assistants and  
4 employees, and the fees of witnesses, and likewise for  
5 preparing, securing, distributing notices, stationery and  
6 other supplies, and other services which are necessary  
7 for the purpose of this article. The county court shall not  
8 include in its budget any sum for the purpose of preparing  
9 or printing precinct lists. Any unexpended balances of  
10 any appropriation heretofore made by the county court  
11 for the purpose of carrying out any provision of the exist-  
12 ing registration law shall be transferred to and made  
13 available to the county court for the expenses of carrying  
14 out the provisions of this article.

**Sec. 35. Unlawful Registration or Rejection of Voter;**  
2 **Penalties.**—Any registrar or clerk of the county court who  
3 knowingly registers or permits to be registered a person  
4 not lawfully entitled to be registered, or who knowingly  
5 refuses to register a person entitled to be registered, or

6 who knowingly assists in preventing such person from  
7 being registered, or who inserts or intentionally permits  
8 to be inserted a name or other entries in any registration  
9 form, knowing or having reason to know that such entry  
10 should not be made, shall be guilty of a misdemeanor, and,  
11 upon conviction, shall be fined not more than one thousand  
12 dollars or confined in the county jail for not more than  
13 one year, or both, at the discretion of the court.

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

**Sec. 36. Neglect of Duty by Registration Officers; Pen-**

2 **alties.**—Any registrar or clerk of the county court or their  
3 authorized deputies or any other persons upon whom a  
4 duty is laid by the permanent registration law, who shall  
5 wilfully delay, neglect, or refuse to perform such duty,  
6 shall be guilty of a misdemeanor, and, upon conviction,  
7 shall be fined not more than one thousand dollars or con-  
8 fined in the county jail for not more than one year, or  
9 both, at the discretion of the court.

**Sec. 37. Alteration or Destruction of Records; Penalties.**

2 —Any person who wrongfully and intentionally inserts or  
3 permits to be wrongfully inserted any name or material  
4 entry on any registration form or any other record in con-  
5 nection with registration; or who wrongfully alters or  
6 destroys an entry which has been duly made; or who  
7 wrongfully takes and removes any such registration form,  
8 or any other record authorized or required in connection  
9 with registration, from the custody of any person having  
10 lawful charge thereof, shall be guilty of a misdemeanor,  
11 and, upon conviction, shall be fined not more than one

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

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

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

**Sec. 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,

11 outside the county wherein he or she is legally registered  
12 to vote, or (d) who is a member of any branch of the  
13 armed services of the United States and who in the per-  
14 formance of his duties expects to be absent on election  
15 day from the county in which he is registered, or his wife  
16 or husband or other member of his family living with  
17 such person, may vote by absent voter's ballot as provided  
18 in this article, at any such election.

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

**Sec. 2. Application for Absent Voter Ballots; Time.—**

2 Any voter, as defined and designated in section one of this  
3 article, expecting to be absent from the county or from the  
4 polls on the day of any primary, general or special elec-  
5 tion, may, not more than sixty days prior to the date of  
6 any such election, make application to the clerk of the  
7 circuit court of the county in which his voting precinct  
8 is situated for an official absent voter's ballot or ballots  
9 to be voted at such election, except that the clerk shall



10 not receive and honor any such application for absent  
 11 voter ballots for a primary or general election made to  
 12 him after the Saturday next preceding the date of any  
 13 such primary or general election nor after regular business  
 14 hours on the third day next preceding the date of any spe-  
 15 cial election. In computing such third day the day of con-  
 16 ducting the special elections shall be excluded.

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

13 APPLICATION FOR ABSENT VOTER'S BALLOT  
 14 State of \_\_\_\_\_ ,

15 County of \_\_\_\_\_, to wit:

16 I, \_\_\_\_\_ hereby declare

17 that I am now, or will have been, a resident of the State

18 of West Virginia for twelve months, and of the county

19 of \_\_\_\_\_ for sixty days, next preced-

20 ing the date of the ensuing election to be held on the

21 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_;

22 that I am now a resident of election precinct No. \_\_\_\_\_,

23 in the magisterial district of \_\_\_\_\_,

24 in said county, that I am a duly qualified voter entitled

25 to vote in such election; that I am registered in the

26 precinct of my residence as provided by law; that (as

27 the case may be) I am \_\_\_\_\_ (stating business),

28 and because of the nature of my business or employ-

29 ment, or for the following reasons \_\_\_\_\_

30 (relating unavoidably cause of absence), I expect to

31 be absent from the said county on the date of such elec-

32 tion, or I am a (college or university student, member

33 of armed forces, spouse, etc., as specified in section one

34 of this article) and will be unable to vote in person at such

35 election, or because of physical disability, illness or injury

36 (here state reason, whether physical disability, illness or  
 37 injury) I will be unable to vote in person at such election,  
 38 as evidenced below by the statement of a duly licensed  
 39 physician; and I hereby make application for an official  
 40 ballot (or ballots if more than one are to be used) to be  
 41 voted by me at such election; and that I will return such  
 42 ballot (or ballots) to the officer issuing them not later  
 43 than four days prior to the day of such election.

44 (If application is made for a primary ballot, the appli-  
 45 cant shall also designate the party whose candidates he  
 46 expects to vote for:)

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

52 Signed.....

53 Home address of applicant.....

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

55 The following statement must be executed if the reason  
 56 stated is physical disability of the voter:

## STATEMENT OF PHYSICIAN

57 STATEMENT OF PHYSICIAN

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

68 Signed \_\_\_\_\_

#### **Sec. 4. Clerk's Duties and Records on Absentee's Ap-**

2 **plication and Ballots.**—Upon receipt of an absent voter's  
3 ballot application, the clerk of the circuit court of the  
4 county in which the applicant is a qualified elector shall  
5 file same in his office and enter the name of the voter  
6 applicant, his home address, the address to which the  
7 ballot is to be mailed, and the date of receipt of the appli-  
8 cation on a record to be kept for that purpose. As subse-  
9 quent events with reference thereto occur, the clerk shall

10 enter upon such record the date of his mailing the ballot  
11 applied for, the date of his receipt of the returned ballot,  
12 and such other pertinent information as he shall consider  
13 necessary and advisable.

**Sec. 5. Mailing of Ballots; Time.**—Between the thir-  
2 tieth day and the fourth day next prior to the election  
3 in which the absent voter's ballot is to be used, the clerk  
4 of the circuit court of the county in which an applicant  
5 is a qualified voter shall mail, postage prepaid, to each  
6 duly registered applicant who has executed and filed his  
7 application, to the address shown therein, an official ballot  
8 or ballots (if more than one are to be voted at such elec-  
9 tion), except that the clerk shall not, after the fifteenth  
10 day next prior to such election, mail any such ballot to an  
11 applicant whose address is shown to be outside the con-  
12 tinental limits of the United States of America. The  
13 clerk shall, without delay, mail all such absent voter bal-  
14 lots as soon after the thirtieth day next prior to the election  
15 as he shall have in his office properly executed applications  
16 therefor. The applicant may obtain the absent voter ballot  
17 or ballots by applying personally at the office of the clerk  
18 of the circuit court not more than thirty days before such

19 election and thereafter may vote such ballot or ballots  
 20 in the clerk's office during regular business hours on any  
 21 day up to and including the Saturday next preceding the  
 22 date of the primary or general election or, in the case of  
 23 special elections, up to and including the third day next  
 24 preceding the day of any such special election. In com-  
 25 puting the thirtieth, fifteenth, fourth and third day before  
 26 the election day, the day of the election shall be excluded.  
 27 Before any ballot is mailed or delivered the clerk shall  
 28 affix his official seal and he and the other members of the  
 29 board of ballot commissioners shall place their signatures  
 30 near the lower left hand corner on the back thereof.

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

2 —The clerk of the circuit court of the county shall enclose  
 3 the ballot or ballots in an envelope, unsealed, to be fur-  
 4 nished by such clerk, which envelope shall bear upon the  
 5 face thereof the name, official title and post office address  
 6 of such clerk and upon the other side a printed declaration  
 7 in substantially the following form:

8 State of.....,

9 County of....., to wit:

10 I, \_\_\_\_\_, hereby declare that I am  
11 a resident of precinct No. \_\_\_\_\_ of the magisterial district  
12 of \_\_\_\_\_ residing at \_\_\_\_\_ in the County of \_\_\_\_\_  
13 and State of West Virginia, and am entitled to vote in  
14 such precinct at the election to be held on \_\_\_\_\_,  
15 19\_\_\_\_; that (as the case may be) I am \_\_\_\_\_  
16 (stating business) and because of the nature of my em-  
17 ployment, or for the following reasons \_\_\_\_\_  
18 (relating unavoidable cause of absence), I expect to be  
19 absent from the county on the date of such election, or  
20 I am a (college or university student, member of armed  
21 forces, spouse, etc., as specified in section one of this  
22 article) and will be unable to vote in person at such  
23 election, or because of physical disability, illness or in-  
24 jury \_\_\_\_\_, (here state reason whether physi-  
25 cal disability, illness or injury), I will be unable to vote  
26 in person at such election. I further declare that I have  
27 personally marked the enclosed ballot (or ballots) in  
28 secret, and have enclosed the same in this envelope and  
29 sealed the same without exhibiting it to any other person.  
30 I hereby declare under penalty of false swearing, as

31 provided in section three, article nine, chapter three of  
32 the code of West Virginia, as amended, that the above  
33 statements and declarations are true and correct to the  
34 best of my knowledge and belief.

35 Signed.....

**Sec. 7. Marking and Mailing Ballot by Absent Voter.**

2 —Such absent voter shall make and subscribe to the  
3 declaration provided for in section six of this article, and  
4 such voter shall thereupon, in the presence of no other  
5 person, mark such ballot or ballots, and such ballot or  
6 ballots shall then be folded by such voter so that each  
7 ballot will be separate and so as to conceal the marking,  
8 and shall be inclosed in such envelope, together with any  
9 unused ballot, and the envelope shall be securely sealed.  
10 The envelope shall then be mailed by such voter, postage  
11 prepaid, to the officer issuing the ballot, or, if more con-  
12 venient, it may be delivered in person, or, if the voter  
13 be for any reason disabled, the envelope may be so mail-  
14 ed or delivered by a person selected and designated by  
15 the voter for that purpose. Any such ballot to be valid



16 shall be received by the clerk of the circuit court of the  
17 county in time for him to deliver the same to the elec-  
18 tion commissioners before the closing of the polls.

**Sec. 8. Clerk's Receipt of and Action on Absent Voters'**

2 **Ballots.**—Upon receipt of an absent voter's ballot, the  
3 clerk of the circuit court of the county shall forthwith  
4 enclose the same, unopened, together with the applica-  
5 tion made by such absent voter, in a large carrier envel-  
6 ope, which shall be securely sealed and indorsed with the  
7 name and official title of such clerk and the words: "This  
8 envelope contains an absent voter's ballot to be voted in  
9 precinct No. \_\_\_\_\_ in \_\_\_\_\_ district in \_\_\_\_\_  
10 county, and must be opened only at the polls on election  
11 day while such polls are open." The clerk shall insert  
12 the name of the district and the number of the precinct  
13 in which the absent voter intends to vote and shall there-  
14 after keep the same securely in his office until delivered  
15 by him, as provided in section nine of this article.

**Sec. 9. Delivery of Absent Voters' Ballots to Election**

2 **Officers.**—In the event that an absent voter's ballot shall  
3 be received by the clerk of the circuit court prior to the

4 delivery of the official ballots to the election commissioner  
5 of the precinct in which such absent voter resides, such  
6 ballot and application, sealed in the carrier envelope, as  
7 provided in section eight of this article, shall be delivered  
8 to the election commissioner of such precinct along with  
9 such official ballots, but, if received after the delivery of  
10 such official ballots, the same shall be delivered to the  
11 election commissioners of such precinct, by the clerk in  
12 person, or by messenger, before the closing of the polls,  
13 provided such ballots are received by the clerk in time to  
14 make such delivery.

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

2 This article shall not be so construed as to prohibit any ab-  
3 sent voter, returning to his place of residence, from vot-  
4 ing in person at the proper precinct at any election con-  
5 templated in this article, notwithstanding that he may  
6 have made application for an absent voter's ballot or bal-  
7 lots, and such ballot or ballots may have been mailed or  
8 otherwise delivered by the proper clerk to him, (a) if  
9 such voter has not availed himself of the privileges of an  
10 absent voter, as provided in this article, and voted the

11 ballot or ballots mailed or otherwise delivered by such  
12 clerk to him, and (b) if such voter shall return such bal-  
13 lot or ballots, if received, to the commissioners of the  
14 election of the precinct of his residence, by whom such  
15 ballot or ballots shall be marked "Cancelled," a minute of  
16 such action entered in the poll books, and such ballot or  
17 ballots shall thereafter be destroyed with the unused  
18 ballots.

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

**Sec. 12. Preparation, Number and Handling of Absent**  
2 **Voters' Ballots.**—Absent voters' ballots shall be in all re-  
3 spects like other ballots. Not less than thirty days prior  
4 to the date on which any primary, general or special  
5 election is to be held, the clerk of the circuit courts of

6 the several counties shall estimate and determine the  
7 number of absent voters' ballots of all kinds which will  
8 be required in their respective counties for any such  
9 election. The ballots for the election of all officers, or  
10 the ratification, acceptance or rejection of any measure,  
11 proposition or other public question to be voted on  
12 by the voters, shall be prepared and printed under the  
13 direction of the board of ballot commissioners constituted  
14 as provided in article one of this chapter. The several  
15 county boards of ballot commissioners shall prepare and  
16 have printed, in such number as they shall determine,  
17 such absent voters' ballots as are to be printed under their  
18 directions as hereinbefore provided, and such ballots shall  
19 be delivered to the clerk of the circuit court of the coun-  
20 ty not less than thirty days prior to the day of the elec-  
21 tion at which they are to be used.

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

2 —The clerk of the circuit court shall be primarily responsi-  
3 ble for the preparation, mailing, receiving, delivering and  
4 otherwise handling of all absent voter ballots. He shall  
5 keep a record of all ballots so delivered for the purpose of

6 absentee voting, as well as all ballots, if any, marked be-  
7 fore him, and shall deliver to the commissioner of elec-  
8 tion to whom the ballots for the precinct are delivered  
9 and at the time of the delivery of such ballots a certificate  
10 stating the number of ballots delivered or mailed to ab-  
11 sent voters, and those marked before him, if any, and the  
12 names of the voters to whom such ballots have been de-  
13 livered or mailed, or by whom they have been marked,  
14 if marked before him.

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

**Sec. 14. Challenges of Votes of Absent Voters.—The**

2 vote of an absent voter may be challenged for any cause

3 for which it could be challenged if the voter were pres-  
4 ent and voting in person. When any such challenge is  
5 made, the procedure relating to challenges at the polls, as  
6 provided in article one of this chapter, shall apply. Notice  
7 of such challenge shall be sent by the clerk of the county  
8 court to the absent voter by registered or certified mail  
9 with return receipt requested.

**Sec. 15. Canvass of Absent Voter Ballots; Require-**  
2 **ments; Procedure.**—At any time between the opening and  
3 closing of the polls on such election day, the commission-  
4 ers of election of the precinct, in the presence of each  
5 other, shall open the absent voter ballot outer or carrier  
6 envelope only, announce the absent voter's name and  
7 compare the signature upon the application with the sig-  
8 nature at the end of the declaration on the ballot envelope  
9 and upon the voter's registration record. In case the elec-  
10 tion commissioners find the declaration properly exe-  
11 cuted, that the signatures correspond, that the applicant  
12 is a duly qualified voter of the precinct indicated, that he  
13 is duly registered, and that the applicant has not voted in  
14 person at such election, or, in case of a primary election,

15 if he has not previously exercised the right of suffrage, if  
16 he shall have executed the proper statement relative to  
17 his age and qualifications and the party with which he  
18 intends to affiliate, the election commissioners shall open  
19 the envelope containing the absent voter's ballot in such  
20 manner as not to deface or destroy the declaration there-  
21 on, and take out the ballot or ballots inclosed therein,  
22 without unfolding or permitting the same to be unfolded  
23 or examined. The election commissioners shall then deliv-  
24 er such ballot or ballots to the poll clerks who shall at  
25 once proceed to write their names on the back of each of  
26 such ballots in the same manner as other ballots are re-  
27 quired to be endorsed by the poll clerks at precinct vot-  
28 ing. A commissioner shall thereupon deposit the same in  
29 the ballot box and the poll clerks shall indicate, in the  
30 appropriate place on the registration record in the same  
31 manner as if he had appeared personally, the fact that  
32 such absent voter had voted, and shall enter the absent  
33 voter's name on the poll book. In the event that such  
34 declaration is found to be insufficient, or that the signatures  
35 do not correspond, or that the applicant is not a duly qual-

4 and primary elections, provided that the use thereof shall  
5 be governed by the terms, conditions, restrictions and  
6 limitations imposed by this article.

**Sec. 2. Procedures for Adopting Voting Machines.—**

2 Voting machines may be adopted for use in general, pri-  
3 mary and special elections in any county by either of the  
4 following procedures, and not otherwise:

5 (1) By a majority of the members of the county court  
6 voting to adopt the same at a meeting regularly called in  
7 regular or special session: *Provided, however,* That such  
8 meeting shall be held not less than six months prior to a  
9 general election or six months prior to a primary election.  
10 If at such meeting, such county court shall enter an order  
11 of its intention to adopt the use of voting machines, it  
12 shall thereafter forthwith cause to be published a certi-  
13 fied copy of such order in some newspaper of general cir-  
14 culation in such county. Such notice shall be published  
15 at least once a week for four successive weeks beginning  
16 not less than twenty days after the entry of such order,  
17 and a copy of such order shall be posted at the front door  
18 of the courthouse and at least three other public places



36 ified voter in such precinct, or that he has voted in per-  
37 son at such election, or that he has not registered, or that  
38 the ballot is open, or has been opened and resealed, or  
39 that the ballot envelope contains more than one ballot  
40 of any one kind, or, in case of a primary election, if he  
41 shall have failed to execute the proper statements rela-  
42 tive to his age and qualifications and the party with which  
43 he intends to affiliate, such vote may be challenged as  
44 provided in the next preceding section of this article.

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

#### **Article 4. Voting Machines.**

**Section 1. Use of Voting Machines Authorized.**—Voting  
2 machines may be used for the purpose of registering or  
3 recording and computing votes cast in general, special

19 in such county for a like period. Such county court shall  
20 not adopt the use of voting machines until ninety days  
21 after the entry of such order of its intention to adopt the  
22 same. Promptly after the expiration of ninety days after  
23 the entry of such order of intention to adopt the use of  
24 voting machines, if no petition has theretofore been filed  
25 with such county court requesting a referendum on the  
26 question of adoption of voting machines as hereinafter  
27 provided, such county court shall enter a final order  
28 adopting voting machines, and voting machines shall  
29 thereby be adopted.

30 If five per cent or more of the registered voters of such  
31 county shall sign a petition requesting that voting ma-  
32 chines be not adopted for use in such county and such  
33 petition be filed with the county court of such county  
34 within ninety days after the entry of such order of intention  
35 to adopt the use of voting machines, such county court shall  
36 submit to the voters of such county at the next general  
37 or primary election, whichever shall first occur, the ques-  
38 tion: "Shall voting machines be adopted in \_\_\_\_\_"

39 County?" If this question be answered in the affirmative  
40 by a majority of the voters in such election upon the  
41 question, voting machines shall thereby be adopted. If  
42 such question shall not be answered in the affirmative by  
43 such majority, the use of voting machines shall not be  
44 adopted.

45 (2) By the affirmative vote of a majority of the voters  
46 of such county voting upon the question of the adoption  
47 of voting machines in such county. If five per cent or  
48 more of the registered voters of such county shall sign  
49 a petition requesting the adoption of voting machines for  
50 use in such county, and such petition be filed with the  
51 county court of such county, such county court shall submit  
52 to the voters of such county at the next general or primary  
53 election, following by not less than ninety days the date  
54 of the filing of such petition, the question: "Shall voting  
55 machines be adopted in -----County?" If this ques-  
56 tion be answered in the affirmative by a majority of the  
57 voters of such county voting upon the question, voting  
58 machines shall thereby be adopted. If such question shall

59 not be answered in the affirmative by such majority, the  
60 use of voting machines shall not be adopted.

**Sec. 3. Procedures for Terminating Use of Voting Ma-**

2 **chines.**—If at any time after the adoption of voting ma-  
3 chines in any county as herein provided, five per cent or  
4 more of the registered voters of such county shall sign a  
5 petition requesting that the use of voting machines be  
6 terminated, and such petition be filed with the county  
7 court of such county, such county court shall submit to  
8 the voters of such county at the next general or primary  
9 election, following by not less than ninety days the date  
10 of the filing of such petition, the question: "Shall the use  
11 of voting machines in \_\_\_\_\_ County be terminated?"  
12 If this question be answered in the affirmative by a ma-  
13 jority of the voters of such county voting upon the ques-  
14 tion, the use of voting machines in all future elections shall  
15 thereby be terminated; otherwise, the use of voting ma-  
16 chines shall be continued.

17 Any vote pursuant to this section and the preceding  
18 section which results in a failure to adopt, or in a termi-

19 nation of the use of voting machines shall not be con-  
20 strued to preclude any future proceeding by the voters or  
21 the county court of any county to adopt or readopt voting  
22 machines in a lawful manner as provided herein.

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

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

10 If it shall be impossible for the county court to supply  
11 each election precinct with a voting machine or voting  
12 machines for use at the next election following the adop-  
13 tion of voting machines, as many voting machines shall  
14 be supplied for that election and the next succeeding  
15 elections as it is possible for the county court to acquire  
16 in the manner as hereinafter provided, and the machines

17 so acquired may be used in such election precincts within  
18 the county as the county court may direct until it shall  
19 be possible to provide the requisite number of voting  
20 machines properly to equip all precincts within the  
21 county.

