

ELECTIONS.

CHAPTER 66.

[S. B. No. 178.]

THE AUSTRALIAN ELECTION LAW.

AN ACT Providing for Printing and Distributing Ballots at Public Expense, and to Regulate voting at all General Elections, Except Municipal, Town or School Elections.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **BALLOTS, HOW PRINTED.]** All ballots cast at elections for public officers within this State (except municipal and town officers and all school officers except Superintendent of Public Instruction) shall be printed and distributed at public expense, as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county and the delivery of the same to the election officers, as hereinafter provided, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses.

§ 2. **CANDIDATES, HOW NOMINATED.]** Any convention, held for the purpose of making nominations for public office, and also electors to the number hereinafter specified, may nominate candidates for public office, to be filled by election within the State. A convention, within the meaning of this act, is an organized assemblage of electors or delegates, representing a political party or principle.

§ 3. **CERTIFICATES OF NOMINATION.]** All nominations made by such convention shall be certified as follows: The certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his residence, his business, his address and the office for which he is named, and shall designate, in not more than five words, the party or principle which such convention represents, and it shall be signed by the presiding officer and secretary of such convention, who shall add to their signatures their respective place of residence, their business and address. Such certificate, made out as herein required, shall be delivered by the secretary or president of such convention by registered letter or in person, without charge, to the Secretary of State or to the county auditor, as hereinafter required.

§ 4. **CERTIFICATES, WHERE FILED.]** Certificates of nomination for candidates for offices, to be filled by the electors of the

entire State, or of any division or district greater than a county, and for all Legislative officers, shall be filed with the Secretary of State. Certificates of nomination for county officers shall be filed with the auditor of the respective counties wherein the officers are to be elected.

§ 5. CANDIDATES MAY BE NOMINATED OTHERWISE THAN BY CONVENTION, HOW.] Candidates for public office may be nominated otherwise than by convention, in the manner following: A certificate of nomination, containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in Section 3 of this act, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected, in the following numbers: The number of signatures shall not be less than 200 when the nomination is for an office to be filled by the electors of the entire State, and need not exceed 100 when the election is for an office to be filled by the electors of a county, district or other division less than a State; *Provided*, That the said signatures need not be appended to one paper. Each elector signing a certificate shall add to his name his place of residence, his business and his address. Such certificate may be filed as provided for in Section 4 of this act, in the same manner and with the same effect as a certificate of nomination made by a party convention.

§ 6. CERTIFICATE OF NOMINATION WHAT TO CONTAIN.] No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall join in the nomination of more than one person for each office to be filled, and no person shall accept a nomination to more than one office.

§ 7. CERTIFICATES TO BE PRESERVED—ELECTION PRECINCTS, HOW FORMED.] The Secretary of State and the auditors of the several counties shall cause to be preserved in their respective offices for six months all certificates of nomination filed in their respective offices under the provisions of this act. All such certificates shall be open to public inspection under proper regulations, to be made by the officers with whom the same are filed. The board of county commissioners of each county in the State shall, at their first session after the taking effect of this act, divide their respective counties into election precincts and establish the boundaries of the same. The entirety of civil townships, cities or villages as voting precincts shall be preserved as much as possible, except when such preservation would conflict with the provisions of this section. In such case the civil township, city or village shall be divided into two or more precincts; but in no case shall a precinct be composed of parts of two civil townships or part of a township and city or village or part thereof. Such board of commissioners shall designate one voting place in each precinct, and each precinct shall contain 250 electors, or less, based on the number of votes cast at the last general election; but no precinct shall

contain more than 300 electors. If, at any election hereafter, 300 or more votes shall be cast at any voting place, it shall be the duty of the inspector in such precinct to report the same to the board of county commissioners, who shall, at their next regular meeting, divide such precinct as nearly as possible so that the new precincts formed thereof shall each contain 250 electors, as nearly as practicable.

