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STATE OF MISSISSIPPI

Corrupt Practices Act of 1935

House Bill
Number Nine

Price 25c

F. Clifton White Resource Center
International Foundation
for Election Systems
1101 15th Street, NW
Washington, DC 20005

TOM L. KETCHINGS COMPANY

PRINTING - RULING - BINDING
NATCHEZ, MISSISSIPPI

CORRUPT PRACTICES ACT

OF 1935

An Act to afford additional measures for the prevention of fraud and other mischievous or corrupt practices in primary elections; to prevent illegitimate impositions upon candidates and upon the electorate, including the irresponsible making and circulating of certain charges against candidates, and placing a higher degree of responsibility upon candidates and their campaign workers for the proper and lawful conduct of the primary campaign, and to regulate and limit the contributions and expenditures in such elections. And, in order to give uniformity of construction and more effective strength in the complete, impartial and non-partisan administration of the primary election laws, to confer jurisdiction, under certain circumstances, upon the courts, and, in consideration thereof, to eliminate the election of important judicial officers at so-called scrub races, and so far as possible to disengage the nominations for judicial officers from any involvement in, or entanglement with, other candidates in a primary.

Section I. Be it enacted by the Legislature of the State of Mississippi, That this act may be cited as the Mississippi corrupt practices act of 1935, and its provisions shall receive an ordinary and reasonable construction in order to accomplish its purposes rather than a strict and illiberal construction. Every candidate upon entering the race for a party nomination for office shall first file with the circuit clerk, if for a county or county district, an affidavit made before a competent officer that the candidate has carefully read this act and any and all amendments thereto and that he has not, and that he will not, during his candidacy violate any of the obligations or prohibitions thereof; and every candidate for nomination at a primary other than those last mentioned shall in like time file a like affidavit with the secretary of

state; and every campaign manager, assistant campaign manager, and every person authorized, as elsewhere in this act mentioned, to receive contributions or to make expenditures in behalf of any candidate shall file a like affidavit before he shall enter upon any of the duties of his appointment. The circuit judge shall, in his charge to the grand jury at each session of the circuit court, review this act and any amendments thereof that the purposes of this act may be well understood; and in addition he shall make such comments as to him shall appear best calculated to impress the facts that an incorruptible respective government can not exist except as a result of an unpurchased and free and independent ballot.

Sec. 2. The county executive committee shall designate a person whose duty it shall be to distribute all necessary ballots for use in a primary election, and shall designate one among the managers at each polling place to receive and receipt for the blank ballots to be used at that place. When the blank ballots are delivered to a local manager the distributor shall take from the local manager a receipt therefor signed in duplicate by both the distributor and the manager, one of which receipts the distributor shall deliver to the circuit clerk and the other shall be retained by the local manager and which last mentioned duplicate receipt shall be enclosed in the ballot box with the voted ballots when the polls have been closed and the votes have been counted. The printer of the ballots shall take a receipt from the distributor of the ballots for the total number of the blank ballots delivered to the distributor. The printer shall secure all ballots printed by him in such a safe manner that no person can procure them or any of them, and he shall deliver no blank ballot or ballots to any person except the distributor above mentioned, and

then only upon his receipt therefor as above specified. And the distributor of the blank ballots shall so securely hold the same that no person can obtain any of them, and he shall not deliver any of them to any person other than to the authorized local managers and upon their respective receipts therefor. The executive committee shall see to it that the total blank ballots delivered to the distributor, shall correspond with the total of the receipts executed by the local managers. Any person charged with any of the duties prescribed in this section who shall wilfully or with culpable carelessness violate the same shall be guilty of a misdemeanor.

Sec. 3A. No person shall be permitted to vote in any primary election in this state unless (1) he or she possesses all qualifications prescribed by section 241 of the constitution of 1890 as amended, except as hereinafter provided in this act, and (2) has actually paid, within the time fixed by law, all poll taxes required of him or her by this act as shown by the poll tax receipt therefor or by certified copies thereof; and, so far as primary elections are concerned no exception from the positive terms of this section shall be made or allowed because the person liable to poll tax was not actually assessed for poll taxes on the assessment rolls of the county; provided, however, that for the primary elections held during the year 1936 the voter shall be required to have only the statutory poll tax receipt for the year 1935.

Sec. 3B. When any person liable to poll tax pays the same, the tax collector shall make a separate poll tax receipt entirely separate from other taxes, and said receipt shall, in addition to the present requirements show the voting precinct of the person paying same, and the exact date that said poll tax was paid, and said receipt shall be made in duplicate with an indelible pencil, and no person shall be allowed to vote in a primary election unless he or she presents to the election managers poll tax receipts for the required years, or a certificate of the circuit clerk as hereinafter specified. When such receipts or certificate is presented to the managers of the election, one of said managers

shall stamp on said poll tax receipts or certificate, as the case may be, the following: "voted primary election", giving the date of the election and name of the precinct. No person shall be allowed to vote at any other precinct than the one named in his receipt or certificate.