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

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

- 5 (1) By purchasing the same and paying the purchase  
6 price therefor in cash from funds available from the maxi-  
7 mum general levy or from any other lawful source; and  
8 (2) By leasing the same under written contract of lease,  
9 and paying the rentals therefor in cash from funds avail-  
10 able from the maximum general levy or any other lawful  
11 source.

**Sec. 6. Bids and Contracts for Voting Machines.—Con-**

2 tracts for the purchase or lease of voting machines shall  
3 be based on competitive bids. The county court shall  
4 solicit sealed bids by sending requests by mail to all

5 known manufacturers and suppliers of voting machines  
6 which have been previously approved by the voting  
7 machine commission as hereinafter provided. The award  
8 of contracts of purchase or lease shall be based on the  
9 quality, cost, specifications and suitability of the par-  
10 ticular voting machines.

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

15 (1) Guarantee in writing to keep the machine or ma-  
16 chines in good working order for five years without addi-  
17 tional cost to the county court.

18 (2) Warrant to defend and indemnify the county court  
19 against any claim for patent infringement, and in case any  
20 machine or machines shall be held to be an infringement  
21 of a valid patent, to obtain a license for the use of such  
22 patent on the machines sold or leased to the county court  
23 or to modify the machines so that the offending infringe-  
24 ment is removed without altering the mechanical efficiency  
25 or statutory requirements of the machines; all at the

26 sole cost and expense of the supplier of the voting  
27 machines.

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

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

35 (1) Disclosing the name and address of, and the amount  
36 of any contribution paid or to be paid to, any individual,  
37 partnership, corporation or association hired regularly  
38 and specially for the purpose, or partly for the pur-  
39 pose, of attempting to influence directly or indirectly the  
40 purchase or lease of the voting machine represented by  
41 the bid.

42 (2) Declaring that no individual, partnership, corpora-  
43 tion or association not disclosed in said affidavit shall  
44 thereafter be regularly or specially hired and no contri-  
45 bution shall thereafter be paid for the purpose or partly  
46 for the purpose of attempting to influence directly or in-



47 directly the purchase or lease of the voting machine rep-  
48 resented by the bid.

49 For the purpose of this affidavit, the word "contribution"  
50 shall mean payment, distribution, loan, advance, de-  
51 posit, gift of money, property, benefit or other considera-  
52 tion, or any agreement providing for a payment, distri-  
53 bution, loan, advance, deposit, or gift of money, property,  
54 benefit, or other consideration at any future time.

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

64 In construing this section, the term "person" shall in-  
65 clude an individual, partnership, committee, association,  
66 and any other organization or group of persons.

**Sec. 7. Voting Machine Commission; How Composed;**

2 **Duties; Compensation and Expenses.**—There is hereby  
3 created a voting machine commission, to be composed of  
4 the secretary of state, and two persons appointed by the  
5 governor, by and with the advice and consent of the sen-  
6 ate, who shall be mechanical experts and not members  
7 of the same political party. The term of office of such com-  
8 missioners shall be four years, except that the commis-  
9 sioners appointed by the governor shall be subject to re-  
10 moval at his pleasure, and that any secretary of state,  
11 in surrendering the duties of his office, shall be succeeded  
12 on the commission by the succeeding secretary of state.  
13 No member of the commission shall have any interest in  
14 any voting machine.

15 Any person or corporation owning or being interested  
16 in any voting machine may apply to said commission to  
17 the end that such machine may be examined and a report  
18 be made on its accuracy, efficiency, capacity, and safety.  
19 The mechanical experts of the commission shall examine  
20 the machine and make full report thereon to the secretary  
21 of state. They shall state in the report whether or not the  
22 machine so examined complies with the requirements of

23 this article and can be safely used by voters at elections  
24 under the conditions prescribed in this article. If the  
25 report be in the affirmative upon said question, the ma-  
26 chine shall be deemed approved by the commission and  
27 the machine of its make and design may be adopted for  
28 use at elections as herein provided. Any form of voting  
29 machine not so approved shall not be used at any election.  
30 Each of the two mechanical experts on the commission  
31 shall be entitled to two hundred dollars for his compen-  
32 sation and expenses in making such examination and  
33 report, and such compensation shall be paid by the person  
34 or corporation applying for such examination, which sum  
35 shall be paid in advance of making the examination and  
36 which sum shall be the sole compensation to be received  
37 by any such expert for his work hereunder.

**Sec. 8. Minimum Requirements of Voting Machines.—**

2 A voting machine of particular make and design shall not  
3 be approved by the voting machine commission or be  
4 purchased, leased, or used, by any county court unless it  
5 shall fulfill the following requirements:

6 (1) It shall secure or insure the voter absolute secrecy

7 in the act of voting, or, at the voter's election, shall provide  
8 for open voting;

9 (2) It shall be so constructed that no person except in  
10 instances of open voting, as herein provided for, can see or  
11 know for whom any voter has voted or is voting, and that  
12 no voter or other person can, while the machine is un-  
13 locked for operation, see or otherwise ascertain the nu-  
14 merical total of votes cast for any candidate or for or  
15 against any question;

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

24 (4) It shall preclude each voter from voting for any  
25 person or office or upon any question for whom or which  
26 and upon which he is not lawfully entitled to vote and  
27 from voting for more persons for any office than he is law-

28 fully entitled to vote for, and from voting for any candi-  
29 date for the same office and upon any question more than  
30 once;

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

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

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

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

48 (9) It shall be capable of adjustment by election officers

49 at a primary election so as to permit each voter to vote  
50 only for the candidates of the party with which he has  
51 declared his affiliation, and so as to preclude him from  
52 voting for any candidate seeking nomination by any other  
53 political party, and so as to permit each voter to vote for the  
54 candidates, if any, for nonpartisan nomination or election  
55 and on public questions;

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

61 (11) It shall have a public counter or other device, the  
62 register of which is visible on the outside of the machine  
63 and which shall show the total number of voters who have  
64 voted on that machine in the election; also candidate and  
65 question counters or other devices which shall not be  
66 visible on the outside of the machine when the machine  
67 is unlocked for operation, and upon which are registered  
68 numerically the total votes cast for each candidate and  
69 question appearing on the ballot labels; also a protective

70 counter or other device which will record the cumulative  
71 total number of movements of the registering mechanism;

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

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

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

85 (15) It shall be so constructed with frames for the  
86 placing of ballot labels and with transparent devices for  
87 the protection of such labels, that the labels on which are  
88 printed the names of candidates and their respective par-  
89 ties, titles of offices, and wording of questions shall be rea-

90 sonably protected from mutilation, disfigurement or dis-  
91 arrangement;

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

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

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

**Sec. 9. County Court Clerk Custodian of Machines;**

2 **Duties.**—When voting machines are acquired by any  
3 county court, they shall be immediately placed in the cus-  
4 tody of the county clerk, and shall remain in his custody  
5 at all times except when in use at an election or when  
6 in custody of a court or court officers during contest pro-  
7 ceedings. The clerk shall see that the machines are prop-  
8 erly protected and preserved from damage or unneces-  
9 sary deterioration, and shall not permit any unauthorized  
10 person to tamper with them. The clerk shall also be



11 charged with the duty of keeping the machines in repair  
12 and of preparing the same for voting.

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

3 The ballot commissioners of any county in which voting  
4 machines are to be used in any election shall cause to be  
5 printed for use in such election the ballot labels for the  
6 voting machines. The ballot labels so printed shall total  
7 in number one and one-half times the total number of  
8 voting machines to be used in the several precincts of the  
9 county in such election. All such labels shall be delivered  
10 to the clerk of the county court at least fifty days prior  
11 to the day of the election in which such labels are to be  
12 used. The labels shall contain the name of each candidate  
13 and each question to be voted upon and shall be clearly  
14 printed or typed in black ink on clear white material of  
15 such size as will fit the ballot frames. One set of ballot  
16 labels shall be inserted in the machine prior to the de-  
17 livery of the machine to the polling place. The remainder  
18 of such ballot labels for each machine shall be retained  
19 by the clerk of the county court for use in the event the

20 set so inserted in a machine becomes lost, mutilated or  
21 damaged.

22 If a nomination to fill a vacancy be made by a political  
23 committee or the chairman thereof and be certified to the  
24 ballot commissioners after the ballot labels to be used  
25 at the ensuing election shall have been printed, it shall  
26 be lawful for the chairman of the party executive com-  
27 mittee for the political division to provide, or cause to be  
28 provided, and deliver, or cause to be delivered, to the  
29 clerk, a sufficient number of ballot labels containing the  
30 the name of such candidate. Such ballot labels shall con-  
31 form to the specifications as set forth herein. If such ballot  
32 labels are furnished to the clerk of the county court before  
33 the machines are delivered to the election precincts, the  
34 clerk, with the advice and consent of the ballot commis-  
35 sioners, shall cause such ballot labels to be inserted in the  
36 proper ballot frames.

37 In addition to all other equipment and supplies required  
38 by the provisions of this article, the ballot commissioners  
39 shall cause to be printed a supply of instruction cards,  
40 sample ballots, facsimile diagrams of the voting machine

41 ballot and official printed ballots adequate for the orderly  
42 conduct of the election in each precinct in their county.  
43 In addition they shall provide all other materials and  
44 equipment necessary to the conduct of the election, in-  
45 cluding appropriate facilities for the reception and safe-  
46 keeping of the ballots of absent voters and of challenged  
47 voters and of such “independent” voters who shall, in  
48 primary elections, cast their votes on nonpartisan candi-  
49 dates and public questions submitted to the voters.

**Sec. 11. Ballot Label Arrangement in Machines; Ad-**

2 **justment; Records.**—When the ballot labels are printed  
3 and delivered to the clerk of the county court, he shall  
4 place them in the ballot frames of the voting machines in  
5 such manner as will most nearly conform to the arrange-  
6 ment prescribed for paper ballots, and as will clearly indi-  
7 cate the party designation or emblem of each candidate.  
8 Each column or row containing the names of the office and  
9 candidates for such office shall be so arranged as to clearly  
10 indicate the office for which the candidate is running. The  
11 names of the candidates for each office indicated shall be  
12 placed on the ballot.

13     The clerk of the circuit court shall appoint a time at  
14     which all candidates for the house of delegates are to  
15     appear in his office for the purpose of drawing by lot  
16     to determine where their names will appear on the  
17     voting machines. The clerk shall give due notice of  
18     such time to each such candidate by registered or certi-  
19     fied mail, return receipt requested. At the time ap-  
20     pointed, all such candidates for the house of delegates  
21     shall assemble in the office of such clerk and such candi-  
22     dates shall then proceed to draw by lot to determine  
23     where their names shall appear on the voting machines.  
24     The number so drawn by each such candidate shall de-  
25     termine where his or her name shall appear on the voting  
26     machines. In the event any candidate or candidates fail  
27     to appear at the time appointed, the clerk shall draw  
28     for such absent candidate or candidates in the presence  
29     of those candidates assembled, if any, and the number  
30     so drawn by the clerk shall determine where the name  
31     of any absent candidate or candidates shall appear on  
32     the voting machines.

33 The clerk shall then see that the counters referred to  
34 in subsection eleven of section eight of this article are set  
35 at zero (000) and shall lock the operating device and  
36 mechanism and devices protecting the counters and ballot  
37 labels. The clerk shall then enter in an appropriate book,  
38 opposite the number of each precinct, the identifying or  
39 distinguishing number of the specific voting machine or  
40 machines to be used in that precinct.

**Sec. 12. Inspection of Machines; Duties of County**

2 **Court, Ballot Commissioners, Election Commissioners;**  
3 **Keys and Records Relating to Machines.**—When the clerk  
4 of the county court has completed the preparation of the  
5 voting machines, as provided in the next preceding sec-  
6 tion, and not later than seven days before the day of the  
7 election, he shall notify the members of the county court  
8 and the ballot commissioners that the machines are ready  
9 for use. Thereupon the members of the county court  
10 and the ballot commissioners shall convene at the office  
11 of the clerk, or at such other place wherein the voting  
12 machines are stored, not later than five days before the  
13 day of the election, and shall examine the machines to

14 determine whether the requirements of this article have  
15 been met. Any candidate, and one representative of each  
16 political party having candidates to be voted on at the  
17 election, may be present during such examination. If the  
18 machines are found to be in proper order, the members  
19 of the county court and the ballot commissioners shall  
20 endorse their approval in the book in which the clerk  
21 entered the numbers of the machines opposite the num-  
22 bers of the precincts. The clerk shall then deliver the  
23 keys to the voting machines to the ballot commissioners  
24 who shall give a receipt for the keys, which receipt shall  
25 contain identification of such keys. Not later than three  
26 days before the election the election commissioner of each  
27 precinct who shall have been previously designated by  
28 the ballot commissioners, shall attend at the office of  
29 the clerks of the circuit and county courts of such county  
30 to receive the key or keys to the device covering the regis-  
31 tering counters and such other keys as may be necessary  
32 for the operation of the machine in registering votes, and  
33 to receive the other necessary election records, books, and  
34 supplies required by law. Such election commissioners

35 shall receive the per diem mileage rate prescribed by law  
36 for this service. Such election commissioners shall give the  
37 ballot commissioners a receipt for such keys, records, books  
38 and supplies, and such receipt shall contain identification  
39 of such keys. The master key and all other keys shall re-  
40 main in the possession of the clerk of the county court.

**Sec. 13. Election Boards Where Voting Machines Used;**

2 **Instructions; Vacancies.**—The county court shall appoint  
3 a uniform election board, consisting of three election com-  
4 missioners and two poll clerks, to conduct each election  
5 in each precinct of each county in which voting machines  
6 have been adopted and are to be used.

7 The county court shall call the necessary meeting or  
8 meetings for the instruction of all election officials in the  
9 use of the voting machines. Such meeting or meetings  
10 shall be held and the proper instructions given not less  
11 than seven (7) days prior to any election in which voting  
12 machines are to be used. No election officer, upon being  
13 so notified to appear for instruction, shall fail without  
14 just cause to do so. If any officer does so fail to appear,  
15 the county court may appoint some other qualified person,

16 and such person, after instruction, shall act in the place  
17 of the defaulting officer. If such defaulting officer were  
18 appointed by the county court upon the written recom-  
19 mendation of a county executive committee as provided  
20 in article one of this chapter, the county court shall give  
21 written notice of such default to such county executive  
22 committee and appoint a person to take the place of such  
23 defaulting person upon the recommendation of such  
24 county executive committee. The election officers shall  
25 receive the per diem mileage rate prescribed by law for  
26 attending such instruction meetings.

27 Where not inconsistent with the provisions of this sec-  
28 tion, provisions of article one of this chapter, relating to  
29 the appointment of election officers, shall be applicable  
30 herein.

**Sec. 14. Instructions and Helps to Voters.**—For the in-  
2 struction of the voters on any election day there shall be  
3 provided for each polling place one instruction model for  
4 each voting machine. Each such instruction model shall  
5 be constructed so as to provide a replica of a portion of



6 the face of the voting machine, and shall contain the ar-  
7 rangement of the ballot labels, party columns or rows,  
8 office columns or rows, and questions. Fictitious names  
9 shall be inserted in the ballot labels of the models. Such  
10 models shall be located on the election officers' tables or  
11 in some other place in which the voter must pass to reach  
12 the voting machine. Each voter, upon request, before vot-  
13 ing, shall be offered instruction by the election officers in  
14 the operation of the voting machine by use of the instruc-  
15 tion model, and each voter shall be given ample oppor-  
16 tunity to operate the model himself.

17 The ballot commissioners shall also provide facsimile  
18 diagrams, at least two of which shall be posted on the  
19 walls of each polling place. The facsimile diagrams shall  
20 be exact diagrams of the face of the voting machines to  
21 the end that the voter may become familiar with the loca-  
22 tion of the parties, offices, candidates and questions as  
23 they appear on the voting machine to be used in his pre-  
24 cinct. Ballot labels may be affixed to the diagrams to insure  
25 that the position of the names of the candidates in each

26 office division shall appear accurately on the diagrams of  
27 each precinct.

28 The ballot commissioners may, with the consent of the  
29 county court, or the county court may prepare and mail  
30 to each qualified voter at his address as shown on the regis-  
31 tration books a facsimile sample of the ballot for his  
32 precinct.

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

**Sec. 15. Delivery of Machines; Time; Arrangement for**

2 **Voting.**—The clerk of the county court shall deliver or  
3 cause to be delivered each voting machine to the polling  
4 place where it is to be employed. Such delivery shall be  
5 made not less than one hour prior to the opening of the  
6 polls. At the time of the delivery of the voting machine  
7 the operating device and mechanism and the device cov-  
8 ering the registering counters shall be securely locked.

9 The election commissioners shall then cause the machine  
10 to be arranged in the voting place in such manner that  
11 the front of the machine, on which the ballot labels appear,  
12 will not be visible, when the machine is being operated,  
13 to any person other than the voter if the voter shall elect  
14 to close the curtain, screen or hood furnished with the  
15 voting machine.

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

2 **Reserve Machines.**—Before permitting the first voter to  
3 vote, the election officers shall examine the machine to  
4 ascertain whether it has been operated since the public  
5 counters referred to in subsection eleven of section eight of  
6 this article were set at zero (000) and to ascertain whether  
7 the ballot labels are arranged as specified on the facsimile  
8 diagram furnished to the precinct. If the machine indi-  
9 cates that it has been operated or if the ballot labels are  
10 arranged incorrectly, the officers shall not unlock the oper-  
11 ating device or mechanism, but shall immediately secure  
12 the attendance of one or more members of the county  
13 court and one or more of the ballot commissioners, who  
14 shall reset the counters at zero (000) and then relock the

15 device covering the counters, or properly arrange the bal-  
16 lot labels, as the case may be, in the presence of the elec-  
17 tion officers. If the attendance of such members of the  
18 county court and ballot commissioners cannot be obtained  
19 before the time for opening the polls or within one hour  
20 thereafter, the election officers shall notify the clerk of the  
21 county court of the foregoing facts and obtain from such  
22 clerk a reserve voting machine, and thereafter proceed  
23 to conduct the election. Any reserve machine so used  
24 shall be prepared for use by the clerk or his duly appointed  
25 deputy and said reserve machine shall be delivered and  
26 examined in the same manner as hereinbefore provided.  
27 The machine found to have been operated or provided  
28 with incorrect ballot labels shall be returned immediately  
29 to the custody of the clerk who shall then promptly cause  
30 such machine to be repaired in order that it may be used  
31 as a reserve machine if needed.

**Sec. 17. Disrepair of Machines in Use; Reserve Ma-**

2 **chines; Counting.**—If, during the conduct of an election,  
3 a machine becomes in a state of disrepair so that it can-  
4 not be operated in a manner that will comply with the

5 provisions of this article, the election officers shall lock  
6 or seal the machine in such manner as to prevent further  
7 voting thereon and shall record the numbers shown by  
8 the public counter. Then the election officers shall se-  
9 cure from the county clerk a reserve voting machine,  
10 which shall be prepared for use, delivered and examined  
11 in the same manner as hereinbefore provided, and shall  
12 thereafter proceed to conduct the election. When the  
13 polls are closed, both the original and reserve voting ma-  
14 chines shall be examined and the votes thereon registered  
15 shall be counted as provided in section twenty-three of  
16 this article and the aggregate number of votes cast on  
17 both machines for each candidate and on each question  
18 shall be certified as the result of the election in that pre-  
19 cinct.

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

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

6 (2) In primary elections before a voter is permitted to

7 use the voting machine, the election officer representing  
8 the party to which the voter belongs shall adjust the ma-  
9 chine so that the voter will be able to vote only for the  
10 candidates who are seeking nomination on the ticket of  
11 the party with which the voter is affiliated.

12 (3) If the machine is so constructed as to require adjust-  
13 ment after one person has voted before another person  
14 can vote, the election officers shall so adjust it after each  
15 person has voted.

16 (4) The election officers shall issue to each voter when  
17 he signs the poll book a card or ticket numbered to cor-  
18 respond to the number on the poll book of such voter, and  
19 in the case of a primary election, indicating the party  
20 affiliation of such voter, which numbered card or ticket  
21 shall be presented to the election officer in charge of the  
22 voting machine.

**Sec. 19. "Independent" Voting in Primary Elections.—**

2 If at any primary elections nonpartisan candidates for  
3 office and public questions are submitted to the voters  
4 and on which candidates and questions persons registered

5 as “independent” are entitled to vote, as provided in sec-  
6 tion eighteen of article two of this chapter, the election  
7 officers shall adjust the voting machines, if mechanically  
8 possible to do so, so that such “independent” voters may  
9 vote only those portions of the voting machine ballot re-  
10 lating to the nonpartisan candidates and the public ques-  
11 tions submitted.

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

19 In lieu of using the voting machines, such “independ-  
20 ent” voters may request official printed ballots relating  
21 to such nonpartisan candidates and public questions.  
22 Such ballots, when signed on the back by the poll clerks  
23 as in other elections, shall be voted and folded by the “in-  
24 dependent” voter and shall be delivered to one of the  
25 election commissioners who shall secure same in a sealed

26 or locked container until canvassed and counted in the  
27 same manner as provided for handling and recording  
28 absent voter ballots as provided in the section next here-  
29 after.

**Sec. 20. Recording and Disposition of Absent Voters'**

2 **Ballots.**—When absent voters' ballots have been voted  
3 and delivered to the election board of any precinct, the  
4 election commissioners shall as time permits proceed to  
5 determine the legality of such ballots as prescribed in  
6 article six of this chapter, and shall prior to the close of  
7 the polls, before sealing the operating lever and before  
8 unlocking the counter compartment, vote or record such  
9 votes on the voting machine. Such recording of absent  
10 voters' ballots shall be done by one of the election com-  
11 missioners and the act of casting such votes shall be per-  
12 formed in the presence, and under the careful observa-  
13 tion and full view, of all members of the precinct elec-  
14 tion board, and the votes as indicated by the voting point-  
15 ers shall not be registered until each member of such  
16 board is satisfied that the arrangement of such voting



17 pointers fully carries out the intent of the voter as shown  
18 by the cross marks on the paper ballot.