§ 8. WHEN CERTIFICATES OF NOMINATION TO BE FILED.] Certificates of nominations to be filed with the Secretary of State shall be filed not more than sixty days and not less than thirty days before the day fixed by law for the election of the persons in nomination. Certificates of nomination herein directed to be filed with the auditor shall be filed not more than sixty days and not less than twenty days before the election; *Provided*, That the provisions of this section shall not be held to apply to nominations for special elections to fill vacancies caused by death, resignation or otherwise.

§ 9. SECRETARY OF STATE TO CERTIFY NOMINATIONS FOR STATE OFFICE.] Not less than twenty-five nor more than thirty days before an election to fill any state or district office, the Secretary of State shall certify to the auditor of each county, within which any of the electors may by law vote for candidates for such office, the name and place of residence of each person nominated for such office, as specified in the certificates of nomination filed with the Secretary of State.

§ 10. NOMINATIONS TO BE PUBLISHED.] At least ten days before an election to fill any public office to be filled under the provisions of this bill, the auditor of each county shall cause to be published in one or more newspapers within the county the nominations to office certified to him under the provisions of this act. The auditor shall make such publications daily, until the elections, in counties where daily newspapers are published; but if there be no daily newspaper published within the county, two publications in each newspaper will be sufficient; and if there be no paper published in any county, written or printed notices shall be posted in not less than three conspicuous places in each precinct. One of such publications in each newspaper shall be upon the last day upon which such newspaper is issued before election.

§ 11. IN CASE NOMINEE DECLINES.] Whenever any person nominated for public office, as in this act provided, shall, at least twenty-five days before election, in writing signed by him, notifying the officer with whom the certificate nominating him is by this act required to be filed that he declines such nomination, such nomination shall be void.

§ 12. VACANCIES ON TICKET, HOW FILLED.] Should any person so nominated die before the printing of the tickets, or decline the nomination as in this act provided, or should any certificate of nomination be or become insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in

the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, the committee of the political party he represents may, upon the occurring of such vacancy, proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the Secretary of State, he shall, in certifying the nominations to the various auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And in the event that he has already sent forth his certificate, he shall forthwith certify to the auditors of the proper counties the name and place of residence of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted. And any failure to publish the name of a person or persons so substituted shall not invalidate the election.

§ 13. IN CASE OF VACANCY AFTER TICKETS ARE PRINTED.] When any vacancy occurs before election day and after the printing of the tickets, and any person is nominated according to the provisions of this act to fill such vacancy, the officer whose duty it is to have the tickets printed and distributed shall thereupon have printed on a requisite number of stickers the name of such substituted candidate and no other name, and shall mail them by registered letter, or send by other reliable method, to the judges of election in the various precincts affected by said vacancy, and the judges of election whose duty it is made by the provisions of this act to distribute the tickets, shall affix such stickers in the proper place on each ticket before it is given out to the electors.

§ 14. CONSTITUTIONAL AMENDMENTS TO BE ADVERTISED.] Whenever a proposed constitution or constitutional amendment or other question is to be submitted to the people of the State for popular vote, the Secretary of State shall duly, and not less than thirty days before election, certify the same to the auditor of each county in the State, and the auditor of each county shall include the same in the publication provided for in Section 10 of this act. Questions to be submitted to the people of a county shall be advertised as provided for nominees for office by said section.

§ 15. WHEN ELECTOR MAY WRITE NAME OF CANDIDATE ON TICKET.] Except as in this act otherwise provided, it shall be

the duty of the auditor of each county to provide printed ballots for every election for public officers in which electors, or any of the electors within the county, participate, and to cause to be printed on the ballots the name of every candidate whose name has been certified to or filed with the auditor in the manner provided for in this act. Ballots other than those printed by the respective county auditors, according to the provisions of this act, shall not be cast or counted in any election. Nothing in this act contained shall prevent any voter from writing or pasting on his ballot the name of any person for whom he desires to vote for any office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter.