It shall be the duty of the board of supervisors to furnish to the registrar a sufficient number of rubber stamps for use of the election managers in carrying out the provisions of this act.

Sec. 3C. The books of duplicate tax receipts used for poll taxes hereinabove provided for, including those partly filled, shall on the 15th day of March of each year be delivered by the tax collector to the circuit clerk, who shall receive, receipt for and carefully preserve the same as public records. And beginning with that date the tax collector shall use other like separate poll tax receipt books, and shall carefully preserve the same as public records until the next 15th day of March.

In case any voter shall lose his poll tax receipt, he may obtain another by applying to the tax collector or to the circuit clerk for a duplicate, and the tax collector or circuit clerk shall issue said duplicate and certify that the same is a true and correct copy of the original as shown by the duplicate thereof then in his office, upon the payment of ten cents for such services by the person applying for such duplicate receipt.

Sec. 3D. A person over sixty years of age shall apply to the circuit clerk and make affidavit to his age, and that he is entitled to vote at a certain precinct to be named in the affidavit, and persons that are becoming twenty-one years of age and not liable to pay poll taxes for that particular year shall, if they desire to vote, appear before the circuit clerk and make affidavit to such fact, and the circuit clerk shall issue his certificate to persons above sixty years of age and to those above sixty years of age and to those becoming twenty-one who are not required to pay a poll tax, and such persons shall, in lieu of the poll tax receipt, present said certificate to the election managers and same shall

be stamped as aforesaid in lieu of the poll tax receipt.

Persons exempt from the payment of poll tax, and such as may be exempt in the future, shall likewise appear before the circuit clerk and make affidavit that they are so exempt, giving the reason therefor, and stating in such affidavit the voting precinct in which they are entitled to vote, and the circuit clerk shall likewise issue to such exempt persons certificates and same shall be presented to the managers and stamped as the poll tax receipt and other certificates are required to be stamped.

In case any voter lose said certificate he may apply to the circuit clerk for another, and the circuit clerk shall issue same to him upon the payment of a fee of ten cents for such services.

The circuit clerk shall keep a record of all certificates issued by him, giving the name, residence and age of the voter, and such record shall be a public record and shall be open to public inspection like other public records.

The circuit clerk is hereby allowed, in addition to all other fees and salaries, the sum of one hundred dollars (100.00) per annum for services in issuing said certificates payable out of the general county fund.

Sec. 3E. In addition to the requirements of other sections of this act and the general laws of the state, no person shall be allowed to vote at any primary election held in this state unless such person has paid his or her poll tax annually prior to February 1st of the year such poll tax is due for the two years prior to the time such person offers to vote.

Sec. 4. At all primary elections the polls shall be opened at eight o'clock in the morning and be kept open until six o'clock in the evening and no longer, except that in cities of more than one thousand registered voters the polls shall be opened at seven o'clock in the morning. Upon the opening of the polls, and not before, the managers of the election shall designate one of their number, other than the manager theretofore designated to receive the blank ballots who shall

thereupon be known as the initialing manager. When any person entitled to vote shall appear to vote, he shall first sign his name in a receipt book or booklet provided for that purpose and to be used at that election only and which receipt book or booklet shall be used in lieu of the list of voters who have voted formerly made by the managers or clerks; whereupon and not before, the initialing manager shall endorse his initials on the back of an official blank ballot, prepared in accordance with law, and at such place on the back of the ballot that the initials may be seen after the ballot has been marked and folded, and when so endorsed he shall deliver it to the voter, which ballot the voter shall mark in the manner provided by law, which when done the voter shall deliver the same to the initialing manager in the presence of the others, and the manager shall see that the ballot so delivered bears on the back thereof the genuine initials of the initialing manager, and is so, but not otherwise, the ballot shall be put into the ballot box; and when so done one of the managers or a duly appointed clerk shall make the proper entry on the poll book. If the voter is unable to write his name on the receipt book he may have the assistance of a manager or clerk, who shall note on the back of the ballot that it was receipted for by his assistance, similarly to the requirement of section 6244, code of 1930, in regard to the aid of an illiterate voter. And when the polls shall be closed the managers shall then publicly open the box and immediately proceed to count the ballots, at the same time reading aloud the names of the persons voted for, which shall be taken down and called by the clerks in the presence of the managers. During the holding of the election and the counting of the ballots the whole proceedings shall be in fair and full view of the voting public, without unnecessary interference delay or encroachment upon the good order of the duties and proceedings of the managers and other officers of the election. And candidates or their duly authorized representatives shall have the right to reasonably view and inspect the ballots as and when they are taken from the

box and counted; and to reasonably view and inspect the tally sheets, papers and other documents used in said election during the proceedings, but not including, of course the secret ballots being voted and placed and held in the box. There shall be no unnecessary delay and no adjournment except as now provided by law.