19 After completion of the count, absentee ballots shall be  
20 enclosed in a sealed package, properly endorsed, and re-  
21 turned and filed with the statement of returns.

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

2 Any duly registered voter, who shall have indicated on  
3 his registration record that he is unable, because of il-  
4 literacy or physical disability, to write or whose physical  
5 disability, in the opinion of the election officers, prevents  
6 him from operation of the voting machine, may ask for  
7 assistance from two election officers of opposite political  
8 party affiliation to whom he shall thereupon declare his  
9 choice of candidates and his position on public questions  
10 appearing on the ballot labels. Such election officers, in  
11 the presence of the voter and in the presence of each  
12 other, shall thereupon cause such voter's declared choices  
13 to be registered by the voting machine as votes.

**Sec. 22. Persons Prohibited About Voting Machines;**

2 **Penalties.**—Excepting the election officials acting under  
3 authority of sections eighteen, nineteen, twenty and twen-

4 ty-one of this article in the conduct of the election, no per-  
5 son other than the voter alone may be in, about or within  
6 five feet of the voting machine during the time such voter  
7 is in the process of voting at any election, and, during such  
8 time, no person may communicate in any manner with the  
9 voter and the voter may not communicate with any other  
10 person or persons. Any conduct or action of an election of-  
11 ficial about or around the voting machine while the voter  
12 is in the process of voting, in excess of the authority vested  
13 in such official by provisions of this article, shall consti-  
14 tute a violation of the provisions hereof. Any person vio-  
15 lating any provision or provisions of this section shall  
16 be guilty of a misdemeanor and, upon conviction thereof,  
17 shall be fined not exceeding one thousand dollars or be  
18 sentenced to imprisonment in the county jail for a period  
19 not exceeding twelve months, or, in the discretion of the  
20 court, shall be subject to both such fine and imprison-  
21 ment.

**Sec. 23. Voting by Challenged Voters.**—If the right of  
2 any person to vote be challenged in accordance with pro-  
3 visions of article one of this chapter relating to the chal-

4 lenging of voters, such person shall not be permitted to  
5 cast his vote by use of the voting machine but he shall  
6 be supplied by the election officer at the polling place with  
7 an official printed ballot of such election. Such ballot  
8 shall not be indorsed on the back by the poll clerks but,  
9 when voted by the challenged voter, shall have affixed  
10 thereto by the poll clerks their statement of information  
11 as to the challenge on the form prescribed therefor. Such  
12 challenged ballots shall be secured, handled and disposed  
13 of as challenged ballots in other elections, as provided in  
14 article one of this chapter.

**Sec. 24. Closing Polls; Counting and Reporting Re-**

2 **turns; Duties and Procedures.**---(1) At the count of the  
3 votes in any such precinct, any candidate or his individ-  
4 ual representative may witness and check the count of  
5 the votes therein.

6 (2) As soon as the polls are closed, and the last voter  
7 has voted, the election officers shall immediately lock and  
8 seal the operating lever or mechanism of the machine so  
9 that the voting and counting mechanism will be pre-  
10 vented from operation, and shall then compare the num-

11 ber of voters, as shown by the public counter of the ma-  
12 chine, with the number of those who have voted, as shown  
13 by the protective or accumulative counter or device. The  
14 election officers of each precinct shall then sign a certifi-  
15 cate stating: (a) that the machine has been locked against  
16 voting and sealed; (b) the number of voters, as shown by  
17 the public counters; (c) the number registered on the  
18 protective or accumulative counter or device, if any; and  
19 (d) the number or other designation of the voting ma-  
20 chine; and such certificate shall be returned by the pre-  
21 cinct election officers to the ballot commissioners.

22 (3) The election officers in the presence of any candi-  
23 date or his individual representative, if any, shall then  
24 make visible the registering counters, and for that pur-  
25 pose shall unlock and open the doors or other covering  
26 concealing the same, giving full view of all the counter  
27 numbers. The election officers shall, under the scrutiny  
28 of such representatives, if any, and in the order of the of-  
29 fices as their titles are arranged on the machine, read and  
30 announce, in distinct tones, the results as shown by the  
31 counter numbers for each candidate and for and against

32 each question voted on. The counters shall not be read  
33 consecutively along the party rows or columns but shall  
34 always be read along the office columns or rows, com-  
35 pleting the canvass for each office or question before pro-  
36 ceeding to the next. The vote as registered shall be en-  
37 tered by the election officers, in ink, on triplicate return  
38 sheets, and also on a general return sheet and statement,  
39 all of which, after the count is completed, shall be signed  
40 by the election officers. The total vote cast for each can-  
41 didate, and for and against each question, shall then be  
42 computed and entered on the general and triplicate re-  
43 turn sheets and statement. There shall also be entered  
44 on the general return sheet and statement the number of  
45 voters who have voted, as shown by the poll books, and  
46 the number who have voted on each machine, as shown  
47 by the public counters, and also the number registered on  
48 the protective counter on each machine immediately prior  
49 to the opening of the polls and immediately after the  
50 closing thereof and sealing of the machine. The number  
51 or other designation of each machine used shall also be  
52 entered thereon. In the case of primary elections, tripli-

53 cate return sheets shall be prepared for each party. The  
54 registering counters of the voting machine shall remain  
55 exposed to view until the returns and all other reports  
56 have been fully completed.

57 (4) The proclamation of the results of the votes cast  
58 shall be announced distinctly and audibly by one of the  
59 election officers, who shall read the name of and votes  
60 cast for each candidate, and the votes cast for and against  
61 each question submitted. During such proclamation  
62 ample opportunity shall be given to any person lawfully  
63 present to compare the results so announced with the  
64 counter dials of the machine, and any necessary correc-  
65 tions shall then and there be made by the election officers,  
66 after which the doors or other cover of the voting ma-  
67 chine shall be closed and locked and the return sheets shall  
68 be signed by each of the election officers. If any election  
69 officer shall decline to sign such return, he shall state his  
70 reason therefor in writing, and a copy thereof, signed by  
71 him, shall be enclosed with such return. Each of the re-  
72 turn sheets shall be enclosed in a separate envelope, which  
73 shall be securely sealed with sealing wax, or other sealing

74 material, and each of the election officers shall write his  
75 or her name across the fold of the envelope. One of the  
76 triplicate returns shall be directed and delivered to the  
77 clerk of the county court of the county in which the election  
78 is being held, one to the circuit court clerk of such county  
79 and one to the secretary of state at Charleston, West  
80 Virginia, and the general return sheet and statement shall  
81 be directed and immediately delivered to the clerk of the  
82 county court of such county. The envelope shall have  
83 endorsed thereon a certificate of the election officers,  
84 stating the number of the machine, the precinct where it  
85 has been used, the number of the seal, and the number  
86 registered on the protective counter at the close of the  
87 polls.

88 (5) As soon as possible after the completion of the  
89 count, the election officers shall return to the county court  
90 and the ballot commissioners the keys to the voting ma-  
91 chine received and receipted for by them, and the clerk  
92 of the county court shall have the voting machine prop-  
93 erly boxed or securely covered and removed from the  
94 polling place to a proper and secure place of storage.

**Sec. 25. Form and Delivery of Return Sheets.**—The  
2 general return sheet, triplicate return sheets, and state-  
3 ment, shall be printed to conform with the make of vot-  
4 ing machine used. The designating number and letter,  
5 if any, on the counter for each candidate shall be re-  
6 printed thereon opposite the candidate's name. Immedi-  
7 ately after the vote has been ascertained, the above men-  
8 tioned return sheets shall be forthwith delivered to the  
9 respective persons to whom they are addressed as pro-  
10 vided in this chapter.

**Sec. 26. Post-Election Custody and Inspection of Ma-**  
2 **chines; Canvass and Recounts.**—(1) The voting machines  
3 shall remain locked against voting during the canvass of the  
4 returns of the election and for a period of seven days after  
5 the canvass is finally concluded, during which time any can-  
6 didate or the chairman of any county executive committee  
7 of any political party or their appointed representatives,  
8 shall be permitted to examine the voting machines under  
9 the supervision of the county court for the purpose of de-  
10 termining the number of votes cast for any candidate or  
11 for and against any question. After the expiration of the



12 seven-day period as herein provided, the voting machines  
13 may be unlocked by the clerk of the county court and the  
14 registering counters reset at zero (000) unless the board  
15 of canvassers or a court of competent jurisdiction by ap-  
16 propriate court order directs otherwise.

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

22 (3) In canvassing the returns of the election, the board of  
23 canvassers shall examine all of the voting machines used  
24 in such election and shall determine the number of votes  
25 cast for each candidate and for and against each ques-  
26 tion and by such examination shall procure the correct  
27 returns and ascertain the true results of the election. Any  
28 candidate or his party representative may be present at  
29 such examination.

30 (4) If any candidate shall demand a recount of the  
31 votes cast at an election, the voting machines shall not be  
32 reexamined during such recount for the purpose of re-

33 ascertaining the total number of votes registered on the  
34 voting machines for any candidate.

**Sec. 27. Test of Machine Accuracy; Procedures and**

2 **Requirements.**—(1) When during a canvass or a recount  
3 of votes cast in an election it appears to the board of can-  
4 vassers or if it is so alleged in a petition for a recount,  
5 that a voting machine used in any precinct has by reason  
6 of mechanical failure or improper or fraudulent prepara-  
7 tion or tampering incorrectly recorded and tabulated the  
8 actual votes cast on such machine, the board of canvassers  
9 shall proceed to determine the error, if any, in the vote  
10 registered on such voting machine. If an error is found,  
11 the board of canvassers shall correct the election returns  
12 from such precinct so as to accurately reflect the votes  
13 cast in such precinct at such election if it is possible to  
14 accurately correct such error. If the board of canvassers  
15 are unable to accurately correct such errors made by said  
16 voting machine and therefore cannot correct the returns  
17 from such precinct to accurately reflect the actual votes  
18 cast at such election, the total votes registered on such  
19 voting machine, despite the fact that such vote may be

20 erroneous, shall be accepted in the canvass and in the  
21 recount as the votes cast in such precinct.

22 (2) If it is necessary for the board of canvassers to test  
23 any voting machine for its mechanical accuracy in record-  
24 ing and tabulating the votes cast at such election, such  
25 test shall be conducted by the clerk of the county court  
26 in the presence of the board of canvassers and of any  
27 candidate or his party representative. The registering  
28 counter shall be reset at zero (000) before it is tested and  
29 then the machine shall be operated at least 100 times.  
30 After the completion of such test the clerk will then and  
31 there prepare and file a statement in writing giving in  
32 detail the result of the examination and test.

Sec. 28. **Adjustments in Voting Precincts Where Ma-**  
2 **chines Used.**—The provisions of section five of article one  
3 of this chapter, relating to the number of registered  
4 voters in each precinct, shall not apply to and control in  
5 precincts in counties in which voting machines have been  
6 adopted and the county courts of such county, subject to  
7 other provisions of this chapter with respect to the alter-  
8 ing or changing of the boundaries of voting precincts,

9 may change the boundaries of precincts or consolidate  
10 precincts, as practicable, to achieve the maximum ad-  
11 vantage from the use of voting machines.

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

**Sec. 29. Use of Voting Machines in Municipal Elections.**

2 The county court of any county which has adopted the  
3 use of voting machines is hereby authorized to make such  
4 machines available to any municipality in, or partly in,  
5 such county for use in elections conducted by such mu-  
6 nicipality, and the use of voting machines by such mu-  
7 nicipality shall be upon such terms and conditions as may  
8 be agreed upon between the county court and the mu-  
9 nicipality.

**Sec. 30. Applicability of General Laws Relating to**  
2 **Elections.**—Except as modified by this article, the gen-  
3 eral laws applying to regular, special and primary elec-

4 tions shall apply to elections conducted with the use of  
5 voting machines.

6 If it shall be impracticable for the county court of any  
7 county, after the adoption of voting machines by such  
8 county, to supply the necessary voting machines to each  
9 precinct of such county for use in any election, the hold-  
10 ing of any election in such precincts, which have not been  
11 supplied with voting machines, shall be governed by the  
12 general laws with respect to conducting a regular, spe-  
13 cial and primary election by the use of printed ballots.

**Sec. 31. Tampering with Voting Machines; Attempts;**

2 **Penalty.**—Any person not an election officer or other pub-  
3 lic official who shall tamper or attempt to tamper with  
4 such voting machines, or in any way intentionally impair  
5 or attempt to impair, its use, and any such person who  
6 shall be guilty of or shall attempt any dishonest practice  
7 upon any such voting machine, or with or by its use, shall  
8 be deemed guilty of a felony, and, upon conviction there-  
9 of, shall be confined in the penitentiary for not less than  
10 one year nor more than ten years.

11 Any clerk of a county court, county commissioner, bal-

12 lot commissioner, election commissioner, or poll clerk,  
13 or any custodian, technician, or other public official au-  
14 thorized to take part in the holding of an election or in  
15 preparing for an election, who, with intent to cause or  
16 permit any voting machine to fail to register correctly  
17 all votes cast thereon, tampers with or disarranges  
18 such machine in any way, or any part or appliance there-  
19 of, or who causes or consents to the use of said machine  
20 for voting at any election with knowledge of the fact  
21 that the same is not in order, or not perfectly set and  
22 adjusted so that it will correctly register all votes cast  
23 thereon, or who, with the purpose of defrauding or de-  
24 ceiving any voter or of causing it to be doubtful for what  
25 ticket or candidate or candidates or proposition any vote  
26 is cast, or of causing it to appear on said machine that the  
27 votes cast for one ticket, candidate or proposition, were  
28 cast for another ticket, candidate or proposition, removes,  
29 changes or mutilates any ballot label on said machine or  
30 any part thereof, or does any other thing intended to in-  
31 terfere with the validity or accuracy of the election, shall  
32 be deemed guilty of a felony and upon conviction thereof

33 shall be confined in the penitentiary not less than one  
34 year nor more than ten years.

**Sec. 32. Wilful Neglect of Duty by Officials; Penalties.—**

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

**Article 5. Primary Elections and Nominating Procedures.**

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

2 Primary election shall be held at the voting place in each of  
3 the voting precincts in the state, for the purposes set forth  
4 in this article, on the second Tuesday in May in the year  
5 one thousand nine hundred sixty-four and in each second  
6 year thereafter.

7 At such election the polls shall be opened and closed at  
8 the hours provided for opening and closing the polls in a  
9 general election.

**Sec. 2. Delegates to National Conventions; Alternates.—**

2 At the primary election to be held in the year nineteen  
3 hundred sixty-four, and in each fourth year thereafter,  
4 there shall be elected by the voters of each political party  
5 of the state the number of persons to which the party is  
6 entitled as delegates-at-large, and by the voters of each  
7 political party in each congressional district in the state  
8 the number of delegates to which the district is entitled,  
9 in the national convention of the party to be next held  
10 after the date of such primary. The persons receiving  
11 the highest number of votes in the state as delegates-at-  
12 large, to the number to which the state is entitled, shall  
13 be elected delegates. The persons receiving the highest  
14 number of votes as delegates in any congressional district,  
15 to the number to which the district is entitled, shall be  
16 elected delegates. Each delegate so elected shall then  
17 appoint an individual to serve as alternate delegate, and  
18 shall by registered letter notify the secretary of state of



19 such appointment within forty days after the primary  
20 election.

**Sec. 3. Presidential Preference.**—In presidential elec-  
2 tion years, in addition to the candidates required to  
3 be nominated at the primary election, the qualified  
4 voter of each political party shall have the opportunity  
5 of voting for their choice among those aspiring to be  
6 the candidates of their respective parties for president  
7 of the United States. The names of such aspirants  
8 shall be printed on the official election ballot of their  
9 respective parties, as provided in section thirteen of this  
10 article, upon the filing with the secretary of state of the an-  
11 nouncement as provided in section seven of this article,  
12 and the ballot shall be marked and the vote shall be  
13 counted, canvassed and returned under the same condi-  
14 tions as to names, certificates and other matters, as the  
15 names and certificates of the party aspirants for the party  
16 nomination for the office of governor.

**Sec. 4. Nomination of Candidates in Primary Elections.**  
2 —At each primary election, the candidate or candidates of  
3 each political party for all offices to be filled at the en-

4 suing general election by the voters of the entire state,  
5 of each congressional district, of each state senatorial  
6 district, of each judicial circuit of West Virginia, of each  
7 county, and of each magisterial district in the state shall  
8 be nominated by the voters of the different political  
9 parties, except that no presidential elector shall be nom-  
10 inated at a primary election.

11 In primary elections a plurality of the votes cast shall  
12 be sufficient for the nomination of candidates for office.  
13 Where only one candidate of a political party for any of-  
14 fice in a political division, including party committeemen  
15 and delegates to national conventions, is to be chosen,  
16 the candidate receiving the highest number of votes there-  
17 for in the primary election shall be declared the party  
18 nominee for such office. Where two or more such candi-  
19 dates are to be chosen in the primary election, the candi-  
20 dates constituting the proper number to be so chosen who  
21 shall receive the highest number of votes cast in the politi-  
22 cal division in which they are candidates shall be declared  
23 the party nominees and choices for such office, except that  
24 candidates for the office of commissioner of the county

25 court shall be nominated and elected in accordance with  
26 the provisions of section twenty-three of article eight of  
27 the constitution of this state and that members of county  
28 boards of education shall be elected at primary elections in  
29 accordance with the provisions of section six of this article.

30 In case of tie votes between candidates for party nomi-  
31 nations or elections in primary elections, the choice of the  
32 political party shall be determined by lot by the execu-  
33 tive committee of the party for the political division in  
34 which such persons are candidates.

**Sec. 5. Candidates for County Board of Education.—**

2 Any person who is eligible to hold office as a member of  
3 a county board of education may file a certificate with  
4 the clerk of the circuit court of the county, declaring  
5 himself a candidate for election to such office. Such cer-  
6 tificate shall be substantially in the following form: I,  
7 \_\_\_\_\_, hereby certify that I am a candidate for non-  
8 partisan election to membership on the \_\_\_\_\_  
9 County Board of Education, and desire my name printed  
10 on the ballot to be voted at the primary election to be  
11 held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; that I am a

12 legally qualified voter of the county of \_\_\_\_\_, State  
13 of West Virginia; that the address of my residence in  
14 \_\_\_\_\_ County is \_\_\_\_\_; that I am eligible to  
15 hold the office; and that I am a candidate therefor in  
16 good faith.

17

\_\_\_\_\_  
Candidate

18

19 Signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_, 19\_\_

20

21

\_\_\_\_\_  
Signature and official title of

22

certifying officer.

23 Such announcement shall be signed and acknowledged  
24 by the candidate before some officer qualified to admin-  
25 ister oaths, who shall certify the same.

26 Such certificate shall be filed with the clerk of the cir-  
27 cuit court not later than the first Saturday of February  
28 next preceding the primary election day, and must be re-  
29 ceived by the clerk before midnight, eastern standard  
30 time, of that day or, if mailed, shall be postmarked be-  
31 fore that hour.

**Sec. 6. Election of County Board of Education Members**

2 **at Primary Elections.**—An election for the purpose of  
3 electing members of the county board of education shall  
4 be held on the same date as the primary elections as now  
5 provided by law, but upon a nonpartisan ballot printed  
6 for the purpose. In such nonpartisan election the per-  
7 son receiving the highest number of votes shall be elected  
8 for a long term, and if more than one is to be elected for  
9 a long term, the one receiving the next highest shall be  
10 elected; and if more than two are to be elected the candi-  
11 date or candidates receiving the next highest votes shall  
12 be declared elected for any short term or terms, as the  
13 case may be, to fill vacancies; but no more than two such  
14 members shall be elected from the same magisterial dis-  
15 trict, and then only when such magisterial district does  
16 not have a hold-over member of said board, and if such  
17 magisterial district has one hold-over member on said  
18 board only one member shall be elected as aforesaid; and  
19 if more persons from a magisterial district receive the  
20 highest number of votes in said election, then of such  
21 persons only the person or persons having the highest

22 vote who do not make the aggregate number of elected  
23 members and hold-over members more than two from  
24 such magisterial district shall be declared elected, and  
25 the remaining members shall be declared from the high-  
26 est from other magisterial districts; and in no event shall  
27 any member be declared elected from the same magis-  
28 terial district wherein reside two already elected or oth-  
29 erwise qualified members of such board who will continue  
30 to hold office after the beginning of the term for which  
31 such election was held.

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

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

**Sec. 7. Filing Announcements of Candidacies; Require-**

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

11 I, \_\_\_\_\_, hereby certify that I am a candidate for the  
12 nomination for the office of \_\_\_\_\_ to represent the  
13 \_\_\_\_\_ party, and desire my name printed on the of-  
14 ficial ballot of said party to be voted at the primary elec-  
15 tion to be held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; that I am  
16 a legally qualified voter of the county of \_\_\_\_\_, State  
17 of West Virginia; that my residence is number \_\_\_\_\_ of  
18 \_\_\_\_\_ street in the city (or town) of \_\_\_\_\_ in  
19 \_\_\_\_\_ county in said State; that I am eligible to hold  
20 the said office; that I am a member of and affiliated with  
21 said political party; that I am a candidate for said office  
22 in good faith.

23 \_\_\_\_\_

24 Candidate

25 Signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_, 19\_\_

26 \_\_\_\_\_

27 Signature and Official title of

28 person before whom signed.

29 Such announcement shall be signed and acknowledged  
30 by the candidate before some officer qualified to admin-  
31 ister oaths, who shall certify the same.

32 No person may be a candidate for nomination for of-  
33 fice in any political party unless it be openly known that  
34 such person is a bona fide member of such party.

35 Such certificate shall be filed with the secretary of state  
36 or the clerk of the circuit court, as the case may be, not  
37 earlier than the first Monday in January next pre-  
38 ceding the primary election day, and not later than the  
39 first Saturday of February next preceding the primary  
40 election day, and must be received before midnight, east-  
41 ern standard time, of that day or, if mailed, shall be post-  
42 marked before that hour.