§ 16. (a) INSPECTOR OF ELECTIONS, DUTY OF—ELECTION BOARD, HOW CONSTITUTED.] The chairman of the board of supervisors in organized townships shall, by virtue of his office be inspector of elections; in the case that the township is composed of more than 300 voters, then the said chairman shall be inspector of elections for that precinct in which he lives, and shall have the power of appointing the inspector in the other precinct or precincts, which are the component parts of the township of which he is chairman. In all cities the senior alderman shall be inspector of election for the precinct which he represents, and in incorporated villages the president of the village board of trustees shall so sit. The inspector shall, prior to the opening of the polls in his precinct, appoint as judges of election two qualified electors of such precinct, who shall have been resident householders therein for at least ninety days next preceding such election, and who are members of different political parties, and of the parties which cast the highest number of votes at the preceding general election; *Provided*, That if, at least one week prior to such election, the chairman of the county central committee of either of the two parties that cast the largest number of votes in the State at the last general election shall nominate a member of such party as judge, having the same qualifications as above prescribed, and upon presenting certificate of such nomination signed by said chairman, he shall be appointed by the inspector, and such judges, together with the inspector, shall constitute a board of election. No person shall be eligible as a member of the board of election who has anything of value bet or wagered on the result of such election, or who is a candidate or is father, father-in-law, brother, brother-in-law, uncle or nephew of any candidate at such election. If, at any time before or during an election, it shall be made to appear to any inspector, by the affidavit of two or more qualified electors of the precinct, that either of the judges is disqualified under the provisions of this act, he shall at once remove such judge and fill the place with a qualified person of the same political party as the judge removed, and in case such disqualified judge shall have taken the oath of office hereinafter described, the inspector shall

place such oath and affidavit before the states attorney of the county.

(b.) DUTIES OF COUNTY SUPERINTENDENTS IN RELATION TO ELECTION BOARDS AND INSPECTORS.] In precincts other than organized townships, the board of county commissioners shall, at the June term of the said board next preceding any election, appoint in each precinct, as inspector of such election, some qualified elector of such precinct, who shall have been a resident householder in such precinct for at least ninety days next preceding such election, and shall be a legal voter in the State. Such board of county commissioners shall hold a special session one month before each election, and shall fill all vacancies that may have occurred in the office of inspector and shall fill any vacancy occurring thereafter at any regular or called session one week before each election. Such appointed inspector shall, before the time of opening the election in his precinct, appoint two election judges, in the same manner and under the same requirements as provided for township inspectors acting as inspectors, and such judges and inspector shall constitute the board of election for that precinct. If any member of an election board shall have failed to appear at the hour appointed for the opening of the polls, the remainder of the board shall select a member of his political party to serve in his stead; *Provided*, That if the qualified electors of his party present at the polls shall nominate a qualified person for such vacancy, such nominee shall be appointed. If none of the members of the election board shall appear at the hour appointed for opening the polls, the qualified electors present shall elect a board *viva voce*, as nearly as possible in conformity with the provisions hereof.

(c) POLL CLERKS.] Such board of election shall appoint as poll clerks two qualified electors of such precinct, one from each of the two parties that cast the largest vote in the last State general election.

§ 17. BALLOTS, WHAT TO CONTAIN, HOW PRINTED.] All ballots prepared under the provisions of this act shall be white and of a good and uniform quality of paper, and the names shall be printed thereon in black ink. At the head of each ballot shall be printed the name or designation of every political party represented on such ballot which cast 5 per cent. of the whole vote at the last general election. Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been certified or filed according to the provisions of this act and no other names. The names of candidates for office shall be arranged under the designation of the office, in alphabetical order, according to the surnames, except that the names of electors of President and Vice-President of the United States, presented in one certificate of nomination, shall be arranged in a separate group. Every ballot shall also contain on the same line and immediately following the name of each candidate the name of the party or principle which such candidate represents, as con-

tained in the certificates of nominations. At the end of the list of candidates for each office shall be left a blank space, large enough for the name of a candidate to be written in. There shall be a margin on each side at least half an inch in width, and a reasonable space between the names to be printed thereon, so that the voter may clearly indicate, in the way hereinafter provided, the candidate or candidates for whom he wishes to cast his ballot. Whenever the Secretary of State has duly certified to the auditor any question to be submitted to a vote of the people, the auditor shall have printed on the regular ballots the question in such form as will enable the electors to vote upon the question so presented in the manner hereinafter provided. The auditor shall also prepare the necessary ballots whenever any question is required by law to be submitted to the vote of the electors of any locality, and not to the State generally.