The receipt booklet hereinabove mentioned shall not be taken out of the polling place at any time until finally enclosed in the ballot box, except in case of any adjournment as mentioned in section 5884, code 1930, when the receipt booklet shall be locked in the ballot box.

It shall be unlawful for any candidate for a state, district, county, or county district office, or any representative of such candidate to post or distribute cards, posters or other campaign literature within 150 feet of the building wherein the election is being held.

Sec. 5. And when the votes have been completely and correctly counted and tallied by the managers they shall publicly proclaim the result of the election at their box and shall certify in duplicate a statement of the said result, said certificates to be signed by the managers and clerks, one of the certificates to be enclosed in the ballot box, and the other to be delivered to and to be kept by one of the managers and to be inspected at any time by any voter who so requests. And when the count of the votes and the tally thereof have been completed the managers shall lock and seal the ballot boxes having first placed therein all ballots voted, all spoiled ballots and all unused ballots. And there shall be enclosed therein also one of the duplicate receipts given by the manager who received the blank ballots received for that box; and the total ballots voted, and the spoiled ballots and the unused ballots must correspond in total with the said duplicate receipt, or else the failure thereof must be perfectly accounted for by a written statement, under oath of the managers, which statement must be enclosed in the ballot box. There shall be also enclosed in said box the tally list, the receipt booklet containing the signed names of the voters who voted; and the

number of ballots voted must correspond with the number of names signed in said receipt booklet. And when the said box is opened and examined by the county executive committee and it is found that there have been failures in material particulars to comply with the requirements of this and the next foregoing section to such an extent that it is impossible to arrive at the will of the voters at such precinct the entire box may be thrown out, unless it be made to appear with reasonable certainty that the irregularities were not deliberately permitted or engaged in by the managers at that box, or by one of them responsible for the wrong or wrongs, for the purpose of electing or defeating a certain candidate or candidates by manipulating the election or the returns thereof at that box in such manner as to have it thrown out; in which latter case the county executive committee shall conduct such hearing and make such determination in respect to said box as may appear lawfully just, subject to a judicial review of said matter as elsewhere provided by this act. Or the executive committee, or the court upon review, may order another primary election to be held at that box within five days from the date of the order, appointing new managers to hold the same.

Sec. 6. The box containing the ballots and other records required by this act shall as soon as practical after the ballots have been counted, be delivered by one of the precinct managers to the clerk of the circuit court of the county and said clerk shall, in the presence of the manager making delivery of the box, place upon the lock of such box a metal seal similar to the seal commonly used in sealing the doors of railroad freight cars. Such seals shall be numbered consecutively to the number of ballot boxes used in the election in the county and the clerk shall keep in a place separate from such boxes a record of the number of the seal of each separate box in the county. The board of supervisors of the county shall pay the cost of providing such seals. Upon demand of the chairman and secretary of the county executive committee the boxes and their con-

tents shall be delivered to the county executive committee of the party holding the election and after such committee has finished the work of tabulating results and counting ballots as required by law, the said committee shall return all papers and ballots to the box of the precinct where such election was held and it shall make re-delivery of such boxes and their contents to the circuit clerk, who shall reseal said boxes. Upon every occasion said boxes shall be re-opened and each resealing shall be done as provided in this act.

Sec. 7. When the return for a box and the contents of the box and the conduct of the election thereat have been canvassed and reviewed by the county executive committee, all the contents of the box required by the foregoing sections to be placed and sealed therein by the managers shall be replaced therein by the executive committee and the box shall be forthwith resealed and delivered to the circuit clerk, who shall safely keep and secure the same against any tampering therewith. At any time within twelve days after the canvass and examination of the box and its contents by the executive committee, any candidate or his representative authorized in writing by him shall have the right of full examination of said box and its contents upon three days' notice of his application therefor served upon the opposing candidate or candidates, or upon any member of their family over the age of eighteen years, which examination shall be conducted in the presence of the circuit clerk or his deputy who shall be charged with the duty to see that none of the contents of the box are removed from the presence of the clerk or in any way tampered with; upon the completion of which examination the box shall be resealed with all its contents as theretofore. And if any contest or complaint before the court shall arise over said box, it shall be kept intact and sealed until the court hearing and another ballot box, if necessary, shall be furnished for the precinct involved.