**Sec. 8. Filing Fees and Their Disposition.**—Every per-

son 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

22 court and member of the county board of education shall  
23 pay a fee equivalent to one per cent of the annual salary  
24 of the office for which the candidate announces: *Pro-*  
25 *vided, however,* That the fee in no case shall be less than  
26 five dollars. A candidate for any other county office shall  
27 pay a fee of five dollars;

28 (e) A candidate for justice of the peace in districts  
29 having a population of five thousand or less shall pay a  
30 fee of ten dollars; in districts having a population of more  
31 than five thousand and not more than twenty-five thou-  
32 sand, fifteen dollars; and in districts having more than  
33 twenty-five thousand population, each candidate shall  
34 pay a fee of twenty-five dollars;

35 (f) A candidate for constable in districts having a pop-  
36 ulation of five thousand or less shall pay a fee of five dol-  
37 lars; in districts having a population of more than five  
38 thousand and not more than twenty-five thousand, ten  
39 dollars; and in all other districts fifteen dollars;

40 (g) Delegates to the national convention of any po-  
41 litical party shall pay the following filing fees:

42 A candidate for delegate-at-large shall pay a fee of

43 twenty dollars; and a candidate for delegate from a con-  
44 gressional district shall pay a fee of ten dollars;

45 (h) Candidates for members of political executive com-  
46 mittees and other political committees shall pay the fol-  
47 lowing filing fees:

48 A candidate for member of a state executive commit-  
49 tee of any political party shall pay a fee of ten dollars; a  
50 candidate for member of a county executive committee  
51 of any political party shall pay a fee of one dollar; and a  
52 candidate for member of a congressional, senatorial or  
53 judicial committee of any political party shall pay a fee  
54 of one dollar.

55 Candidates filing for an office to be filled by the voters  
56 of one county shall pay the filing fee to the clerk of the  
57 circuit court, and candidates filing for an office to be filled  
58 by the voters of more than one county shall pay the filing  
59 fee to the secretary of state at the time of filing their cer-  
60 tificates of announcement, and no certificate of announce-  
61 ment shall be received until the filing fee is paid.

62 All moneys received by such clerk from such fees shall  
63 be credited to the general county fund. Moneys received

64 by the secretary of state from fees paid by candidates for  
65 offices to be filled by all the voters of the state shall be  
66 deposited in a special fund for that purpose and shall be  
67 apportioned and paid by him to the several counties on  
68 the basis of population, and that received from candidates  
69 from a district or judicial circuit of more than one coun-  
70 ty shall be apportioned to the counties comprising the  
71 district or judicial circuit in like manner. When such  
72 moneys are received by sheriffs, it shall be credited to the  
73 general county fund.

**Sec. 9. Certification and Posting of Candidacies.—Dur-**

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

11 Such certificate of candidates shall show the name and

12 residence of each candidate, the office for which he is a  
13 candidate, the name of the political party of which he is  
14 a candidate, and upon what ballot his name is to be  
15 printed. The secretary of state shall post a duplicate of  
16 such certification in a conspicuous place in his office and  
17 keep same posted until after the primary election.

18 Immediately upon completion of such certification, the  
19 secretary of state shall ascertain therefrom the candidates  
20 whose names are to appear on the primary election bal-  
21 lots in the several counties of the state and shall certify  
22 to the clerk of the circuit court in each county the cer-  
23 tificate information relating to each of the candidates  
24 whose names are to appear on the ballot in such county.  
25 He shall transmit such certificate to the several clerks by  
26 registered or certified mail, but, in emergency cases, he  
27 may resort to other reliable and speedy means of trans-  
28 mission which may be available so that such certificates  
29 shall reach the several clerks by the sixtieth day next  
30 preceding such primary election day.

**Sec. 10. Publication and Printing of Ballots; Number.—**

2 Between the sixtieth and the thirtieth days next prior to

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

24 a political party prepared for delivery to a precinct shall  
25 not exceed one and one-twentieth times the number of  
26 registered voters of such party in that precinct.

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

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

9 If, after the time is closed for announcing as a candidate  
10 for any office, and not later than the fifth day preceding  
11 the date of the primary election, any person who has  
12 filed an announcement of candidacy shall withdraw and  
13 decline to stand as a candidate for the office, or shall die,  
14 leaving no primary election candidate for his party's  
15 nomination for such office, the executive committee of  
16 the party, for the political division within which such  
17 candidate was to be voted for, may, in its discretion, fill  
18 the vacancy caused by such withdrawal or death by

19 naming another candidate for such office. The chairman  
20 of such executive committee shall forthwith certify the  
21 candidate so named for such vacancy to the ballot com-  
22 missioners of the county or counties concerned and shall  
23 immediately send a copy of such certification to the sec-  
24 retary of state. If the ballots have been printed before  
25 receipt of such certificate, the ballot commissioners shall  
26 cause the name of the candidate so certified by the chair-  
27 man of the executive committee to be printed on “stick-  
28 ers” and supplied to the commissioners of election ap-  
29 pointed to hold the primary election at the different pre-  
30 cincts of the county wherein such candidate will stand  
31 for nomination. The procedures prescribed in section four  
32 of article six of this chapter, relating to the use of stickers  
33 in general elections, shall be adaptable and applicable in  
34 primary elections where not inconsistent with any pro-  
35 visions hereof.

**Sec. 12. Official and Sample Ballots; Color.**—There  
2 shall be a separate ballot printed on different colored  
3 paper, for each political party participating in the primary



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

9 national convention of the party, shall be placed in the first  
10 column of candidates; the names of candidates for all state  
11 offices, and all other offices to be filled by the voters of a  
12 political division greater than a county, including the  
13 state executive committee, in the second column; the  
14 names of all candidates for county offices, including mem-  
15 bers of the house of delegates and congressional and  
16 senatorial executive committees, shall be placed in the  
17 third column; and the names of all candidates for office in  
18 the magisterial districts shall be placed in the fourth  
19 column.

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

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

28 A separate ballot, in connection with a primary election,  
29 for election of members of county board of education, shall

30 be printed in bold type, under the caption, "Nonpartisan  
31 Ballot for Election of Members of the \_\_\_\_\_ County  
32 Board of Education." The names of the candidates for  
33 election to the county board of education, and the number  
34 of candidates for which each voter is entitled to vote shall  
35 be printed beneath the caption, without reference to po-  
36 litical party affiliation, and without designation as to a  
37 particular term of office.

38 In printing each set of ballots the position of the names  
39 of the candidates shall be changed in each office division  
40 as many times as there are candidates in that office divi-  
41 sion. As nearly as possible an equal number of ballots  
42 shall be printed after each change. In making the change  
43 of position, the printer shall take the line of type con-  
44 taining the first name in the office division concerned and  
45 place it at the bottom of the list of names in that division  
46 and move up the column so that the name that before was  
47 second shall be first after the change. After the ballots  
48 are printed they shall be kept in separate piles, one pile  
49 for each change in position, and shall then be gathered  
50 by taking one from each pile. Sample ballots shall be in

51 the same form as the official ballot, but the order of the  
52 names thereon need not be alternated.

53 All ballots used in primary elections shall be printed on  
54 paper conforming as nearly as practicable in weight, tex-  
55 ture, and color to the samples furnished by the secretary  
56 of state, and the paper shall be sufficiently thick so that  
57 the printing cannot be discernible from the back. On the  
58 back of the ballot shall be printed in black ink, and in plain  
59 legible, black face pica type, the name of the political party  
60 as contained in the heading or "Nonpartisan Board of Edu-  
61 cation," as the case may be, followed by the word "ballot."  
62 Under this designation shall be printed two blank lines  
63 followed by the words "poll clerks."

**Sec. 14. General Provisions Applicable to Primary**

2 **Elections.**—Provisions of article one of this chapter relat-  
3 ing to ballot commissioners, election commissioners and  
4 clerks, procedures for obtaining election supplies and con-  
5 ducting elections, loss and replacement of election sup-  
6 plies, challenge of voters, leaves of absence for voting,  
7 election expenses and recount procedures shall control and  
8 govern primary elections wherever applicable.

9 In all other particulars, when no specific provision is  
10 made in this article for the control, conduct and govern-  
11 ment of any phase of primary elections, resort shall be had  
12 to other provisions of this chapter which may be appli-  
13 cable thereto and controlling thereof.

**Sec. 15. Ascertaining and Certifying Primary Election**

2 **Results.**—When the polls are closed, the commissioners of  
3 election and the poll clerks shall proceed to ascertain the  
4 result of the election as follows:

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

8 (b) The commissioners and clerks shall also ascertain  
9 from the poll books, and set down therein the total number  
10 of ballots of each party cast. The commissioners shall  
11 report, over their signatures, to the clerk of the county  
12 court, the number of votes of each party cast, the number  
13 of ballots destroyed during the election, and the number  
14 of ballots not voted. All unused ballots shall at the same  
15 time be returned to the clerk of the county court, who shall  
16 immediately destroy them by fire or otherwise;

17 (c) The ballot box shall be opened and one of the  
18 commissioners shall take therefrom one ballot at a time,  
19 in the presence of all the other officers, and shall announce  
20 what political party's ballot it is, and shall read therefrom  
21 the result of the vote on such ballot for each office, and  
22 hand the ballot to another of the commissioners differing  
23 in politics from himself, who, if satisfied that it is cor-  
24 rectly read, shall string the same on thread. The ballots  
25 of each party shall be strung on separate threads. Each  
26 poll clerk shall keep an accurate tally of the contents of  
27 each ballot of each party on tally paper, which shall be  
28 provided for the purpose, so as to show the number of  
29 votes received by every person for any office. The ballots  
30 shall be counted as they are strung upon the thread, and  
31 whenever the number counted for any party shall equal  
32 the number of votes entered upon the poll book of that  
33 party, any other ballot of such party found in the ballot  
34 box shall be immediately destroyed by fire or otherwise,  
35 without unfolding the same, or allowing any one to  
36 examine or know the contents thereof;

37 (d) As soon as the results at the precinct are ascer-  
38 tained, the commissioners and clerks shall make out and

39 sign four certificates, for each party represented, of the  
 40 vote for all candidates of such party, in the following form:

41 Certificate of result for \_\_\_\_\_ party candidates.

42 We, the undersigned commissioners and poll clerks of  
 43 the primary election held at precinct No. \_\_\_\_\_ of \_\_\_\_\_  
 44 district of \_\_\_\_\_ county, W. Va., on the \_\_\_\_\_ day of  
 45 \_\_\_\_\_, 19\_\_\_\_, do hereby certify that having been  
 46 first duly sworn, we have carefully and impartially ascer-  
 47 tained the result of said election at said precinct for the  
 48 candidates on the official ballot of the \_\_\_\_\_ party, and  
 49 the same is as follows:

50 For the office of governor, A. B. received \_\_\_\_\_ votes.

51 For the office of governor, E. F. received \_\_\_\_\_ votes.

52 For the office of governor, G. H. received \_\_\_\_\_ votes.

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

56 Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

57 \_\_\_\_\_

58 Three of such certificates of result of election, for each  
 59 party, shall then be sealed in separately addressed en-  
 60 velopes, furnished for the purpose, and shall be disposed

61 of by the precinct commissioners as follows: One cer-  
62 tificate for each party shall be returned, under seal, to  
63 the clerk of the county court, with the election returns;  
64 one for each party shall be delivered by the commissioners  
65 to the clerk of the circuit court of the county; and one for  
66 each party shall be sent by registered mail to the secretary  
67 of state: *Provided, however,* That it shall not be neces-  
68 sary for the precinct commissioners and clerks to include,  
69 in the certificates to the secretary of state, the votes cast  
70 for any candidates for county and district offices, other  
71 than for members of the legislature. The one not sealed  
72 up shall be posted on the outside of the front door of the  
73 polling place in said precinct. All ballots voted for can-  
74 didates of each party shall be sealed up in separate en-  
75 velopes and the commissioners and clerks shall each sign  
76 his name across the seal. In all precincts in which a re-  
77 ceiving board and a counting board of election officers  
78 are appointed, the work of counting the votes and of ascer-  
79 taining and certifying the result shall be divided between  
80 the two boards, and be performed by them, respectively,  
81 in the same manner provided in article one of this chapter



82 for counting the votes and ascertaining and certifying  
83 the result of a general election.

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

**Sec. 17. Canvassing and Certifying Returns; Recount**  
2 **Procedures.**—The county court, sitting as a board of can-  
3 vassers, shall meet at the courthouse of the county on  
4 the Friday next succeeding any primary election and shall  
5 proceed to canvass the returns of such election. The proced-  
6 ures prescribed in section nine of article six of this chapter,  
7 relating to canvass of general election returns, shall, where  
8 adaptable, be applied in the canvass of the primary elec-

9 tion returns. The board shall proceed to ascertain the  
10 result of such election in the county and district, and elec-  
11 tion precincts thereof, and cause to be prepared and re-  
12 corded in the primary election precinct record book, a  
13 table or tables which shall show, as to each candidate of  
14 each political party for each office, the number of votes  
15 cast for him at each precinct, and the total number thereof  
16 cast in the entire county. The board shall then make up  
17 and enter in said record book a certificate for each politi-  
18 cal party, showing, as to each candidate for each political  
19 party for each office, the total number of votes (in words  
20 and also in figures) cast for him in the entire county and the  
21 number of votes received by all the candidates of such party  
22 in such district, which shall be in the following form:

23 The board of canvassers of the county of \_\_\_\_\_,  
24 State of West Virginia, having carefully and impartially  
25 examined the returns of the primary election held in said  
26 county on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, do  
27 hereby certify that in said county or district, at said elec-  
28 tion, on the official ballot of the \_\_\_\_\_ party for the  
29 office of \_\_\_\_\_, A.B. received \_\_\_\_\_ (\_\_\_\_\_)  
30 votes; C. D. received \_\_\_\_\_ (\_\_\_\_\_) votes.

31 And so on for each office for each political party according  
32 to the truth. When the certificates are all entered, the re-  
33 port shall be signed by the members of the board or a ma-  
34 jority thereof. Such members shall also sign separate cer-  
35 tificates of the result of said election, within the county,  
36 for each of the offices to be filled by each political party,  
37 as provided by the following section.

38 The provisions of article six of this chapter, relating to  
39 the recount of votes in general elections, shall, to the  
40 extent applicable, be operative in primary and other elec-  
41 tions conducted under provisions of this article.

**Sec. 18. Disposition of Certificates of Results.**—The  
2 certificates of the board of canvassers made pursuant to  
3 the preceding section shall be by them disposed of as  
4 follows: One of the certificates showing the votes re-  
5 ceived by each candidate of each party for each office to  
6 be filled by the voters of a political division greater than  
7 a county, including members of the state executive com-  
8 mittee, shall be filed with the secretary of state, and by  
9 him preserved in his office, and a copy thereof filed in  
10 the office of the clerk of the circuit court of the county  
11 of such board, to be preserved by such clerk, and which

12 shall be open to public inspection; one certificate show-  
13 ing the votes received by each candidate of each party  
14 for each office to be filled by the voters of the county or  
15 magisterial district within such county, including mem-  
16 bers of the county executive committee, shall be filed  
17 with the clerk of the circuit court, and by him preserved  
18 in his office. If requested, the board of canvassers shall  
19 furnish to the county chairman of each political party a  
20 certificate showing the number of votes received by each  
21 of the candidates of such party in the county or any  
22 magisterial district therein.

23 The secretary of state shall certify, under the seal of  
24 the state, to the clerk of the circuit court of each county  
25 in which a candidate is to be voted for, the name of the  
26 candidate of each political party receiving the highest  
27 number of votes in the political division in which he is a  
28 candidate, and who is entitled to have his name placed  
29 on the official ballot in the general election as the nomi-  
30 nee of the party for such office. The secretary of state  
31 shall also certify in the same manner the names of all  
32 candidates nominated by political parties or by groups of

33 citizens, not constituting a political party, in any manner  
34 provided for making such nominations in this chapter.

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

2 If any vacancy shall occur in the party nomination of  
3 candidates for office, caused by the death, withdrawal,  
4 failure to make a nomination for the office at the primary  
5 election, or otherwise, it may be filled and the name of  
6 the candidate certified by the executive committee of the  
7 political party for the political division in which the  
8 vacancy occurs. If such vacancy be not filled by the  
9 executive committee by the sixty-fifth day next preceding  
10 the date of the election, it shall be lawful for the chair-  
11 man of the political party executive committee for the  
12 political division to fill such vacancy, make a certificate  
13 thereof, and file the same with the officer with whom the  
14 original certificate of nomination was or might have been  
15 regularly filed. Such certificate shall be filed not later  
16 than the sixtieth day next preceding the date of the  
17 election and, when filed, such officer shall proceed there-  
18 with in the same manner in all respects as in cases of  
19 original nominations. When any such vacancy exists be-

20 cause of failure to make a nomination for the office at  
21 the primary election, no nomination for such office shall  
22 be deemed filed under provisions of this section until the  
23 required filing fee for such office candidacy shall have  
24 been paid as provided in section eight of this article.

**Sec. 20. Election Contests and Court Review.**—Any  
2 candidate for nomination for or election to an office to  
3 be filled by the voters of the state or any political sub-  
4 division thereof or any candidate for membership on any  
5 county political party executive committee, may contest  
6 the primary election before the county court of the  
7 county in which any primary election procedures, prac-  
8 tices or results may be in issue. The procedure in such  
9 case shall be the same as that governing the contest of  
10 a general election by candidates for county offices or  
11 offices in magisterial districts. The decision of the county  
12 court upon such contest may be reviewed by the circuit  
13 court of the county and by the supreme court of appeals  
14 of the state. Wherever practicable, the circuit court, on  
15 review, may, by order entered of record, consolidate and  
16 hear together any such primary election cases arising in

17 one or more counties of the circuit, and the supreme court  
18 of appeals, on further review, may likewise consolidate  
19 and hear together any such cases whenever considered  
20 practicable by the court so to do.

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

35 Any such contest, or petition for review, of a candidate  
36 for a nomination not finally determined within ten days  
37 next preceding the date of the next election after the

38 primary, or of a candidate for delegate to any convention  
39 within ten days next preceding the date fixed for holding  
40 the convention, shall stand dismissed, and the person  
41 shown by the face of the returns of the primary election  
42 to be nominated for any office shall be entitled to have  
43 his name printed upon the regular ballot to be voted at  
44 the election, and the person shown upon the face of the  
45 returns to have been elected as a delegate to any con-  
46 vention shall be entitled to sit in such convention as a  
47 delegate.

**Sec. 21. Party Conventions to Nominate Presidential**

2 **Elector Candidates; Organization; Duties.**—Candidates for  
3 presidential electors shall be nominated by the delegated  
4 representatives of the political party assembled in a state  
5 convention to be held between the first and fifteenth days  
6 of August next preceding any general election at which  
7 presidential electors are to be elected. The state execu-  
8 tive committee of the political party, by resolution, shall  
9 designate the place and fix the date of such convention,  
10 shall prescribe the number of delegates thereto, and shall  
11 apportion the delegates among the several counties of



12 the state in proportion to the vote cast in the state for  
13 the party's candidate for governor at the last preceding  
14 general election at which a governor was elected. The  
15 state executive committee shall also ascertain and desig-  
16 nate all offices for which candidates are to be nominated  
17 at such convention.

18 At least sixty days prior to the date fixed for holding  
19 any state convention, the chairman of the party's state  
20 executive committee shall cause to be delivered to the  
21 party's county executive committee in each county of the  
22 state a copy of the resolutions fixing the time and place  
23 of holding the state convention and prescribing the num-  
24 ber of delegates from each county to the convention.  
25 Within ten days after receipt of the copy of such resolu-  
26 tions, the party executive committee of each county shall  
27 meet and, by resolution, shall apportion the delegates to  
28 the state convention among the several magisterial dis-  
29 tricts of the county, on a basis of the vote received in  
30 the county by the candidate of the party for governor at  
31 the last preceding general election at which a governor  
32 was elected, but in such apportionment of county dele-

33 gates each magisterial district shall be entitled to at least  
34 one delegate to such state convention. The party's county  
35 executive committee shall call a meeting of the members  
36 of the political party in mass convention in the several  
37 magisterial districts of the county, which district meeting  
38 shall be held at least thirty days prior to the date fixed  
39 for the state convention and at which meeting the mem-  
40 bers of the political party in each magisterial district  
41 shall elect the number of delegates to which such district  
42 is entitled in the state convention.

43 The meeting place in the magisterial district shall be  
44 as central and convenient as can reasonably be selected,  
45 and all recognized members of the political party shall  
46 be entitled to participate in any such mass convention  
47 and in the selection of delegates. Notice of the time and  
48 place of holding the several magisterial district mass  
49 conventions and of the person who shall act as temporary  
50 chairman thereof shall be given by publication in at least  
51 two issues of a newspaper of the political party, if any  
52 such there be, published in the county, the first publica-  
53 tion to be not more than fifteen and the second publica-

54 tion to be not less than five days prior to the date fixed  
55 for holding the convention. If no such newspaper be  
56 published in the county, notice may be given by posting  
57 the same in at least five conspicuous places in the magis-  
58 terial district, at least ten days before the date of the  
59 mass convention. The notice published or posted shall  
60 specify the number of delegates which each magisterial  
61 district in the county is entitled to elect to the state con-  
62 vention.

63     Upon assembling, the mass convention of each magis-  
64 terial district shall choose a chairman and a secretary,  
65 who, within five days after the holding of such conven-  
66 tion, shall certify to the chairman of the state executive  
67 committee of the political party and the chairman of the  
68 county committee of the political party, the names and  
69 addresses of the parties selected as delegates to the state  
70 convention.

71     All contests over the selection of delegates to conven-  
72 tions shall be heard and determined by the party execu-  
73 tive committee of the county from which the delegates  
74 are chosen, and such county executive committee shall,

75 upon written petition of any contestant, meet for such  
76 hearings and determinations within ten days after the  
77 holding of such magisterial district mass convention. The  
78 circuit court of the county and the supreme court of ap-  
79 peals of the state shall have concurrent original jurisdic-  
80 tion to review, by mandamus or other proper proceeding,  
81 the decision of a county executive committee in any  
82 contest.