§ 18. NUMBER OF BALLOTS—HOW DISTRIBUTED—POLL BOOK, ETC.] The auditor of each county shall provide for each election precinct in the county 150 ballots for every fifty or fraction of fifty electors registered in the precinct in packages or blocks containing 150 ballots each. If there is no registry in the precinct the county auditor shall provide ballots to the number of 150 for every fifty or fraction of fifty electors who voted at the last preceding election in the precinct; *Provided*, That if the electors of any precinct have materially increased, then such auditor may provide in the same proportion the necessary additional ballots according to best information obtainable. The ballots to be printed by the county auditors shall be printed and held ready for inspection by the candidates and their agents, at least five days before a general election. And five days before said election, five printed and exact copies of the ballots, except that they shall be printed upon tinted paper, shall be sent to the inspector at each precinct, to be by him posted in five conspicuous places in his precinct, one being posted at the polling station. And if it be found that the ballots, as provided to the inspector for voting purposes, and the said copies be not identical in all respects except in color, then the difference shall be held to be *prima facie* evidence of fraud on the part of the auditor and he shall be liable to punishment as provided elsewhere for violation of this law. At the time of distribution of said copies, the auditor shall cause to be delivered to the inspectors of the several precincts a suitable number of blank forms of poll books and also forms of election returns, with the proper captions, forms of oaths, and forms of certificates and tally papers necessary to carry out the provisions of the election laws.

§ 19. IN CASE OF ERROR IN PUBLICATION.] Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names of the candidates nominated for office, or in the printing of the ballots, the district or county judge may, upon application of an elector, by order require the auditor to show cause why such error should not be corrected.

§ 20. **BALLOTS, HOW DELIVERED—OFFICIAL STAMPS.]** The several auditors aforesaid shall deliver or cause to be delivered, by mail or other reliable method, to the inspector aforesaid one package containing 150 official ballots for every fifty voters or fraction thereof who voted at the last preceding election held in the district, town, county, city or village for which they are printed or more as provided for in Section 18 of this act. Such official ballots shall be delivered to such inspector at least twenty-four hours before the hour of opening the polls on election day. Said official ballots shall be sent in sealed packages, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots enclosed. Such inspector shall, on delivery to him of such packages, return receipts therefor to the auditor from whom received. He shall also deliver to the said inspector a rubber or other stamp, with ink pad, for the purpose of stamping or designating the official tickets, as hereinafter provided. Said stamp shall contain the words "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election. The stamps and ballots shall be given to the inspectors of each election precinct; but in case it may be impracticable to deliver such stamps and ballots to such inspector, then they may be delivered to one of the judges of election of any such precinct. And in making the appointment of judges of election under this act, not more than a majority of such judges of election shall be appointed from any one political party for each precinct.

§ 21. **EXAMINATION OF BALLOTS AND BOX.]** On the opening of the polls at each polling place, the inspector shall produce the sealed package of official ballots and publicly open it and deliver one package or block of ballots therein contained to the ballot clerk as heretofore provided for. The other blocks of ballots, if any, shall be retained by the inspector until they are called for by the ballot clerks and needed for the purpose of voting. And before declaring the polls open, he shall see that the ballot box is empty and allow all judges to satisfy themselves on this point. After such inspection he shall relock the box.

§ 22. **ELECTION BOOTHS, HOW BUILT.]** The inspectors of election shall provide in their respective polling places a sufficient number of places, booths or compartments, which shall be furnished with such supplies and conveniences as shall enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from outside observation, and a guard rail with an opening so constructed that only persons within such rail can approach within ten feet of the ballot boxes, or the places, booths or compartments herein provided for. The number of such places, booths or compartments shall not be less than one for every fifty electors or fraction thereof in the precinct. No election shall be held in a room in which spirituous or malt liquors are commonly sold. Not more than one elector for each