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

91 All nominations made at state conventions shall be  
92 certified within fifteen days thereafter, by the chairman  
93 and the secretary of the convention, to the secretary of  
94 state, who shall certify them to the clerk of the circuit  
95 court of each county concerned, and the names of the

96 persons so nominated shall be printed upon the regular  
97 ballot to be voted at the ensuing general election, except  
98 that the names of the presidential elector candidates shall  
99 not be printed thereon.

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

**Sec. 22. Other Party and Group Nominations; Proced-**

2 **ure.**—Any political party which polled less than ten per  
3 cent of the total vote cast only for governor at the gen-  
4 eral election immediately preceding may nominate can-  
5 didates and select committees by party conventions, pro-  
6 vided such nominations are made and the certificates  
7 thereof filed within the time and in the manner provided  
8 in section twenty-four of this article, or by certificate in  
9 the same manner as groups of citizens may make nomi-  
10 nations as provided in the following section.

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

**Sec. 23. Certificate Nominations; Requirements and**

2 **Control; Penalties.**—(a) Groups of citizens having no  
3 party organization may nominate candidates for public  
4 office otherwise than by conventions or primary elections.  
5 In such case, the candidate or candidates, jointly or sev-  
6 erally, shall file a declaration containing the name of the  
7 political party he or they propose to represent, its plat-  
8 form, principles or purposes, with the secretary of state  
9 if the office is to be filled by the voters of more than one  
10 county, or with the clerk of the circuit court of the  
11 county if the office is to be filled by the voters of one  
12 county or political subdivision thereof; such declaration  
13 to be filed at least thirty days prior to the time of filing  
14 the certificate provided by section twenty-four of this  
15 article, and at the time of filing of such declaration each  
16 candidate shall pay the filing fee required by law, and if  
17 such declaration is not so filed or the filing fee so paid the  
18 certificate shall not be received by the secretary of state,  
19 or clerk of the circuit court, as the case may be;

20 (b) The person or persons soliciting or canvassing sig-  
21 natures of duly qualified voters on such certificate or cer-  
22 tificates, shall be residents and qualified, registered voters,

23 of the magisterial district of the county in which such  
 24 solicitation or canvassing is made, and may solicit or can-  
 25 vass duly registered voters resident within their own re-  
 26 spective magisterial district, but must first obtain from  
 27 the clerk of the county court of which such canvasser or  
 28 solicitor is a resident, credentials which must be exhibited  
 29 to each voter canvassed or solicited, which credentials  
 30 may be in the following form or effect:

31 State of West Virginia, County of \_\_\_\_\_, ss:

32 This certifies that \_\_\_\_\_, a duly registered voter of  
 33 Precinct No. \_\_\_\_\_, \_\_\_\_\_ District, of this county  
 34 and state; whose postoffice address is \_\_\_\_\_, is  
 35 hereby authorized to solicit and canvass duly registered  
 36 voters residing in \_\_\_\_\_ District of this County to  
 37 sign a certificate purporting to nominate \_\_\_\_\_  
 38 (here place name of candidate heading list on certificate)  
 39 for the office of \_\_\_\_\_ and others, to represent the  
 40 \_\_\_\_\_ Party at the general election to be held on  
 41 \_\_\_\_\_, 19\_\_\_\_.

42 Given under my hand and the seal of my office this  
 43 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

44

45 Clerk, County Court of \_\_\_\_\_ County.

46 The clerk of each county court, upon proper applica-  
47 tion made as herein provided, shall issue such credentials  
48 and shall keep a record thereof;

49 (c) The certificate shall be personally signed by duly  
50 registered voters, in their own proper handwriting or by  
51 their marks duly witnessed, who must be residents with-  
52 in the magisterial district of the county wherein such  
53 canvass or solicitation is made by the person or persons  
54 duly authorized. Such signatures need not all be on one  
55 certificate. The number of such signatures shall be equal  
56 to not less than one per cent of the entire vote cast at the  
57 last preceding general election for the office in the state,  
58 district, county or other political division for which  
59 the nomination is to be made, but in no event shall the  
60 number be less than twenty-five. Where two or more  
61 nominations may be made for the same office, the total  
62 of the votes cast at the last preceding general election  
63 for the candidates receiving the highest number of votes  
64 on each ticket for such office shall constitute the entire



65 vote. No signature on such certificate shall be counted  
66 unless it be that of a duly registered voter of a precinct  
67 within the magisterial district wherein such certificate  
68 was presented. No person signing such certificate shall  
69 vote at any primary election to be held to nominate can-  
70 didates for office to be voted for at the election to be held  
71 next after the date of signing such certificate;

72 (d) Such certificates shall state the name and residence  
73 of each of such candidates; that he is legally qualified to  
74 hold such office; that the subscribers are legally qualified  
75 and duly registered as voters and desire to vote for such  
76 candidates; and shall designate, by not more than five  
77 words, a brief name of the party which such candidates  
78 represent and may adopt a device or emblem to be print-  
79 ed on the official ballot. All candidates nominated by the  
80 signing of such certificates shall have their names placed  
81 on the official ballot as candidates, as if otherwise nomi-  
82 nated under the provisions of this chapter. At the top of  
83 each certificate shall be the following form or to the fol-  
84 lowing effect:

85 State of West Virginia, County of \_\_\_\_\_, ss:

86 This is to certify that we, the undersigned, are duly  
 87 registered voters, resident within the magisterial district  
 88 of \_\_\_\_\_, County of \_\_\_\_\_, State of West Virginia,  
 89 and do hereby make the following nominations for pub-  
 90 lic office, to-wit:

91 For House of Delegates

92 A \_\_\_\_\_ B \_\_\_\_\_, Residence \_\_\_\_\_

93 (And so on for each nomination so made)

94 And, we further certify that each of said candidates is  
 95 legally qualified to hold the office for which he is nomi-  
 96 nated; that we are legally registered and qualified voters  
 97 and desire to vote for said candidates and acknowledge  
 98 that we are aware that no person signing this certificate  
 99 can legally vote at the primary election next ensuing after  
 100 the date of filing of this certificate. The name of the  
 101 party which the candidates represent is (here state name)  
 102 and the device or emblem of the party is (here affix de-  
 103 vice).

104	Signature	Precinct No.	Residence	Postoffice
105				Address
106	(Names of	(Number of	(Describe	(Name of

107 Voters) precinct it) office);  
108 in magisterial  
109 district)

110 (e) The secretary of state, or the clerk of the circuit  
111 court, as the case may be, may investigate the validity of  
112 such certificates and the signatures thereon, and if upon  
113 such investigation there may be doubt as to the legitimacy  
114 and the validity of such certificate, he may request the  
115 attorney general of the state, or the prosecuting attorney  
116 of the county, to institute a quo warranto proceeding  
117 against the nominee or nominees by certificate to deter-  
118 mine his or their right to such nomination to public of-  
119 fice, and upon request being made, the attorney general  
120 or prosecuting attorney shall institute such quo war-  
121 ranto proceeding; and

122 (f) Any person violating the provisions hereof, in ad-  
123 dition to penalties prescribed elsewhere for violations of  
124 this chapter, shall be guilty of a misdemeanor, and, upon  
125 conviction, shall be fined not more than one thousand  
126 dollars, or confined in the county jail for not more than  
127 one year, or both, in the discretion of the court.

**Sec. 24. Filing of Nomination Certificates; Time.—All**

2 certificates nominating candidates for office under the  
3 preceding section, including a candidate for the office of  
4 presidential elector, shall be filed, in the case of a candi-  
5 date to be voted for by the voters of the entire state or by  
6 any subdivision thereof other than a single county, with  
7 the secretary of state, and in the case of all candidates for  
8 county and magisterial district offices, including all of-  
9 fices to be filled by the voters of a single county, with  
10 the clerk of the circuit court of the county, not later than  
11 the day preceding the date on which the primary election  
12 is held. After such date no such certificate shall be re-  
13 ceived by such officers.

**Article 6. Conduct and Administration of Elections.****Section 1. Provisions Governing Elections.—The pro-**

2 visions of this article shall govern the conduct and admin-  
3 istration of general elections. Other provisions of this  
4 chapter, where applicable, shall be considered supple-  
5 mentary and complementary to the provisions of this  
6 article regulating and controlling general elections.

7 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.

15     The tickets, except the heading, which shall be in dis-  
16     play type, shall be printed in eight point type; the name  
17     or designation of the office and the residence of the candi-  
18     date in lower case letters, and the name of the candidate in  
19     capital letters. The name and residence of the candidate may  
20     be printed in the same line. The name of each candidate  
21     shall be printed in a space defined by ruled lines, and with a  
22     black square on its left inclosed by heavy dark lines. If, upon  
23     any ticket, there be no candidate or candidates for a desig-  
24     nated office, a blank space equal to the space that would be  
25     occupied by such name or names, if they were printed  
26     thereon, with the blank space herein provided for, shall be  
27     left. The heading of each party ticket including the name of  
28     the party and the device or emblem above and the large cir-  
29     cle between the device or emblem and such name, shall be  
30     separated from the rest of the ticket by heavy lines and the  
31     circle above the name of the party in which the voter is to  
32     place the cross mark, if he desires to vote the straight tick-  
33     et, shall be defined by heavier lines than the lines defining  
34     the blank spaces before the names of candidates, and such  
35     circle shall be surrounded by the following words printed

36 in heavy face six point type: "For a straight ticket mark  
37 within this circle." Each party ticket shall be separated  
38 from other party tickets and bordered on either side by a  
39 heavy border, or a broad solid line, at least one sixteenth  
40 of an inch wide, and the edges of the ballot on either side  
41 trimmed off to within one-half inch of the border or solid  
42 line described.

43 The names of the candidates shall be arranged on the  
44 ballot in tickets or lists, in separate columns under the  
45 respective party or political or other designation certified,  
46 each column or ticket containing the names of candidates  
47 nominated by the same political party and no others. In  
48 elections for presidential electors, the names of candidates  
49 for electors of any political party or group of petitioners,  
50 shall not be placed on the ballot, but shall, after nomina-  
51 tion, be filed with the secretary of state. In place of their  
52 names, there shall be printed first on the ballots the names  
53 of the candidates for president and vice-president, re-  
54 spectively, of each such party or group of petitioners, and  
55 they shall be arranged under the title of the office. Before  
56 the names of such candidates for president and vice-

57 president of each party, or group, a single square shall  
58 be printed, in front of a brace, in which the voter shall  
59 place the cross mark for the candidate of his choice for  
60 such offices. A vote for any of such candidates shall be  
61 a vote for the electors of the party by which such candi-  
62 dates were named, and whose names have been filed with  
63 the secretary of state.

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

Device	Device	Device
Republican Ticket	Democratic Ticket	Prohibition Ticket
For Governor	For Governor	For Governor
Name.	Name.	Name.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



70 The tickets of the several political parties shall be  
71 printed on the ballot in parallel columns, each ticket in a  
72 separate column headed by the chosen device, and the  
73 tickets in such order on the ballot and the names of the  
74 office in such order on the ticket as the secretary of state  
75 shall direct, preference, however, being given to the po-  
76 litical party which cast the highest number of votes for  
77 the head of the ticket at the last preceding presidential  
78 election, and so on. No ticket or list of candidates shall  
79 be printed under the name of any party containing more  
80 candidates for any office than are to be elected.

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

90 On the back of the ballot shall be printed or stamped

91 in black ink the words "Official Ballot," with the date of  
92 the election, and underneath shall be two blank lines, fol-  
93 lowed by the words "Poll Clerks."

**Sec. 3. Publication of Nominations.**—At least ten days  
2 before an election to fill any public office at which the  
3 voters of any county are entitled to vote, the clerk of the  
4 circuit court of such county shall cause to be published  
5 in two newspapers, if such there be published within the  
6 county, representing the political parties which at the last  
7 preceding general election cast the largest and second  
8 largest number of votes in the state, or, if there be only  
9 one newspaper published therein, then in such newspaper,  
10 the nominations for office certified to him and filed in his  
11 office, excepting nominations for office to be filled by the  
12 voters of any subdivision less than a county. He shall  
13 make two publications thereof in each of such newspapers  
14 before the election, the second of which in each newspaper,  
15 shall be on the last day upon which such newspaper is  
16 issued before the election. If there be no newspaper pub-  
17 lished in the county, the clerk of the circuit court shall,  
18 at least ten days before the election, cause to be posted

19 in his office, and at some public place in each voting pre-  
20 cinct in the county, a printed notice of the nominations for  
21 office certified to and filed by him as aforesaid. Whenever  
22 it shall appear by affidavit that an error or omission has  
23 occurred in the publication of the names or description  
24 of candidates nominated for public office, or in the printing  
25 of the ballots, the board of ballot commissioners shall cor-  
26 rect such error. The list of nominations published or  
27 posted by clerks of the circuit courts of the several coun-  
28 ties shall be arranged in the order and form in which  
29 they will be printed upon the ballot.

**Sec. 4. Late Nominations; Stickers.**—If a nomination to  
2 fill a vacancy be made by a political party executive com-  
3 mittee or, on its failure to so act within the time pre-  
4 scribed by law, be made by the chairman of such commit-  
5 tee, and be certified to the clerk of the circuit court after  
6 the ballots to be used at the ensuing election shall have  
7 been printed, the clerk shall forthwith lay such certificates  
8 before the ballot commissioners who, without delay, shall  
9 prepare, or cause to be prepared, and deliver, or cause to  
10 be delivered, to the election commissioners of each pre-

11 cinct in which such candidate is to be voted for, a number  
12 of stickers, containing only the name of such candidate,  
13 at least equal to the total number of ballots provided for  
14 such precinct; but no such stickers shall be furnished to  
15 or received by any person except a commissioner of elec-  
16 tion. It shall be the duty of the commissioners holding the  
17 election to deliver such stickers to the poll clerks, who  
18 shall, in the presence of the election commissioners, affix  
19 one of such stickers in a careful manner at the proper place  
20 for the name of the candidate, upon each ballot to be  
21 voted at the election, before the poll clerks shall sign their  
22 names on the ballots. Such stickers may be delivered to  
23 the election officers, by the clerk of the county court, with  
24 the ballots, poll books and other supplies.

**Sec. 5. Rules and Procedures in Elections Other Than**

2 **Primaries.**—The provisions of article one of this chapter  
3 relating to elections generally shall govern and control  
4 arrangements and election officials for the conduct of elec-  
5 tions under this article. The following rules and pro-  
6 cedures shall govern the voter in his voting for candidates  
7 in general and special elections.

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

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

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

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

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

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

26       (2) Make a cross mark in the circular space above the  
27 name of the party for some of whose candidates he desires  
28 to vote, and then make a cross mark before the name of

29 any candidate of any other party for whom he may desire  
30 to vote; in which case the cross mark in the circular space  
31 above the name of the party will cast his vote for every  
32 candidate on the ticket of such party except for offices for  
33 which candidates are marked on other party tickets, and  
34 the cross marks before the name of such candidates will  
35 cast his vote for them; or

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

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

49 If the voter desires to vote for any person whose name

50 does not appear on the ticket, he may substitute the name  
51 by writing it with black lead pencil or other means in the  
52 proper place, and making a cross mark in the blank space  
53 at the left of the name so written.

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

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

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

11 conducted by a single election board, immediately on  
12 closing the polls the commissioners and clerks shall pro-  
13 ceed to ascertain the result of the election in the follow-  
14 ing manner: The ballot box shall then be opened, and  
15 one of the commissioners taking therefrom one ballot  
16 at a time, in the presence of all the other officers, shall  
17 read therefrom the designations of the offices to be filled,  
18 and the names of the persons voted for, for each office,  
19 and hand the ballot to another of such commissioners,  
20 differing in politics from himself, who, if satisfied that it  
21 was correctly read, shall string it on a thread. The con-  
22 tents of the ballots, as they are read, shall be entered by  
23 the poll clerks, under the supervision of the commis-  
24 sioners, on tally sheets for the purpose, by suitable marks,  
25 in ink, made opposite to or under the name of each person  
26 voted for, so as to show the number of votes received by  
27 every person, for any office to be filled. The ballots shall  
28 be counted as they are strung upon the thread, and when-  
29 ever the number counted shall be equal to the number  
30 of votes entered upon the poll books, the excess, if any,  
31 remaining in the ballot box shall immediately be de-



32 stroyed by fire or otherwise, without unfolding or un-  
33 rolling the same, or allowing any one to examine or know  
34 the contents thereof.

35 They shall not adjourn until all of the votes are counted  
36 and certificates of the result made and signed by them.  
37 In precincts wherein there are double boards, the count-  
38 ing boards, in counting the ballots, shall proceed in the  
39 manner prescribed in this section.

**Sec. 7. Ballot Irregularities; Procedures.**—If two or  
2 more ballots be found folded or rolled together and the  
3 names voted for thereon be the same, one of them only  
4 shall be counted; but if the names voted for thereon be  
5 different, in any particular, neither of them shall be  
6 counted except as hereinbefore provided; and in either  
7 case, the commissioners of election shall, in writing in  
8 ink, place a common number on such ballots and state  
9 thereon that they were folded or rolled together when  
10 voted. If any ballot be found to contain more than the  
11 proper number of names for any office, such ballot shall  
12 not be counted as to such office. In any election for state  
13 senator, if a person be voted for on any ballot who is not

14 a resident of the proper county, as required by the fourth  
15 section of the sixth article of the Constitution, such ballot  
16 shall not be counted for said office. Any ballot which is  
17 not indorsed with the names of the poll clerks, as pro-  
18 vided in this chapter, shall be void and shall not be  
19 counted; and any ballot, or part of a ballot from which  
20 it is impossible to determine the elector's choice of candi-  
21 dates, shall not be counted as to the candidates affected  
22 thereby.

**Sec. 8. Precinct Returns; Certificates; Procedures.—As**

2 soon as the results are ascertained, the commissioners of  
3 election and poll clerks at each place of voting, shall  
4 make out and sign four certificates thereof, in the fol-  
5 lowing form or to the following effect: "We, the under-  
6 signed, who acted as commissioners and poll clerks of  
7 the election held at precinct No. \_\_\_\_\_ in the district  
8 of \_\_\_\_\_, and county of \_\_\_\_\_, on the \_\_\_\_\_  
9 day of \_\_\_\_\_, do certify that, having been first duly  
10 sworn, we have fairly and impartially held the said elec-  
11 tion according to law, and the result thereof is as follows:  
12 For the office of \_\_\_\_\_, (here designate the office,

13 as for example, 'Delegate for the county of Barbour,' or  
14 'Senator for the first senatorial district,' 'Judge of the first  
15 circuit,' 'Representative in the congress of the United  
16 States for the first congressional district,' 'Govenor of the  
17 State,' 'Judge of the supreme court of appeals,' 'Justice  
18 of the peace of said district,' and so forth, as the case may  
19 be), 'A. B. received ..... votes, C. D. .... votes, E. F.  
20 ..... votes,' and so on throughout stating, according to  
21 the truth, the full name of every person voted for, for  
22 every office, and in words at length, and also in figures,  
23 the number of votes received; and concluding as follows:  
24 Given under our hands this ..... day of .....".  
25 The certificates shall contain complete returns of the polls  
26 taken at such place of voting for every office to be filled,  
27 and shall be sealed and disposed of as is provided in sec-  
28 tion fifteen of article five of this chapter for certificates  
29 as to the result of a primary election. When the certifi-  
30 cates are signed, the ballots shall be inclosed by the com-  
31 missioners in an envelope which they shall seal up, and  
32 write their names in ink across the place or places where  
33 it is sealed, and indorse in ink on the outside of the

34 envelope as follows: "Ballots of the election held at  
35 precinct No. \_\_\_\_\_, in the district of \_\_\_\_\_, and  
36 county of \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_."  
37 One of the commissioners of the election shall, within  
38 twelve hours after the completion of the count, tabula-  
39 tion and declaration of the result, deliver the ballots so  
40 sealed up, one set of the poll books and tally sheets, one  
41 of such certificates, the registration book and the ballot  
42 box or boxes, to the clerk of the county court, and one  
43 certificate and set of poll books and tally sheets, to the  
44 clerk of the circuit court, all of which shall be preserved  
45 in the respective offices of said clerks as in this chapter  
46 provided.

**Sec. 9. Canvass of Returns; Recounts; Contests.**—The  
2 commissioners of the county court shall be ex officio a  
3 board of canvassers, and, as such, shall keep in a well-  
4 bound book, marked "election record," a complete record  
5 of all their proceedings in ascertaining and declaring the  
6 result of every election in their respective counties. They  
7 shall convene as such canvassing board at the courthouse  
8 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-  
27 ceed 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

30 ballots shall then be again sealed up carefully in a new  
31 envelope, and each member of the board shall write his  
32 name across the place where such envelope is sealed.  
33 After canvassing the returns of the election, the board  
34 shall, upon the demand of any candidate voted for at such  
35 election, open and examine any one or more of the sealed  
36 packages of ballots, and recount the same; but in such  
37 case they shall seal the same again, along with the  
38 envelope above named, and the clerk of the county court  
39 and each member of the board shall write his name  
40 across the place or places where it is sealed, and indorse  
41 in ink, on the outside: "Ballots of the election held at  
42 precinct No. \_\_\_\_\_, in the district of \_\_\_\_\_, and  
43 county of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_."