booth engaged in receiving, preparing or depositing their ballots shall be permitted within the railing at one time. One challenger appointed and designated from each of the political party organizations shall be entitled to stand at the opening of the railing on the outside. If any person offering to vote shall be challenged by one of such challengers or by any one of the election board, unless such challenge be withdrawn, he shall stand aside and shall not vote unless he make affidavit in writing that he is a legally qualified elector of the precinct. The expense of providing such places or compartments and guard rails shall be a public charge and shall be provided for in the same manner as the other election expenses. And the choice of the material for the construction of said booths or compartments shall be left to the inspector, and he shall in all cases choose material not transparent as shall provide perfect secrecy and carry out the provisions of this section. On or before the 1st day of September of each year in which an election is to be held, the officers now charged by law with the division or alteration of election precincts shall, as far as necessary, alter or divide the existing election precincts in such manner that each election precinct shall not contain more than 300 voters.

§ 23. OFFICIAL BALLOT, HOW GIVEN TO ELECTOR.] At an election it shall be the duty of the inspector or one of the judges of election, to deliver ballots to the qualified electors. Before delivering any ballot to an elector, the said inspector or judge shall print on the back and near the top of, the ballot, with the rubber or other stamp provided for the purpose, the designation "Official Ballot," and the other words on the said stamp as provided for in Section 20 of this act, and also write his initials thereon. Each qualified elector shall be entitled to receive from the said judges one ballot.

§ 24. HOW ELECTOR SHALL PREPARE BALLOT.] On receipt of his ballot, the elector shall forthwith, and without leaving the polling place, retire alone to one of the places, booths or compartments provided, to prepare his ballot. He shall prepare his ballot by marking a cross before the name of the person or persons for whom he intends to vote. For example, "X," or in case of a ballot containing a constitutional amendment, or other question, to be submitted to the vote of the people, by crossing out therefrom parts of the ballot in such manner that the remaining part shall express his vote upon the question submitted, or the elector may write in the blank spaces or paste over any other name the name of any person for whom he may wish to vote. After preparing his ballot the elector shall fold it so that the face of the ballot will be concealed, and so that the indorsement stamped thereon may be seen. He shall then vote forthwith and before leaving the polling place, and after voting he shall immediately leave the room; *Provided, however,* That any elector who desires to vote an entire group or a straight party ticket may mark a cross as above described against the political designation of such group, or —

party ticket, and shall then be deemed to have voted for all the persons named in such group or in such party ticket whose names shall not have been erased, the former provisions of this section notwithstanding.

§ 25. ONLY ONE PERSON IN BOOTH.] Not more than one person shall be permitted to occupy any one booth at one time, and no person shall remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot, and in no event longer than five minutes; *Provided*, That the other booths or compartments are occupied.

§ 26. IN CASE ELECTOR SPOILS BALLOT.] No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately cancelled, and together with those not distributed to the voters, shall be preserved and shall be secured in sealed packages and returned to the county auditor from whom received.

§ 21. IN CASE OF DISABILITY OF ELECTOR.] Any voter who declares to the judges of election, or when it shall appear to the judges of election that he cannot read, or that by blindness or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of two of the election officers in the marking thereof, who shall be chosen from different political parties, and such officers shall certify on the outside thereof that it has been so marked with their assistance, and shall thereafter give no information regarding the same. The judges may, in their discretion, require such declaration of disability to be made by the voter under oath before them, and they are hereby qualified to administer the same. No elector other than one who may because of his inability to read, or physical disability, be unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote, or to ask or receive the assistance of any person within the polling place in the preparation of his ballot.

§ 28. PENALTY FOR CASTING ILLEGAL BALLOT.] No inspector or judge of election shall deposit in any ballot box any ballot upon which the official stamp, as hereinbefore provided for, does not appear. Every person violating the provisions of this act shall be deemed guilty of a misdemeanor.

§ 29. INSTRUCTION TO ELECTORS.] The auditor of each county shall cause to be printed in large type, on cards, in English, instructions for the guidance of electors in preparing their ballots. He shall furnish ten such cards to the judges of election in each election precinct, and one additional card for each fifty electors or fractional part thereof in the precinct, at the same time and in the same manner as the printed ballots. The judges of election shall post not less than one of such cards in each place or compartment provided for the preparation of bal-

lots, and not less than three of such cards elsewhere in and about the following [polling] places upon the day of election. Said cards shall be printed in large, clear type, and shall contain full instructions to the voters as to what should be done, viz.: First, to obtain ballots for voting; second, to prepare the ballots for deposit in the ballot boxes; third, to obtain a new ballot in the place of one spoiled by accident or mistake. Said card shall contain a copy of Sections 31, 32, 33 and 34 of this act. There shall also be posted in each of the apartments or booths one of the official tickets without the official stamp hereinbefore provided for, and not less than three such tickets posted elsewhere in and about the polling places upon the day of election.

§ 30. **BALLOTS, WHEN VOID.**] In the canvas of the votes, any ballot which is not endorsed, as provided in this act, by the official stamp and initials, shall be void and shall not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice, shall be void and shall not be counted; *Provided*, That when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, it shall be the duty of the judges of election to count such part.

§ 31. **PENALTY FOR DESTROYING OR DEFACING CERTIFICATES OR BALLOTS.**] Any person who shall falsely make, or make oath to or fraudulently deface, or fraudulently destroy any certificate of nomination, or any part thereof, or file or receive for filing any certificate of nomination, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or forge or falsely make the official endorsement on any ballot, or willfully neglect to properly endorse said ballot, shall be deemed guilty of a felony, and upon conviction thereof, in any court of competent jurisdiction, shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

§ 32. **PENALTY FOR DESTRUCTION OF ELECTION MACHINERY OF ANY KIND.**] Any person who shall, during the election, willfully remove or destroy any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to or on the day of election willfully deface or destroy any list of candidates posted in accordance with the provisions of this act, or copy of printed ticket, or who shall, during an election, tear down or deface the cards printed for the instruction of voters, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred (100) dollars.

§ 33. **PENALTY FOR FAILURE PUBLIC OFFICER TO ATTEND TO DUTIES PRESCRIBED.**] Any public officer upon whom any duty is imposed by this act, who shall willfully do or perform any act or thing herein prohibited, or willfully neglects or omits to perform any duty as imposed upon him by the provisions of this act, shall

be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office and shall be punished by imprisonment in the county jail for a term of not less than one month nor more than six months, or by a fine of not less than fifty (50) dollars and not more than five hundred (500) dollars, or by both such fine and imprisonment.

§ 34. ELECTIONEERING PROHIBITED—SECRET BALLOT.] No officer of election shall do any electioneering on election day. No person shall do any electioneering on election day within polling place or any building in which an election is being held, or within fifty feet thereof, nor obstruct the doors or entrance thereto, or prevent free ingress to and egress from said building. And the inspector and judges of election, shall, if they deem it necessary, appoint an election officer; such election officer, sheriff, constable, or other peace officer, is hereby authorized and empowered, and it is hereby made his duty to clear the passageway and prevent such obstruction and to arrest any person creating such obstruction. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of any candidate or candidates for whom he has marked his vote, nor shall any person solicit the elector to show the same; nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots, nor shall any person other than such inspector or judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the judges of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Any elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred (100) dollars, and adjudged to pay the costs of prosecution.

§ 35. CANVASS.] As soon as the poll of the election shall be finally closed, the inspectors shall proceed immediately to canvass publicly, in the presence of all persons desiring to attend the same, the votes received at such poll, and continue without adjournment until the canvass is completed, and the statements hereinafter required are made. They shall commence by a comparison of the poll lists, and the correction of any mistakes herein, until they shall be found or made to agree. The box shall then be opened and the ballots therein taken out and counted by the inspectors, unopened, except so far as to ascertain

whether each ballot is single; and if two or more ballots be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballot is completed; and if, upon a comparison of the count and the appearance of such ballot, a majority of the inspectors shall be of the opinion that the ballots thus folded together were voted by one elector, they shall be destroyed. If the ballots in the box shall be found to exceed in number, after any such ballots folded together are destroyed, the whole number of votes on the poll lists, they shall be replaced in the box, and one of the inspectors shall publicly draw therefrom by chance, and without examination thereof, and destroy so many ballots unopened as shall be equal to such excess. The number of ballots agreeing, or so as aforesaid being made to agree, with the poll lists, the inspectors shall then proceed to open and count and ascertain the number of votes.