44 Every candidate who demands such recount shall be re-  
45 quired to furnish bond in a reasonable amount with good  
46 sufficient surety to guarantee payment of the costs and  
47 the expenses of such recount in the event the result of  
48 the election be not changed by such recount; but the  
49 amount of such bond shall in no case exceed three hun-  
50 dred dollars. When they have made their certificates and

51 declared the results as hereinafter provided, they shall  
52 deposit the sealed packages of ballots, absent voter bal-  
53 lots, registration records, poll books, tally sheets, and  
54 precinct certificates with the clerks of the county and  
55 circuit courts from whom they were received, who shall  
56 carefully preserve the same for sixty days, and if there  
57 be no contest pending as to any such election, and their  
58 further preservation be not required by any order of a  
59 court, such ballots, poll books, tally sheets and certificates  
60 shall be destroyed by fire or otherwise, without opening  
61 the sealed packages of ballots; and if there be such contest  
62 pending, then they shall be so destroyed as soon as the  
63 contest is ended. If the result of the election be not  
64 changed by such recount, the costs and expenses thereof  
65 shall be paid by the party at whose instance the same  
66 was made.

**Sec. 10. Certificates of Election Results.**—Whenever an  
2 election is held in any county or district to fill any na-  
3 tional, state, county, or district office, the board of can-  
4 vassers of the county, or a majority of them, under the  
5 regulations prescribed in the next preceding section, shall

6 carefully and impartially ascertain the result of the elec-  
7 tion in their county and in each district thereof, and shall  
8 record the same in the following form, or to the follow-  
9 ing effect: "The board of canvassers of the county of  
10 \_\_\_\_\_, having carefully and impartially examined  
11 the returns of the election held in said county, in each  
12 district thereof, on the \_\_\_\_\_ day of \_\_\_\_\_, do hereby  
13 certify that in said county for the office of \_\_\_\_\_,  
14 A. \_\_\_\_\_ B. \_\_\_\_\_ received \_\_\_\_\_ votes, C. \_\_\_\_\_ D. \_\_\_\_\_  
15 received \_\_\_\_\_ votes, and E. \_\_\_\_\_ F. \_\_\_\_\_ received \_\_\_\_\_  
16 votes. And we further certify that at said election held  
17 in the district of \_\_\_\_\_, in the said county, for the  
18 office of \_\_\_\_\_, G. \_\_\_\_\_ H. \_\_\_\_\_ received \_\_\_\_\_  
19 votes, and I. \_\_\_\_\_ J. \_\_\_\_\_ received \_\_\_\_\_ votes." (And  
20 so on as to each particular office.) In such certificates  
21 shall be set forth, according to the truth, the full name  
22 of every person voted for, and, in words at length, the  
23 number of votes received for any office. When the cer-  
24 tificates are all entered, the record shall be signed by the  
25 board or majority of them. The board shall then sign  
26 separate certificates of the result of the election within



27 the county, for each of the offices to be filled.

**Sec. 11. Disposition of Certificates; Procedures There-**

2 on.—The separate certificates of the board of canvassers,  
3 made pursuant to the preceding section, shall be by them  
4 disposed of as follows: Of the certificates respecting the  
5 election for delegate or delegates in the Legislature, they  
6 shall transmit one to each person voted for as delegate,  
7 and shall transmit one to the secretary of state, who shall  
8 submit the same to the house, on the first day of the next  
9 ensuing session, together with a list of the persons ap-  
10 pearing thereby to be elected. Of the certificates respect-  
11 ing the election of state senator, they shall transmit one  
12 to each person voted for as state senator, and shall trans-  
13 mit one to the secretary of state, to be submitted by him  
14 to the senate, on the first day of the next ensuing session,  
15 together with a list of persons appearing thereby to be  
16 elected. Of the certificates respecting the election of state  
17 officers, one, as to each of such officers, except judge of  
18 the supreme court of appeals, shall be sealed and trans-  
19 mitted by such commissioners to the secretary of state  
20 indorsed on the envelope as follows: “Returns of the

21 election for state officers." The secretary of state shall  
22 deliver the same to the speaker of the house of delegates,  
23 on the first day of the next session of the Legislature; and  
24 the speaker shall, immediately after the organization of  
25 the house, and before proceeding to other business, open  
26 and publish the same, in the presence of a majority of  
27 each house of the Legislature, which bodies shall, for that  
28 purpose, assemble in the hall of the house of delegates.  
29 The person having the highest number of votes for any  
30 one of such offices shall be declared duly elected thereto;  
31 but if two or more persons have the same and the highest  
32 number of votes for the same office, the legislature shall,  
33 by a joint vote of the two houses, choose one of said per-  
34 sons for such office; and one of each of such last men-  
35 tioned certificates shall also be transmitted, under seal,  
36 to the governor, who shall immediately tabulate the vote  
37 in all the counties, for each office, and cause the same to  
38 be printed in some newspaper published at the seat of  
39 government. Of the certificates respecting the election  
40 for United States senator, member of the house of repre-  
41 sentatives in the congress of the United States, judge of

42 the supreme court of appeals, judge of a circuit court,  
43 and president and vice-president of the United States,  
44 respectively, the commissioners shall transmit one in each  
45 case to the person voted for, and one to the governor; and  
46 the governor shall ascertain who are elected, and make  
47 proclamation thereof. Of the certificates respecting the  
48 election of all county and district officers, one shall be  
49 transmitted to each person for whom votes were cast.

**Sec. 12. Tie Vote Procedures.**—Whenever the governor  
2 or the board of canvassers of a county is to declare the  
3 result of an election, and it appears to him or them that  
4 two or more of the persons voted for have received the  
5 highest and an equal number of votes for the same office,  
6 so that the election to the office is not decided by the re-  
7 turns, he, or they, being required to declare the result,  
8 shall decide the tie by the election of one of such persons,  
9 but in the event the board of canvassers shall have failed  
10 to decide the tie within thirty days after such tie shall  
11 have been found by them to exist, upon application to the  
12 governor by any one of such persons so voted for, he shall  
13 break the tie by the selection of one of such persons and

14 shall certify his choice to such board of canvassers and  
15 declare such person duly elected for the office for which  
16 such person was a candidate.

**Article 7. Contested Elections.**

**Section 1. State Officers and Judge Contests; Procedure.**

2 —If the election of governor, secretary of state, treasurer,  
3 auditor, attorney general, commissioner of agriculture,  
4 a judge of the supreme court of appeals, or a judge of a  
5 circuit court, be contested, the contestant shall give not-  
6 ice, with specifications and affidavit, to the person whose  
7 election is contested, within sixty days after the day upon  
8 which the election was held, in case the election of gov-  
9 ernor, secretary of state, treasurer, auditor, attorney gen-  
10 eral, or commissioner of agriculture, be contested, and  
11 within forty-five days after the day upon which the elec-  
12 tion was held in case the election of a judge of the su-  
13 preme court of appeals, or a judge of a circuit court, be  
14 contested; and within thirty days thereafter the return  
15 notice shall be given to the contestant. The parties shall  
16 finish taking depositions within forty days after the last  
17 mentioned notice is delivered. The depositions shall be

18 transmitted to the clerk of the house of delegates, to be  
19 delivered by him to the joint committee or special court  
20 hereinafter provided for. In other respects the regula-  
21 tions contained in this article respecting contests for a  
22 seat in the Legislature shall be observed, so far as they  
23 are applicable.

**Sec. 2. Procedure of Legislature on Governor Contest.—**

2 When the election of governor is contested, the notice of  
3 contest and the depositions shall be referred to a joint  
4 committee of the two houses, for examination and re-  
5 port, which committee shall consist of two senators  
6 elected by ballot by the senate, and three delegates elect-  
7 ed in the same manner by the house of delegates. The con-  
8 test shall be determined by the Legislature, both houses  
9 thereof sitting in joint session in the hall of the house of  
10 delegates, and the president of the senate shall preside.

**Sec. 3. Contests before Special Court; Procedure; En-**

2 **forcement.**—Where the election of secretary of state, au-  
3 ditor, treasurer, attorney general, commissioner of ag-  
4 riculture, or of a judge of the supreme court of appeals,  
5 or of a circuit court, is contested, the case shall be heard

6 and decided by a special court constituted as follows:  
7 The contestee shall select one, the contestant another,  
8 and the governor a third person, who shall preside in said  
9 court; and the three, or any two of them, shall meet at a  
10 time and place within the state to be appointed by the  
11 governor, and, being first duly sworn impartially to de-  
12 cide according to law and the truth upon the petition, re-  
13 turns and evidence to be submitted to them, shall pro-  
14 ceed to hear and determine the case and certify their de-  
15 cision thereon to the governor. They shall be entitled to  
16 ten dollars a day each, and the same mileage as members  
17 of the Legislature, to be paid out of the treasury of the  
18 state, and such special court is hereby given authority to  
19 employ a stenographer at a reasonable compensation, to  
20 be also paid out of the treasury of the state. In all hear-  
21 ings or proceedings before such special court, the evi-  
22 dence of witnesses and the production of documentary  
23 evidence may be required at any designated place of  
24 hearing by such special court, or any member thereof;  
25 and in case of disobedience to a subpoena or other process  
26 of such special court, of any member thereof, such special

27 court, or any member thereof, or either of the parties to  
28 such contest, may invoke the aid of any circuit court in  
29 requiring the evidence and testimony of witnesses and  
30 the production of papers, books and documents. And  
31 such circuit court, in case of a refusal to obey the subpoena  
32 issued to any person, shall issue an order requiring such  
33 person to appear before such special court and produce  
34 all books and papers, if so ordered, and give evidence  
35 touching the matter in question. Any failure to obey  
36 such order of the circuit court may be punished by such  
37 court as a contempt thereof. A written record shall be kept  
38 of all testimony and other proceedings before such special  
39 court.

40 Either party to such contest feeling aggrieved by the  
41 final decision of such special court may present his peti-  
42 tion in writing to the supreme court of appeals, or a judge  
43 thereof in vacation, within thirty days after such final  
44 decision is certified to the governor, as hereinbefore pro-  
45 vided, praying for the suspension, setting aside, or vaca-  
46 tion of such final decision. The applicant shall deliver,  
47 or cause to be delivered, a copy of such petition to the

48 other party to such contest, or, in case of his absence from  
49 the state or from his usual place of abode, he shall mail,  
50 or cause to be mailed a copy of such petition addressed to  
51 his last known postoffice address, before presenting the  
52 same to the court, or the judge. The court, or the judge,  
53 shall fix a time for the hearing on the application, but  
54 such hearing shall not be held sooner than five days, un-  
55 less by agreement of the parties, after the presentation of  
56 such petition, and notice of the time and place of such  
57 hearing shall be forthwith delivered to the other party to  
58 such contest, or, in case of absence from the state or from  
59 his usual place of abode, such notice may be given by  
60 mailing, or causing to be mailed, the same, or a copy  
61 thereof, addressed to him at his last known postoffice  
62 address. If the court, or the judge, after such hearing,  
63 be of the opinion that a suspending order should issue,  
64 the court in its, or the judge in his, discretion, may sus-  
65 pend such final decision and may require bond upon such  
66 conditions and in such penalty, and impose such terms  
67 and conditions upon the petitioner, as are just and rea-  
68 sonable; and the court, or the judge, shall fix a time for



69 the final hearing on the application. The hearing of the  
70 matter shall take precedence over all other matters be-  
71 fore the court. For such final hearing, and before the day  
72 fixed therefor, the special court shall file with the clerk  
73 of the supreme court of appeals all papers, documents,  
74 testimony, evidence, and records, or certified copies there-  
75 of, which were before it at the hearing resulting in the  
76 final decision from which the petitioner appeals, together  
77 with a copy in writing of its final decision; and, after argu-  
78 ment by counsel, the court shall decide the matter in con-  
79 troversy, both as to the law and the evidence, as may  
80 seem to it to be just and right. The supreme court of ap-  
81 peals is hereby given jurisdiction to enforce the provisions  
82 of this section by writ of prohibition, mandamus and  
83 certiorari, as may be appropriate.

**Sec. 4. Contests of Seats in Legislature; Notices and**

2 **Procedure.**—Any person intending to contest the election  
3 of another as senator or delegate shall, within twenty-one  
4 days after the election, in case of a delegate, and within  
5 thirty days after the election, in case of a senator, give  
6 him notice thereof in writing, and a list of the votes he

7 will dispute, with the objections to each, and of the votes  
8 rejected for which he will contend. If the contestant ob-  
9 jects to the legality of the election, or the qualification of  
10 the person returned, the notice shall set forth the facts  
11 on which such objection is founded. The person whose  
12 election as delegate is contested shall, within fourteen  
13 days after receiving such notice, and the person whose  
14 election as senator is contested shall, within twenty days  
15 after receiving such notice, deliver to the contestant a  
16 like list of the votes he will dispute and of the objection  
17 to each, and of the rejected votes he will claim; and, if  
18 he has any objection to the qualification of the contestant,  
19 shall specify in such notice the facts on which the objec-  
20 tion is founded. Each party shall append to the notice an  
21 affidavit that the matters therein set forth, so far as they  
22 are stated of his knowledge, are true, and that, so far as  
23 they are stated on the information of others, he believes  
24 them to be true. If new facts be discovered by either  
25 party after he has given notice as aforesaid, he may give  
26 an additional notice or notices to his adversary, with spe-  
27 cifications and affidavit as above prescribed.

28     The notice of contest shall be presented to the proper  
29     branch of the Legislature, within ten days after its meet-  
30     ing.

**Sec. 5. Depositions; Subpoenas; Time; Tie Vote De-**  
2     **cision.**—Either party may begin to take the depositions in  
3     such contests for seats in the legislature at any time after  
4     the delivery of the original notice by the contestant. But  
5     reasonable notice of every such deposition shall be given,  
6     and such notice shall specify the names of the witnesses  
7     to be examined. The depositions may be taken before a  
8     justice, notary, or any officer authorized to take deposi-  
9     tions in civil suits; and the officer before whom they are  
10    taken shall certify and seal the same, and indorse his  
11    name across the place where they are sealed, and address  
12    and transmit the same, by mail or otherwise, to the clerk  
13    of the body in which the seat is contested. When the  
14    contest is referred to a committee, the clerk shall deliver  
15    the depositions to such committee for examination and  
16    report. The parties shall finish taking depositions five  
17    days at least before the second Wednesday of January  
18    next following. Neither party shall have the benefit of

19 any deposition taken otherwise than as aforesaid, unless  
20 further time be given by resolution of the proper branch  
21 of the Legislature.

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

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

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

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

6 A person intending to contest the election of another to  
7 any county or district office, including judge of any crimi-

8   nal, intermediate, common pleas, or other inferior court,  
9   or any office that shall hereafter be created to be filled  
10  by the voters of the county or of any magisterial or other  
11  district therein, shall, within ten days after the result of  
12  the election is declared, give the contestee notice in writing  
13  of such intention, and a list of the votes he will dispute,  
14  with the objections to each, and of the votes rejected for  
15  which he will contend. If the contestant object to the le-  
16  gality of the election, or the qualification of the person  
17  returned as elected, the notice shall set forth the facts on  
18  which such objection is founded. The person whose elec-  
19  tion is so contested shall, within ten days after receiving  
20  such notice, deliver to the contestant a like list of the  
21  votes he will dispute, with the objections to each, and  
22  of the rejected votes for which he will contend; and, if  
23  he has any objection to the qualification of the contestant,  
24  he shall specify in writing the facts on which the objection  
25  is founded. Each party shall append to his notice an affi-  
26  davit that he verily believes the matters and things set  
27  forth to be true. If new facts be discovered by either party  
28  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

19 from time to time, if it be shown that justice and right  
20 require it, but not beyond three months from the day of  
21 election. At the final trial of such contest the court shall  
22 declare the true result of such election, and cause the  
23 same to be entered on the records of the court. When the  
24 result of the election is declared, as aforesaid, a certified  
25 copy of the order declaring such result shall, if required,  
26 be delivered by the clerk of the court to the person de-  
27 clared elected, if such be the result of the trial, and such  
28 copy shall be received in all courts and places as legal  
29 evidence of the result of the election therein declared.  
30 Either the contestant or contestee shall have the right of  
31 appeal to the circuit court of the county from the final  
32 order or decision of the county court in such proceeding,  
33 upon the filing of a bond with good personal security, by  
34 the party desiring the appeal, to be approved by the county  
35 court, in a sum deemed sufficient by such court, with con-  
36 dition to the effect that the person proposing to appeal  
37 will perform and satisfy any judgment which may be  
38 rendered against him by the circuit court on such appeal.  
39 But such appeal shall not be granted unless the party

40 desiring the appeal shall make application for such appeal,  
41 and file such bond, within thirty days from the entering  
42 of the final order in such proceeding; and the circuit court  
43 may at any time require a new bond or increase the pen-  
44 alty thereof when the court deems it necessary. When  
45 such appeal is taken to the circuit court, as hereinbefore  
46 provided, it shall be heard and determined upon the  
47 original papers, evidence, depositions and records filed  
48 before and considered by the county court, and the cir-  
49 cuit court, shall decide the contest upon the merits. From  
50 the decision of the circuit court, an appeal shall lie to the  
51 supreme court of appeals, as in other cases, but such appeal  
52 shall be heard upon the original papers and copies of all  
53 orders made, without requiring the same to be printed.

**Sec. 8. Correction of Returns; Extent.**—Though illegal  
2 votes be received, or legal votes be rejected, at any place  
3 of voting, the returns of the votes taken at such place shall  
4 not be set aside for that cause, but it may be shown, by  
5 proper evidence before the tribunal authorized by law  
6 to hear and determine contested elections, for whom such  
7 illegal votes of any of them were cast, or for whom the



8 legal votes which were rejected would have been given,  
9 and the returns shall be corrected only to the extent that  
10 it is so shown.

**Sec. 9. Costs in Election Contests.**—The cost of every  
2 contested election shall include only the expenses of  
3 serving notices, taking depositions and the allowances to  
4 witnesses; and shall be noted at the foot of every deposi-  
5 tion or set of depositions, by the person taking the same.  
6 If the contestant fails in setting aside the election, there  
7 shall be awarded against him the amount of such costs  
8 incurred or expended by the person who was returned  
9 or declared elected. Otherwise, each party shall pay his  
10 own costs; unless it appears that the person returned or  
11 declared elected was guilty of fraud or malpractice in the  
12 election, or in procuring such return or declaration, in  
13 which case costs shall be awarded against him in favor  
14 of the contestant. Where costs are awarded in favor of  
15 either party, the amount thereof shall be ascertained under  
16 direction of the house joint session, or court, which decides  
17 the case, and a certificate thereof, authenticated by the  
18 signature of the presiding officer, shall be delivered to

19 the party in whose favor they are awarded, which cer-  
20 tificate shall have the force of a judgment, and if such  
21 costs be not paid within ten days after the date thereof,  
22 the clerk of the circuit court, of the county in which the  
23 party against whom the costs were awarded resides, may  
24 issue execution on such certificate, upon its delivery to  
25 such clerk, in like manner as upon a judgment of the cir-  
26 cuit court. But no person contesting the seat of another  
27 in the legislature shall be entitled to pay or mileage if  
28 the contest fails.

#### **Article 8. Regulation and Control of Elections.**

##### **Section 1. Provisions to Regulate and Control Elections.**

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

##### **Sec. 2. Accounting for Receipts and Expenditures in**

2 **Elections.**—In all elections for nomination of candidates,

3 for party committeemen, and for officers, except elec-  
4 tions for officers in towns and cities and for magisterial  
5 and school district officers, records of receipts and ex-  
6 penditures for political purposes shall be kept by or on  
7 behalf of all candidates. All such receipts and expendi-  
8 tures shall be subject to regulation by provisions of this  
9 article. Verified statements of such receipts and expend-  
10 itures shall be made and filed as public records by all  
11 candidates and by their political agents, representatives,  
12 or any person acting for and on behalf of any candidate,  
13 and by the treasurers of all political party committees.

**Sec. 3. Committee Treasurers; Requirements.**—Every  
2 political party committee shall appoint and retain a treas-  
3 urer to receive, keep and disburse all sums of money  
4 which may be collected or received by such committee,  
5 or by any of its members, for election expenses, and,  
6 unless such treasurer is first appointed and thereafter  
7 retained, it shall be unlawful for any such committee or  
8 any of its members to collect, receive or disburse money  
9 for any such purposes. All moneys collected or received  
10 by any such committee, or by any of its members, for

11 election expenses, shall be paid over to, and pass through  
12 the hands of, the treasurer, and shall be disbursed by  
13 him, and it shall be unlawful for any such committee,  
14 or any of its members, to disburse any money for election  
15 expenses unless such money shall be paid to, and dis-  
16 bursed by the treasurer. The same person may be desig-  
17 nated to act as treasurer for two or more political party  
18 committees.

**Sec. 4. Treasurers and Financial Agents; Requirements.**

2 —No person shall act as the treasurer of any political  
3 party committee, or as financial agent for any candidate  
4 for nomination or election to any office to be filled by the  
5 voters of the entire state, delegates-at-large to a na-  
6 tional convention, and candidates for president of the  
7 United States, unless a written statement designating  
8 him as such treasurer or financial agent shall be filed  
9 with the secretary of state, at least sixty days before the  
10 election at which he is to act. No person shall act as  
11 treasurer of any such committee or as financial agent for  
12 any candidate to be nominated or elected by the voters  
13 of any political division less than the entire state, and

14 greater than a county, including delegates to national  
15 conventions, unless a written statement designating him  
16 as such treasurer or financial agent is filed with the clerk  
17 of the county court of each county within such political  
18 division at least sixty days before the election at which  
19 he is to act. No person shall act as treasurer of any such  
20 committee, or as financial agent for any candidate to be  
21 nominated or elected by the voters of a county or district  
22 therein, or as the treasurer or financial agent for a can-  
23 didate for the nomination or election to any other office  
24 not herein mentioned, unless a written statement desig-  
25 nating him as such treasurer or financial agent shall be  
26 filed with the clerk of the county court at least sixty days  
27 before the election at which he is to act.

28 As used in this article:

29 The term "person" shall include an individual, part-  
30 nership, committee, association, corporation, and any  
31 other organization or group of persons; and

32 The term "financial agent" shall include any person  
33 acting for and by himself, or any two or more natural  
34 persons acting together or cooperating in a financial way

35 to aid or take part in the nomination or election of any  
36 candidate for public office, or to aid or promote the suc-  
37 cess or defeat of any political party or principal at any  
38 election, or any proposition submitted to a vote at a public  
39 election.