§ 36. RESULT OF CANVASS TO BE ANNOUNCED.] The canvass being completed, the inspectors shall then publicly announce the result thereof, specifying the whole number of votes cast for each office and each person to fill the same respectively, and for and against each proposition voted for at such election, and shall immediately draw up a statement in writing thereof, in duplicate, setting forth therein, in words at length and in figures, the whole number of votes given for each office at such election, the names of all the persons for whom such votes were given, as shown upon the ballots, and the number of votes so given for each person, and the number of votes given for and against each proposition voted for, if any at such election, which statements they shall certify to be correct, and subscribe with their names.

§ 37. RETURNS, HOW AND WHERE MADE—COMPENSATION OF OFFICERS.] The inspector of election, or one of the judges appointed by him, shall forthwith deliver to the clerk of the town, city or village, one of said statements and one of said poll lists, together with the stamp, to be filed and preserved in his office, and shall with all convenient dispatch and within three days after the election deliver the other statement to the auditor, it having been by the judges carefully sealed up, together with the other poll list with the oaths of inspectors and clerks affixed, under cover, properly directed to the auditor, and the person delivering such returns to the auditor shall be entitled to receive as compensation therefor the sum of two (2) dollars, and mileage at the rate of five (5) cents per mile for each mile necessarily traveled in going to and returning from such auditor's office, to be paid out of the county treasury, on the warrant of the auditor. The inspector of elections shall lock the ballot box after the ballots have been replaced therein in the presence of all the judges, and shall send the key properly labelled with the name and number of the polling precinct, at the same time as he returns the poll books and statements, to the county auditor, but shall retain, in safe custody, the ballot box used at the election, sealed,

with all the ballots cast at the same, replaced therein, during sixty days next after election. And it shall be his duty to cause the said box to be safely delivered to the county auditor upon the written request of the board of canvassers at any time during said sixty days. In organized townships, within thirty days after said date, or in cities or villages, the inspector of elections shall deliver, if he be not himself the officer in question, the boxes to the chairman of the board of supervisors of the civil township, or mayor of the city, or president of the village, in which the election precinct is situated, as the case may be; and this officer shall keep in safe custody the said boxes until the next election or hand them over to his successor in office to be by him safely kept until such time. At the following general election it shall be the duty of these officers to hand the ballot boxes over to the inspector of elections, and in the case that they have lost or destroyed them, then they shall replace them each at his own cost. In unorganized townships the inspectors of elections shall cause the ballot boxes to be safely delivered to the county auditor, between the sixtieth and ninetieth day following the election. And the same compensation shall be allowed for such delivery as is allowed in this section of this act for returning the poll book and statement to the auditor.

§ 38. PURCHASE AND SUPPLY OF BALLOT BOXES A COUNTY CHARGE.] For the first election held under the provisions of this act, the purchase and supplying of the ballot boxes shall be a county charge, and it shall be the duty of the county auditor to send said ballot boxes to the different precincts, at the same time that he delivers or causes to be delivered the official ballots and poll books. And at all elections subsequent he shall cause the keys of the different boxes to be delivered to the different precincts at a like time and manner.

§ 39. LAW TO BE PRINTED.] It shall be the duty of the Secretary of State to cause to be published, in pamphlet form, and distributed through the auditors of the respective counties, a sufficient number of copies of this law, and such other laws as bear upon the subject of election, as will place a copy thereof in the hands of all officers of election.

§ 40. WHEN POLLS OPEN.] At all elections held under the provisions of this act, the polls shall be opened at 8 o'clock a. m. and closed at 5 o'clock p. m. Twenty minutes prior to 5 o'clock p. m. the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed and that such closing will be precisely at 5 o'clock p. m.

§ 41. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 7, 1891.