**Sec. 5. Detailed Accounts and Verified Financial State-**  
2 **ments.**—Every candidate, financial agent, person and as-  
3 sociation of persons, organization of any kind, including  
4 the treasurer, or equivalent officer of such association or  
5 organization, opposing or advocating the defeat or passage  
6 of any matter, thing or item to be voted upon, or touching  
7 upon or pertaining to the holding or the conduct of any  
8 election and the treasurer of every political party com-  
9 mittee, shall keep detailed accounts of all money, or its  
10 equivalent, received by them, and of all expenditures and  
11 disbursements made, and liabilities incurred, by such  
12 candidate, agent, such person, association or organization  
13 or committee, for political purposes, or by any of the of-  
14 ficers or members of such committee, or any person acting  
15 under its authority or on its behalf.

16 Not less than seven nor more than fifteen days before

17 each primary or other election, and again within thirty  
18 days after each primary or other election, every candidate  
19 for public office, and every financial agent, person, the  
20 treasurer or equivalent officer of any association, or organ-  
21 ization of any kind opposing or advocating the defeat or  
22 passage of any matter, thing or item to be voted upon or  
23 touching upon or pertaining to the holding or conduct of  
24 any election and the treasurer of every political party com-  
25 mittee, shall file with the officers hereinafter prescribed a  
26 detailed itemized statement subscribed and sworn to be-  
27 fore an officer authorized to administer oaths, setting forth  
28 all financial transactions in connection with such primary  
29 or other election. Such statement shall show each and  
30 every sum of money or other thing of value contributed  
31 or advanced; the name of each person, firm, association or  
32 committee by whom it was contributed or advanced; the  
33 amount and purpose of every expenditure made or liabil-  
34 ity incurred, and the name of each person, firm, association  
35 or committee to whom such expenditure was made or  
36 liability incurred, with dates of each transaction. Any un-

37 expended balance, remaining in the hands of any financial  
38 agent, or of the treasurer of any such committee at the  
39 time of making the statements herein provided for, shall  
40 be properly accounted for in said statement, and shall ap-  
41 pear as a balance in the next following report of such  
42 agent or treasurer or his successor in office. Such sworn  
43 statements shall be filed with the secretary of state, by  
44 candidates for state and other offices to be nominated or  
45 elected by the voters of a political division greater than a  
46 county, and with the clerk of the county court, by candi-  
47 dates for offices to be nominated or elected by the voters  
48 of a county or district therein, and by all candidates for  
49 other offices not otherwise provided for.

50 The term "contribution," as used in this article, shall  
51 include a gift, subscription, loan, advance, or deposit of  
52 money, or anything of value given or offered in connec-  
53 tion with political activity. It shall also include a con-  
54 tract, promise, or agreement, whether or not legally en-  
55 forceable, to make a contribution.

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

2 —Blank forms for all financial statements required under  
3 this article shall be prepared by the secretary of state,



4 and copies thereof, together with a copy of this article,  
5 shall be furnished through the county clerk or otherwise,  
6 as the secretary of state may deem expedient, to all treas-  
7 urers of political committees, to all political financial  
8 agents, and to all candidates for nomination or election  
9 to any office, upon the filing of a petition or announce-  
10 ment for nomination, and to all other persons required  
11 by law to file such statements who shall apply therefor.  
12 All statements filed in accordance with the provisions of  
13 this article shall be received, indorsed and filed by the  
14 secretary of state and county clerks, and shall be pre-  
15 served for one year after the election to which they re-  
16 late, after which time they may be destroyed, if not re-  
17 quired to be further preserved by the order of any court.

**Sec. 7. Failure to File Statement; Penalty.**—Any can-  
2 didate, financial agent, or treasurer of a political party  
3 committee, who shall fail to file a sworn, itemized state-  
4 ment as in this article provided, within the time required,  
5 shall be guilty of a misdemeanor, and, upon conviction,  
6 shall be fined not less than fifty dollars, or imprisoned  
7 in the county jail for not more than one year, or both, in

8 the discretion of the court. Forty days after any such  
9 primary or other election, the secretary of state, or county  
10 clerk, as the case may be, shall give notice of any failure  
11 to file such statement by any candidate, financial agent  
12 or treasurer of such committee, to the prosecuting at-  
13 torney of the county where such delinquent resides. No can-  
14 didate nominated at a primary election, who has failed to  
15 make a sworn statement as required by this article, shall  
16 have his name placed on the official ballot for the ensu-  
17 ing election, unless there has been filed by or on behalf  
18 of such candidate, or by his financial agent, if any, the  
19 financial statement relating to nominations required by  
20 this article. It shall be unlawful to issue a commission  
21 or certificate of election, or to administer the oath of of-  
22 fice, to any person elected to any public office who has  
23 failed to file a sworn statement as required by this ar-  
24 ticle, and no such person shall enter upon the duties of  
25 his office until he has filed such statement, nor shall he  
26 receive any salary or emolument for any period prior to  
27 the filing of such statement.

**Sec. 8. Corporation Contributions Forbidden; Penalties.**

2 —No officer of any corporation, or agent or person on be-  
3 half of such corporation, whether incorporated under the  
4 laws of this or any other state, or foreign country, shall  
5 pay, give or lend, or authorize to be paid, given or lent,  
6 any money or other thing of value belonging to such  
7 corporation, to any candidate, financial agent or political  
8 committee or other person, for the payment of any pri-  
9 mary or other election expenses whatever. No person  
10 shall solicit or receive such payment, contribution or  
11 other thing from any corporation, officer or agent there-  
12 of, or other person acting on behalf of such corporation.  
13 Any person or corporation violating any provision of this  
14 section shall be guilty of a misdemeanor, and, on convic-  
15 tion, shall be fined not more than five thousand dollars.

**Sec. 9. Lawful and Unlawful Election Expenses.—**No

2 candidate, financial agent, or treasurer of a political party  
3 committee, shall pay, give or lend, either directly or in-  
4 directly, any money or other thing of value for any elec-  
5 tion expenses, except for the following purposes:

6 (a) For rent, maintenance and furnishing of offices to

7 be used as political headquarters and for the payment of  
8 necessary clerks, stenographers, typists, janitors and mes-  
9 sengers actually employed therein;

10 (b) For printing and distributing books, pamphlets,  
11 circulars and other printed matter and radio and tele-  
12 vision broadcasting and painting, printing and posting  
13 signs, banners and other advertisements, all relating to  
14 political issues and candidates;

15 (c) For renting and decorating halls for public meet-  
16 ings and political conventions; for advertising public  
17 meetings, and for the payment of traveling expenses of  
18 speakers and musicians at such meetings;

19 (d) For the necessary traveling and hotel expenses of  
20 candidates, political agents and committees, and for sta-  
21 tionery, postage, telegrams, telephone, express, freight  
22 and public messenger service;

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

25 (f) For examining the lists of registered voters, secur-  
26 ing copies thereof, investigating the right to vote of the

27 persons listed therein, and conducting proceedings to pre-  
28 vent unlawful registration or voting;

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

30 (h) For securing publication in newspapers and by  
31 radio and television broadcasting of documents, articles,  
32 speeches, arguments and any information relating to any  
33 political issue, candidate, or question or proposition, sub-  
34 mitted to a vote.

35 Every liability incurred and payment made shall be at  
36 a rate and for a total amount which is proper and reason-  
37 able and fairly commensurate with the services rendered.

**Sec. 10. Limitations on Election Expenses.**—No pay-  
2 ment shall be made and no liability shall be incurred by  
3 or on behalf of any candidate for office in this state to aid  
4 in securing his nomination or election, or both, which  
5 shall in the aggregate exceed the amounts herein pro-  
6 vided for, that is to say: Candidates for United States  
7 senate or any state office, the sum of seventy-five dollars  
8 for each county in the state, for the primary election, and  
9 a like amount for the general election; candidates for  
10 members of the Legislature, the sum of one hundred and

11 twenty-five dollars for each county in which such can-  
12 didate is voted for, for the primary election, and a like  
13 amount for the general election; for members of the  
14 United States house of representatives, the sum of sev-  
15 enty-five dollars for each county in the district for the  
16 primary election, and a like amount for the general elec-  
17 tion; for any county office, a sum not to exceed two hun-  
18 dred dollars in each county, for the primary election, and  
19 a like amount for the general election; and for any other  
20 office, not hereinbefore mentioned, a sum not to exceed  
21 fifty dollars in the political division in which such person  
22 is a candidate, for the primary election, and a like amount  
23 for the general election. Any candidate may delegate to  
24 a financial agent or a political party committee, in a writ-  
25 ing duly subscribed by him, the expenditure of any por-  
26 tion of the total expenses authorized to be incurred by  
27 him, or on his behalf; but the aggregate of all expenses  
28 made and incurred by such candidate, by any political  
29 agent on his behalf and by any such committee on his be-  
30 half, shall not exceed the amounts hereinbefore provided.  
31 No payments shall be made and no liability shall be in-

32 curred by any financial agent or political party commit-  
33 tee which shall exceed in the aggregate the sum of the  
34 amounts theretofore delegated to such agent or committee  
35 by the candidate, in writing, as herein provided. There  
36 shall not be included in arriving at the several amounts  
37 which may be expended, or liability incurred for, items  
38 mentioned in subdivisions (b) to (h), both inclusive, of  
39 the next preceding section.

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

**Sec. 11. Specific Acts Forbidden; Penalties.**—(a) Any  
2 person, other than a financial agent or a member of a  
3 political party committee duly appointed and designated  
4 as provided in this article, who shall solicit from any  
5 candidate for nomination or election to any public office,  
6 any money, gift, contribution, emolument, or other valu-

7 able thing, for the support, assistance, benefit or expenses  
8 of any person or persons, club, company, organization,  
9 religious body, society, association, or for any other pur-  
10 poses except as herein provided, or for the expenses of  
11 any primary or other election campaign; or

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



28 been a contributor for more than six months before his  
29 candidacy; or

30 (c) Any person who shall, directly or indirectly, by  
31 himself, or by any other person on his behalf, make use  
32 of, or threaten to make use of, any force, violence or  
33 restraint, or inflict, or threaten to inflict, any damage,  
34 harm or loss, upon or against any person, or by any other  
35 means attempt to intimidate or exert any undue influ-  
36 ence, in order to induce such person to vote or refrain  
37 from voting, or on account of such person having voted  
38 or refrained from voting, at any election, or who shall,  
39 by abduction, duress or any fraudulent device or con-  
40 trivance, impede or prevent the free exercise of the  
41 suffrage by any elector, or shall thereby compel, induce  
42 or prevail upon any elector either to vote or refrain from  
43 voting for or against any particular candidate or meas-  
44 ure; or

45 (d) Any person who, being an employer, or acting for  
46 or on behalf of any employer, shall give any notice or  
47 information to his employees, containing any threat,  
48 either express or implied, intended or calculated to in-

49 fluence the political view or actions of the workmen or  
50 employees; or

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

55 (f) Any person who shall pay any owner, publisher,  
56 editor or employee, or any newspaper or other periodical,  
57 to advocate or oppose editorially, any candidate for nomi-  
58 nation or election, or any political party, or any measure  
59 to be submitted to the vote of the people; or any owner,  
60 publisher, editor, or employee, who shall solicit or accept  
61 such payment:

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

**Sec. 12. Additional Acts Forbidden; Written Matters;**

2 **Solicitation; Promises; Public Contractors.**—(a) No per-

3 son shall publish, issue or circulate, or cause to be pub-  
4 lished, issued or circulated, any anonymous letter, circu-  
5 lar, placard, or other publication tending to influence  
6 voting at any election;

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

15 (c) No person shall, in any room or building occupied  
16 for the discharge of official duties by any officer or em-  
17 ployee of the state or a political subdivision thereof,  
18 solicit orally or by written communication delivered  
19 therein, or in any other manner, any contribution of  
20 money or other thing of value for any party or political  
21 purpose whatever, from any postmaster or other officer  
22 or employee of the federal government, or officer or em-  
23 ployee of the state, or a political subdivision thereof. No

24 officer, agent, clerk, or employee of the federal govern-  
25 ment, or of this state, or any political subdivision thereof,  
26 who may have charge or control of any building, office or  
27 room, occupied for any official purpose, shall knowingly  
28 permit any person to enter the same for the purpose of  
29 therein soliciting or receiving any political assessments  
30 from, or delivering or giving written solicitations for, or  
31 any notice of, any political assessments to, any officer  
32 or employee of the state, or a political subdivision thereof;

33 (d) No person entering into any contract with the  
34 state or its subdivisions, or any department or agency  
35 thereof, either for rendition of personal services or fur-  
36 nishing any material, supplies or equipment or selling  
37 any land or building to the state, or its subdivisions, or  
38 any department or agency thereof, if payment for the  
39 performance of such contract or payment for such ma-  
40 terial, supplies, equipment, land or building is to be made  
41 in whole or in part from public funds shall, during the  
42 period of negotiation for or performance under such con-  
43 tract or furnishing of materials, supplies, equipment, land  
44 or buildings, directly or indirectly make any contribution

45 to any political party, committee or candidate for public  
46 office or to any person for political purposes or use; nor  
47 shall any person or firm solicit any contributions for any  
48 such purpose during any such period;

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

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

64 (g) No person shall solicit any contribution from any  
65 non-elective salaried employee of the state government

66 or of any of its subdivisions or coerce or intimidate any  
67 such employee into making such contribution. No per-  
68 son shall coerce or intimidate any non-salaried employee  
69 of the state government or of any of its subdivisions into  
70 engaging in any form of political activity. The provisions  
71 hereof shall not be construed to prevent any such em-  
72 ployee from making such a contribution or from engag-  
73 ing in political activity voluntarily, without coercion, in-  
74 timidation or solicitation.

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

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

7 shall be subject to the penalties and punishments pro-  
8 vided herein.

**Article 9. Offenses and Penalties.**

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

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

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

16 (c) Any commissioner of election or poll clerk, who  
17 knowingly shall count and string a ballot not taken from

18 the ballot box, in lieu of one taken, or which should have  
19 been taken from such ballot box; or

20 (d) Any commissioner of a county court, whether act-  
21 ing as such or ex officio as a member of a board of can-  
22 vassers or otherwise, clerk of a county court, or other  
23 person, who shall, except as authorized by law, abstract  
24 any ballot from any package of ballots voted, sealed or  
25 returned from any election precinct, either before or  
26 after they are filed with the clerk of the county court, or  
27 who shall in any manner change any such ballot from  
28 what it was when voted by the voter, or who shall put  
29 another ballot in such package in the place of the one so  
30 abstracted therefrom; or

31 (e) Any commissioner of a county court, whether act-  
32 ing as such commissioner or ex officio as a member of a  
33 board of canvassers, or otherwise, who shall knowingly  
34 make and enter of record, or in any way aid, counsel, or  
35 advise the same to be done, or permit the same to be done  
36 without objection on his part, any false or fraudulent  
37 statement of the result of any election held within the  
38 county; or



39 (f) Any person who shall falsely make, or fraudu-  
40 lently deface, or fraudulently destroy, any certificate of  
41 nomination, or any part thereof, or file any certificate of  
42 nomination, knowing the same, or any part thereof, to be  
43 falsely made, or suppress any certificate of nomination  
44 which has been duly filed, or any part thereof; or erase,  
45 deface, or change in any manner, any election record, or  
46 any ballot, poll book, tally sheet or certificate of election,  
47 deposited with either of the clerks of the county or cir-  
48 cuit courts; or conspire with another to do any of said  
49 acts; or induce or attempt to induce any other persons to  
50 do any of said acts; or

51 (g) Any person who shall aid, assist, counsel or ad-  
52 vise in the commission of any of the offenses above speci-  
53 fied, whether or not said acts, or any of them be commit-  
54 ted or attempted to be committed; or

55 (h) Any person, who, without the assent of another,  
56 shall sign the name of such other person to any certificate,  
57 affidavit, ballot, report, statement or writing, required  
58 under any provision of this chapter, with intent to mis-  
59 lead and deceive; or who shall use or employ any certifi-

60 cate, affidavit, ballot, report, statement or writing to  
61 which the name of a person has been signed without the  
62 authority of such person, knowing that such name has  
63 been so signed with intent to mislead or deceive; or

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

75 (j) Any person not duly authorized by law who shall,  
76 during the progress of any election in this state, or after  
77 the closing of the polls and before the ballots are counted  
78 and the results ascertained, or within twelve months  
79 thereafter, open without breaking, or break open or vio-  
80 late, the seals or locks of any ballot box, paper, envelope,

81 or bag, in which ballots have been deposited at or after  
82 such election, or who shall obtain possession of such bal-  
83 lot box, paper, envelope or bag containing such ballots,  
84 and cancel, withhold, or destroy such ballots, or who shall  
85 fraudulently or forcibly add to or diminish the number  
86 of ballots legally deposited therein, or who shall fraudu-  
87 lently make any erasure or alteration of any kind, upon  
88 any tally sheet, poll book, list of voters, or election re-  
89 turns, deposited therein.

**Sec. 2. Unlawful Printing, Possession, or Delivery of**

2 **Ballots; Penalties.**—No one, except the person employed  
3 and authorized by the ballot commissioners to do so, shall  
4 print any ballot for any election. No person engaged or  
5 employed in printing such ballots shall deliver any ballot  
6 to any person except a member of the board of ballot  
7 commissioners, or knowingly permit any other person to  
8 obtain possession of any ballot; or print, or cause to be  
9 printed, any ballot in any other form, or with the names  
10 of any other persons thereon, or with the names thereon  
11 spelled or arranged in any other manner than that pre-  
12 scribed by the ballot commissioners. No person shall

13 print, have in his possession, or deliver, any imitation  
14 ballot having a similitude or likeness to the official bal-  
15 lot, and which would be calculated to deceive: *Provided,*  
16 *however,* That nothing herein contained shall prohibit  
17 any person from printing or having in his possession a  
18 sample ballot printed on paper of a color different from  
19 the official ballot, and not calculated to deceive. Any  
20 person violating any provision of this section shall be  
21 guilty of a felony, and, on conviction thereof, shall be  
22 punished by imprisonment in the state penitentiary for  
23 not less than one nor more than ten years.

24 Any person who shall unlawfully take or remove, with  
25 or without the consent of the lawful custodian thereof,  
26 any ballot from the place at which such ballots are law-  
27 fully kept for the time being; or unlawfully remove or at-  
28 tempt to remove any ballot from the election room; or  
29 have in his possession outside of the election room during  
30 the election any ballot, shall be guilty of a felony, and,  
31 upon conviction thereof, shall be confined in the peniten-  
32 tiary not less than one nor more than five years, or, in the  
33 discretion of the court, be confined in jail for not more  
34 than one year.

**Sec. 3. False Swearing; Penalties.**—If any election of-

2 ficial, or other person, making any affidavit required un-  
3 der any provision of this chapter, shall therein knowingly  
4 swear falsely, or if any person shall counsel, advise, aid  
5 or abet another in the commission of false swearing, he  
6 shall be guilty of a misdemeanor, and, on conviction there-  
7 for shall be fined not more than one thousand dollars and  
8 imprisoned in the county jail for a period of not more  
9 than one year.

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

**Sec. 4. Commissioner's Failure to Get Supplies; Penal-**

2 **ties.**—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-

13 ed to be committed, then such person shall be guilty of a  
14 misdemeanor, and, on conviction thereof, shall be fined  
15 not more than one thousand dollars or confined in the  
16 county jail for not more than one year, or both, in the  
17 discretion of the court.

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

**Sec. 7. Refusal or Allowing Votes; Challenges; Penal-**  
2 **ties.**—Any election officer who refuses the vote of a duly  
3 registered and qualified voter, whom he knows is entitled  
4 to vote or who accepts the vote of a person whom he  
5 knows to be not lawfully registered, without challenging  
6 such persons, shall be guilty of a misdemeanor, and upon  
7 conviction fined not more than one thousand dollars or

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

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

**Sec. 8. Distinguishing Marks on Ballots; Conspiracies;**

2 **Penalties.**—If any person shall induce, or attempt to in-  
3 duce, any voter to write, paste or otherwise place on his  
4 ballot the name of any person, or any sign or device of  
5 any kind, as a distinguishing mark by which to indicate  
6 to any other person how such voter voted, or shall enter  
7 into or attempt to form any agreement or conspiracy with  
8 any other person to induce or attempt to induce a voter  
9 to so place a distinguishing name or mark on his ballot,  
10 whether or not such act be committed or attempted to be  
11 committed, such person so offending shall be guilty of a  
12 misdemeanor, and, on conviction thereof, shall be fined  
13 not more than one thousand dollars, or be imprisoned in



14 the county jail for not more than one year, or both, in  
15 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

20 be voted, except the one he receives from the poll clerk.  
21 No voter shall place any mark upon his ballot, or suffer  
22 or permit any other person to do so, by which it may be  
23 afterward identified as the ballot voted by him. Who-  
24 ever shall violate any provisions of this section shall be  
25 guilty of a misdemeanor, and, on conviction thereof, shall  
26 be fined not more than one thousand dollars, or confined  
27 in jail for not more than one year, or both, in the discre-  
28 tion of the court.

**Sec. 10. Disorder at Polls; Prevention; Assistance; Pen-**  
2 **alties.**—Any person who shall, by force, menace, fraud or  
3 intimidation, prevent or attempt to prevent any officer  
4 whose duty it is by law to assist in holding an election,  
5 or in counting the votes cast thereat, and certifying and  
6 returning the result thereof, from discharging his duties  
7 according to law; or who shall, by violence, threatening  
8 gestures, speeches, force, menace or intimidation, prevent  
9 or attempt to prevent an election being held; or who shall  
10 in any manner obstruct or attempt to obstruct the hold-  
11 ing of an election, or who shall, by any manner of force,  
12 fraud, menace or intimidation, prevent or attempt to pre-

13 vent any voter from attending any election, or from free-  
14 ly exercising his right of suffrage at any election at which  
15 he is entitled to vote, shall be guilty of a misdemeanor,  
16 and, upon conviction, fined not more than one thousand  
17 dollars, or confined in the county jail for not more than  
18 one year, or both, in the discretion of the court.

19 Any person who, being thereto commanded by the com-  
20 missioners of election, or either of them, shall fail or re-  
21 fuse to assist to the utmost of his power, in whatever may  
22 be necessary or proper to prevent intimidation, disorder  
23 or violence at the polls, shall be guilty of a misdemeanor,  
24 and, upon conviction thereof, shall be fined not less than  
25 ten nor more than one hundred dollars.

**Sec. 11. Failure to Make Returns; Disclosing Results;**

2 **Penalties.**—Any election officer who shall wilfully fail,  
3 neglect or refuse to prepare and return certificates of the  
4 result of the election in the manner provided, within  
5 twelve hours after the completion of the count, tabulation  
6 and declaration of the results, shall be guilty of a misde-  
7 meanor, and, upon conviction, fined not more than one  
8 thousand dollars, or confined in the county jail for not  
9 more than one year, or both, in the discretion of the court.

**Sec. 12. Candidate Influence and Bribes; Penalties.—**

2 Whoever, being a candidate for any office, loans or gives,  
3 directly or indirectly, or offers or promises to loan, or  
4 give, any money, or other thing of value, to any elector,  
5 for the purpose of influencing or retaining the vote of  
6 such elector, or inducing such elector to work or labor for  
7 the election of such candidate, or to refrain from work-  
8 ing or laboring for the election of any other candidate;  
9 or to any person to secure or to retain the influence or  
10 vote of such elector, in his behalf as such candidate, or  
11 to be used by such person in any way to influence the  
12 vote of any elector, or of electors generally, for himself  
13 or any candidate or ticket, shall be guilty of a misde-  
14 meanor and on conviction thereof, shall be fined not more  
15 than one thousand dollars, or confined in the county  
16 jail for not more than one year, or both, in the discretion  
17 of the court.

**Sec. 13. Unlawful Influence Acts; Penalties.—Any per-**

2 son who shall hire, or otherwise employ for consideration,  
3 another to work at the polls on election day, for the elec-

4 tion of any candidate to be voted for at such election, or  
5 shall, directly or indirectly, by himself or by any other  
6 person on his behalf, give, lend or agree to give or lend,  
7 or offer, promise, or promise to procure, any money or  
8 valuable consideration, or any place of employment, pub-  
9 lic or private, to or for any voter, or to or for any person  
10 on behalf of any voter, or to or for any person in order to  
11 induce any voter to vote or refrain from voting, or to vote  
12 for any particular person or candidate or object, or to re-  
13 frain therefrom; or shall do any such act as aforesaid on  
14 account of such voter having voted or refrained from  
15 voting at an election, or having voted for any particular  
16 person or candidate or object, or refraining therefrom;  
17 or shall advance, pay or contribute, or cause to be paid  
18 or contributed, any money or other thing of value to or  
19 for the use of any other person with the intent that such  
20 money or other thing of value, or any part thereof, shall  
21 be expended in bribery at any primary or other election;  
22 shall be guilty of a misdemeanor, and, upon conviction  
23 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

6 to influence the political action of his employees for any  
7 candidate for public office, or posts or exhibits in the es-  
8 tablishment, any posters, placards, or handbills, or de-  
9 livers verbally any message to any such employees, con-  
10 taining any threat, notice or information that if any such  
11 candidate is elected or defeated, work in the establish-  
12 ment will cease, in whole or in part, or other threats ex-  
13 pressed or implied, intended to influence the political  
14 opinions or votes of his employees, shall be guilty of cor-  
15 rupt practices, and upon conviction shall be fined not less  
16 than one thousand dollars nor more than twenty thou-  
17 sand dollars or be imprisoned in jail not more than one  
18 year, or both.

**Sec. 16. Voter Bribes and Influence; Penalties.—Any**

2 voter who shall, before or during any election, directly or  
3 indirectly, by himself, or by any other person on his be-  
4 half, solicit, demand, receive, agree or contract for any  
5 money, gift, loan, or valuable consideration, office, place  
6 of employment, or solicit any indorsement on a note or  
7 other paper, public or private, for himself or for any  
8 other person, for voting or agreeing to vote, or for voting

9 for any person or candidate or object, or agreeing so to vote,  
10 or from refraining or agreeing to refrain from voting at  
11 any election; or any person who shall, after any election,  
12 directly or indirectly, by himself, or by any other person  
13 on his behalf, solicit, demand or receive any money or  
14 valuable consideration on account of any person having  
15 voted or refrained from voting, or having induced any  
16 other person to vote or refrain from voting at any elec-  
17 tion, shall be guilty of a misdemeanor, and, on conviction  
18 thereof, shall be fined not more than one thousand dol-  
19 lars, or confined in jail for not more than one year, or  
20 both, in the discretion of the court.

**Sec. 17. Illegal Voting; Deceiving Voters; Penalties.—**

2 If any person knowingly votes when not legally entitled;  
3 or votes more than once in the same election; or know-  
4 ingly votes or attempts to vote more than one ballot for  
5 the same office, or on the same question; or procures or as-  
6 sists in procuring an illegal vote to be admitted, or re-  
7 ceived, at an election, knowing the same to be illegal; or a  
8 legal vote to be rejected, knowing the same to be legal; or,  
9 with intent to deceive, alters the ballot of a voter by mark-



10 ing out the name of any person for whom such voter de-  
11 sires to vote; or, with like intent, writes the name of any  
12 person on such ballot other than those directed by the  
13 voter; or with like intent, makes any alteration thereof,  
14 whether such ballot be voted or not; or defrauds any voter  
15 at any election, by deceiving and causing him to vote for  
16 a different person for any office than he intended or de-  
17 sired to vote for, he shall be guilty of a misdemeanor,  
18 and, on conviction thereof, shall for each offense be fined  
19 not more than one thousand dollars or confined in the  
20 county jail for not more than one year, or both, in the  
21 discretion of the court.

Sec. 18. Unlawful Voting in Primary Elections; Pen-  
2 alties.—Any person voting, in any primary election, any  
3 ticket of a party other than that of which he is registered  
4 as a member, and any election officer receiving the vote of  
5 any such person, knowing, or having reason to believe,  
6 that such voter is not a member of the party the ticket  
7 of which he is voting; or who, having signed or joined  
8 in any petition or certificate nominating any candidate  
9 for office, shall, at the primary election to be held to nom-

10 inate candidates for the same office, vote at such primary  
11 election; shall in each instance be guilty of a misde-  
12 meanor, and, on conviction thereof, shall be fined not  
13 more than one thousand dollars, or be confined in the  
14 county jail for not more than one year, or both, in the  
15 discretion of the court.

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

2 Any person who, having procured an absent voter's of-  
3 ficial ballot or ballots, shall wilfully neglect or refuse  
4 to return the same as provided in article three of this  
5 chapter, or who shall otherwise wilfully violate any of  
6 the provisions of said article three of this chapter, shall  
7 be guilty of a misdemeanor and, on conviction thereof,  
8 shall be fined not more than two hundred and fifty dol-  
9 lars, or confined in the county jail for not more than three  
10 months. If the clerk of the circuit court of any county,  
11 or any member of the board of ballot commissioners, or  
12 any member of the board of canvassers shall refuse or  
13 neglect to perform any of the duties required of him by  
14 any of the provisions of articles three, five and six of this  
15 chapter relating to voting by absentees or shall disclose

16 to any other person or persons how any absent voter  
17 voted, he shall, in each instance, be guilty of a misde-  
18 meanor, and, upon conviction thereof, shall be fined not  
19 more than five hundred dollars, or confined in the county  
20 jail for not more than six months.

**Sec. 20. Freedom to Vote; Time; Penalties.**—Any corp-  
2 oration violating any provision of section forty-two of  
3 article one of this chapter or preventing or attempting to  
4 prevent any voter in its employ from attending any elec-  
5 tion, or from freely exercising his right of suffrage, at  
6 any election, at which he is entitled to vote, by any threat,  
7 direct or indirect, express or implied, to discharge such  
8 voter or deprive him of his employment, or shall dis-  
9 charge such voter or deprive him of his employment be-  
10 cause of any vote he may cast, or refuse to cast, at any  
11 election at which he is entitled to vote, under the pro-  
12 visions of this chapter, shall, in each instance, be guilty  
13 of a misdemeanor, and, on conviction thereof, shall be  
14 fined not more than one thousand dollars. Any employer,  
15 other than a corporation, whether an individual or mem-  
16 ber of an association or partnership, and any officer,

17 agent or manager of any corporation violating any pro-  
18 vision of this section or of section forty-two of article one  
19 of this chapter shall be guilty of a misdemeanor, and,  
20 upon conviction thereof, shall be fined not exceeding five  
21 hundred dollars or imprisoned in the county jail for a  
22 period not exceeding six months, or, in the discretion of  
23 the court, be subject to both such fine and imprisonment.

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

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

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

2 It shall be unlawful to bet or wager money or other thing  
3 of value on any election held in this state. Any person  
4 violating the provisions of this section shall be guilty of  
5 a misdemeanor, and, upon conviction thereof, he shall  
6 forfeit the value of the money or thing so bet or wagered  
7 and shall be fined not more than fifty dollars.

**Sec. 23. Unlawful Acts Not Covered; Penalties.**—Any  
2 person who shall commit any act made an offense by any  
3 provision of this chapter, for which no penalty or punish-  
4 ment is prescribed by any other provision contained there-  
5 in, or any person who shall fail to perform any duty pre-  
6 scribed therein which has not been specifically made an  
7 offense, shall be guilty of a misdemeanor, and, upon con-  
8 viction thereof, shall be fined not more than one thou-  
9 sand dollars, or, in the discretion of the court, be confined  
10 in jail for not more than one year.

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

**Article 10. Filling Vacancies.**

**Section 1. Elections to Fill Vacancies in Offices.**—Elec-  
2 tions to fill vacancies shall be for the unexpired term,  
3 and shall be held at the same places, and superintended,  
4 conducted and returned, and the result ascertained, cer-  
5 tified and declared, in the same manner, and by the same

6 officers, as in general elections. The persons elected,  
7 having first duly qualified, shall enter upon the duties of  
8 their respective offices.

**Sec. 2. Vacancy in Office of Governor.**—In case of the  
2 death, conviction or impeachment, failure to qualify, res-  
3 ignation or other disability of the governor, the president  
4 of the senate shall act as governor until the vacancy is  
5 filled or the disability removed; and if the president of  
6 the senate, for any of the above named causes, shall be or  
7 become incapable of performing the duties of governor,  
8 the same shall devolve upon the speaker of the house of  
9 delegates; and in all other cases where there is no one to  
10 act as governor, one shall be chosen by the joint vote of  
11 the Legislature. Whenever a vacancy shall occur in the  
12 office of governor before the first three years of the term  
13 shall have expired, a new election for governor shall take  
14 place to fill the vacancy. If the vacancy shall occur more  
15 than thirty days next preceding a general election, the  
16 vacancy shall be filled at such election and the acting  
17 governor for the time being shall issue a proclamation  
18 accordingly, which shall be published once each week for

19 four successive weeks prior to such election in one news-  
20 paper, in each county, of each of the two political parties  
21 which polled the highest and the second highest number  
22 of votes at the preceding general election in the state,  
23 published and having the largest circulation in such  
24 county. But if it shall occur less than thirty days next  
25 preceding such general election, and more than one year  
26 before the expiration of the term, such acting governor  
27 shall issue a proclamation, fixing a time for a special  
28 election to fill such vacancy, which shall be published as  
29 hereinbefore provided.

30 If the vacancy is to be filled at a general election and  
31 shall occur before the primary election to nominate can-  
32 didates to be voted for at such general election, candidates  
33 to fill the vacancy shall be nominated at such primary  
34 election in accordance with the time requirements and  
35 the provisions and procedures prescribed in article five of  
36 this chapter. When nominations to fill such vacancy can-  
37 not be so accomplished at such primary election, and in  
38 all cases wherein the vacancy is to be filled at a special  
39 election, candidates to be voted for at such general or

40 special elections shall be nominated by a state convention  
41 to be called, convened and held under the resolutions,  
42 rules and regulations of the political party executive com-  
43 mittees of the state. The laws prescribing the manner  
44 of calling, constituting and holding conventions to nomi-  
45 nate candidates for presidential electors shall, in so far  
46 as applicable, govern conventions to nominate candidates  
47 to fill any vacancy in any office to be filled by the voters  
48 of the state as a whole, except that, in lieu of the mag-  
49 isterial district conventions in the several counties, the  
50 county executive committee shall call and convene a  
51 county convention at the county seat with delegates  
52 thereto apportioned to and representative of the several  
53 magisterial districts of the county as provided in section  
54 twenty-one of article five of this chapter. The county  
55 convention shall proceed to select the county's prescribed  
56 number of state convention delegates from the several  
57 magisterial districts thereof and the chairman and sec-  
58 retary of the convention shall promptly certify the names  
59 and addresses of the persons so selected as delegates to



60 the state convention to the chairman of the state execu-  
61 tive committee of the political party.

**Sec. 3. State Officials, U. S. Senator and Judge Vacan-**  
2 **cies.**—Any vacancy occurring in the office of secretary of  
3 state, auditor, treasurer, attorney general, commissioner  
4 of agriculture, United States senator, judge of the su-  
5 preme court of appeals, or in any office created or made  
6 elective, to be filled by the voters of the entire state, or  
7 judge of a circuit court, a common pleas, intermediate,  
8 criminal or other inferior court, shall be filled by the gov-  
9 ernor of the state by appointment. If the unexpired term  
10 of a judge of the supreme court of appeals, or a judge  
11 of the circuit court, a common pleas, intermediate, crim-  
12 inal or other inferior court, be for less than two years; or  
13 if the unexpired term of any other office named in this  
14 section be for a period of less than two years and six  
15 months, the appointment to fill the vacancy shall be for  
16 the unexpired term. If the unexpired term of any of-  
17 fice be for a longer period than above specified, the ap-  
18 pointment shall be until the next general election and  
19 until the election and qualification of a successor to the

20 person appointed, at which election the vacancy shall be  
21 filled by election for the unexpired term. Proclamation  
22 of any election to fill an unexpired term shall be made by  
23 the governor of the state, and, in the case of an office to  
24 be filled by the voters of the entire state, shall be published  
25 once a week for four successive weeks prior to the elec-  
26 tion in at least one newspaper of general circulation in  
27 each county in the state, of each of the two political  
28 parties which, at the last general election in the state,  
29 cast the highest and second highest number of votes. If  
30 the election be to fill a vacancy in the office of judge of a  
31 circuit court, the proclamation shall be published for a  
32 like period in the two leading newspapers of opposite  
33 party politics, having the largest and second largest cir-  
34 culation in each county in the judicial circuit. If the  
35 election be to fill a vacancy in the office of judge of a  
36 common pleas, intermediate, criminal or other inferior  
37 court, the proclamation shall be published for a like period  
38 in the two leading newspapers of opposite party politics,  
39 having the largest and second largest circulation in the  
40 county. Candidates to fill any vacancy in any office named

41 in this section shall be nominated in the manner pro-  
42 vided in this article for nominating candidates to fill a  
43 vacancy in the office of governor, to be voted for at a  
44 general election, but, in selecting candidates for the office  
45 of judge to serve in a single county, the county executive  
46 committee of the county shall perform the duties relat-  
47 ing thereto, and, in selecting candidates for the office of  
48 judge of a circuit court in circuits embracing more than  
49 one county, the county executive committees of the coun-  
50 ties concerned shall resolve themselves into a judicial  
51 circuit committee for discharge of the duties relating to  
52 such nominations.

**Sec. 4. Congressmen Vacancies.**---If there be a vacancy  
2 in the representation from this state in the house of rep-  
3 resentatives in the congress of the United States, the gov-  
4 ernor shall, within ten days after the fact comes to his  
5 knowledge, give notice thereof by proclamation, to be  
6 published once each week for two successive weeks in  
7 two newspapers of opposite politics in each county in the  
8 district where such vacancy may occur. In such procla-  
9 mation he shall appoint some day, not less than thirty

10 nor more than seventy-five days from the date thereof,  
11 for holding the election to fill such vacancy. Nomina-  
12 tions to fill such vacancy shall be made in the manner  
13 prescribed for nominating a candidate to fill a vacancy  
14 in the office of governor, to be voted for at a special elec-  
15 tion. The congressional district executive committee of  
16 a party shall perform the duties devolving upon the state  
17 executive committee in filling a state office.

**Sec. 5. Vacancies in State Legislature.**—Any vacancy  
2 in the office of state senator or member of the house of  
3 delegates shall be filled by appointment by the governor,  
4 in each instance from a list of three legally qualified per-  
5 sons submitted by the county party executive committee  
6 in the case of a member of the house of delegates, and by  
7 the party executive committee of the state senatorial dis-  
8 trict in the case of a state senator, of the party with which  
9 the person holding the office immediately preceding the  
10 vacancy was affiliated, and of the county or state sena-  
11 torial district, respectively, in which he resided at the  
12 time of his election or appointment. The appointment to  
13 fill a vacancy in the house of delegates shall be for the

14 unexpired term. If the unexpired term in the office of  
15 state senator be for less than two years and two months,  
16 the appointment shall be for the unexpired term. If the  
17 unexpired term be for a period longer than two years  
18 and two months, the appointment shall be until the  
19 next general election and until the election and quali-  
20 fication of a successor to the person appointed, at which  
21 general election the vacancy shall be filled by election  
22 for the unexpired term. Notice of an election to fill  
23 a vacancy in the office of state senator shall be given  
24 by the governor by proclamation and shall be pub-  
25 lished once a week for two successive weeks prior to  
26 the date of the election, in two newspapers having the  
27 largest and second largest circulation, and of opposite  
28 party politics, published in each county in the senatorial  
29 district. Nominations for candidates to fill such vacancy  
30 shall be made in the manner prescribed for nominating a  
31 candidate to fill a vacancy in the office of governor to be  
32 voted for at a general election. The state senatorial dis-  
33 trict executive committee of the political party shall dis-  
34 charge the duties incident to state senator nominations

35 devolving upon the party state executive committee in  
36 nominating a candidate for a state office.

**Sec. 6. Circuit Court Clerk Vacancies.**—When a va-  
2 cancy occurs in the office of clerk of the circuit court,  
3 the circuit court, or the judge thereof in vacation,  
4 shall fill the same by appointment until the next gen-  
5 eral election, and the person so appointed shall hold of-  
6 fice until his successor is elected and qualified. At such  
7 general election a clerk shall be elected for the unexpired  
8 term. The circuit court, or the judge thereof in vacation,  
9 shall cause a notice of such election to be published once  
10 each week for two successive weeks in two newspapers  
11 of opposite politics, printed in the county, if there be any  
12 such papers printed therein, or in such other manner as  
13 will give ample notice of such election. If the vacancy  
14 occurs before the primary election held to nominate can-  
15 didates to be voted for at the general election, at which  
16 any such vacancy is to be filled, candidates to fill such  
17 vacancy shall be nominated at such primary election in  
18 accordance with the time requirements and the provisions  
19 and procedures prescribed in article five of this chapter.

20 Otherwise, they shall be nominated by the county execu-  
21 tive committee in the manner provided in section nine-  
22 teen, article five, of this chapter, as in the case of filling  
23 vacancies in nominations, and the names of the persons,  
24 so nominated and certified to the clerk of the circuit court  
25 of such county, shall be placed upon the ballot to be voted  
26 at such next general election.

**Sec. 7. County Commissioner, Clerk of County Court,**  
2 **Justice and Constable Vacancies.**—Any vacancy in the of-  
3 fice of county court commissioner, clerk of county court,  
4 justice or constable shall be filled by the county court of  
5 the county, unless the number of vacancies in a county  
6 court deprive that body of a quorum, in which case the  
7 governor of the state shall fill any vacancy in such county  
8 court necessary to create a quorum thereof, until the next  
9 general election, at which election every such vacancy  
10 shall be filled by election for the unexpired term. In the  
11 case of a vacancy in the office of the county court com-  
12 missioner in any county in the state, if the remaining  
13 members of such county court fail, refuse or neglect to  
14 fill such vacancy within sixty days from the time it occurs,

15 then the governor of the state shall appoint some qualified  
16 citizen of said county belonging to the same political party  
17 as the vacating member to serve as county court com-  
18 missioner until the next general election. Notice of such  
19 election shall be given by order of the county court, and  
20 published as prescribed in the next preceding section,  
21 except that such notice in case of an election to fill a  
22 vacancy in the office of justice of the peace or constable,  
23 instead of being published in a newspaper, may, in the  
24 discretion of such court, be posted at the front door of the  
25 court house of the county, and at each voting place in  
26 the district wherein such vacancy occurs. Nominations of  
27 candidates to fill any vacancy in the office of county com-  
28 missioner, clerk of the county court, justice or constable  
29 shall be made in the manner prescribed for making nomi-  
30 nations to fill a vacancy in the office of the clerk of the  
31 circuit court.

**Sec. 8. Prosecuting Attorney, Sheriff, Assessor and Sur-**

2 **veyor Vacancies.**—Any vacancy occurring in the office of  
3 prosecuting attorney, sheriff, assessor or county surveyor  
4 shall be filled by appointment by the county court until the



5 next general election at which time such vacancy shall be  
6 filled by election for the unexpired term. Notice of an  
7 election to fill a vacancy in any of the offices named in this  
8 section shall be given by the county court, or by the presi-  
9 dent thereof in vacation, and published or posted in the  
10 manner prescribed in section six of this article. Nomina-  
11 tion of candidates to fill any such vacancy shall be made  
12 in the manner prescribed in said section six of this article  
13 for nominating candidates to fill a vacancy in the office  
14 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

Ethel L. Crandall  
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

Howard H. Myers  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Howard W. Carson  
President of the Senate

Julius W. Singleton  
Speaker House of Delegates

The within approved this the 16<sup>th</sup>  
day of March, 1963.

W. T. T. Benson  
Governor