Sec. 8. All votes which shall be challenged at the polls whether the question be raised by a manager or by another authorized chal-

lenger shall be received when voted, but each of such challenged votes shall, by one of the managers or clerks, be marked on the back "challenged," and all such challenged votes shall be placed in one or more strong envelopes, and when all the unchallenged votes have been counted, tallied and totaled, the challenged votes shall then be counted, tallied and totaled, and a separate return shall be made of the unchallenged votes and of those that are challenged. The envelope or envelopes containing the challenged votes when counted and tallied shall be securely sealed with all said challenged votes enclosed therein, and placed in the box with the unchallenged votes. Provided that when a vote is challenged at the polls it shall so clearly appear, in the unanimous opinion of the managers, either by the admission of statements of the person challenged or from official documentary evidence, or indubitable oral evidence then presented to the managers, that the challenge is well taken, the vote shall be rejected entirely and shall not be counted, but in such case the rejected ballot after it has been marked by the challenged voter, shall be marked on the back "rejected" and the name of the voter shall also be written on the back and said vote and all other rejected votes shall be placed in a separate strong envelope and sealed and returned in the box as in the case of challenged votes. The failure of a candidate to challenge a vote or votes at a box shall not preclude him from later showing in the manner provided by law that one or more votes have been improperly received or counted or returned as regards said box. If the managers of an election believe a challenge of a voter is frivolous or not made in good faith, they may disregard such challenge and accept the offered vote as though not challenged.

Sec. 9. No person shall, directly or indirectly, demand, solicit, ask or invite from any candidate for nomination at any primary election a donation, gift, contribution, or any sort of loan or advancement of any amount of money whether large or small or of any

other thing of value, or the promise thereof, section shall apply to all state, state districts, or any similar demands; and this section shall apply to educational, religious, charitable and benevolent organizations and to every person acting or attempting or pretending to act for any one of them, and shall include the purchase of any tickets or any equivalent device by which the purposes of this statute might otherwise be circumvented. Nor shall any person acting individually or as a member of a committee, or otherwise, or pretending so to act, engage in the promotion of any picnic or other public gathering whereat candidates are to assemble or speak the object of which is to make any profit out of charges made to the candidate or candidates, but this shall not apply to the rentals of halls or grounds at a fair rental, nor to charges for expenses of picnics, gatherings and the like when only the actual expenses and no over plus or profits are taken; provided candidates are charged as assessed no more than other admissions. And no candidate at any time during the campaign shall make any donation, gift, contribution, loan or advancement, or contribute to the payment of an expenses prohibited by this section, or make any promises in that respect. Any person violating, knowingly, the provisions of this section shall be guilty of a misdemeanor, besides which the person or persons so violating this section shall not be permitted to vote in said primary and shall be subject to challenge at the polls, and if allowed to vote the said person or persons shall be guilty of another and separate misdemeanor in so doing. When any candidate is solicited to violate this section, he shall call the attention of the solicitor to it, and if he fails to do so he shall for said failure be guilty of a separate misdemeanor.

Sec. 10. It shall be unlawful for any corporation or any officer or employee thereof, or any member of a firm, or trustee or any member of any association or any other employer to direct or coerce directly or indirectly any employee to vote or not to vote for any particular person or group of persons in any primary, or to discharge or to threaten to discharge any such employee, or

to increase or decrease the salary or wages of an employee or otherwise promote or demote him because of his vote or failure to vote for any particular candidate or group of candidates; and likewise it shall be unlawful for any employer or employee having the authority to employ or discharge other employees to make any statement public or private, or to give out or circulate any report or statement, calculated to intimidate or coerce or otherwise influence any employee as to his vote, and when any such statement has obtained circulation it shall be the duty of such employer to publicly repudiate it, in the absence of which repudiation the employer shall be deemed by way of ratification to have made it himself. Nor shall any employee be requested, directed or permitted to canvass for or against any candidate or render any other service for or against any candidate or group of candidates, during any of the hours within which the salary of said employee as an employee is being paid or agreed to be paid; nor shall any such employee be allowed any vacation or leave of absence at the expense of the employer to render any service or services for or against any candidate or group of candidates, or to take any active part in any primary campaign whatsoever; nor shall any employee at the expense, in whole or in part, of any employer take any part whatever in any primary campaign, except the necessary time to cast his vote. And the prohibitions of this county and county district officers, and to any board or commission and the members thereof by whatever name designated and whether elective or appointive; and to each and every one of those employed by them or any of them. And no state, state district, county or county district officer, or any employee of any of them who directly or indirectly has the control, or in any way the power of control, or who asserts or pretends that he has such power over the expenditures of any public funds in this state, whatever the purpose or object of said expenditure may be, shall state, suggest or intimate, publicly or privately, or in any manner or form that any such expenditure shall in any wise depend upon or

be influenced by the vote of any person, group of persons, or community or group of communities, whether for or against any candidate or group of candidates at any primary. And this section and every part of it shall apply also to all federal officers, agents, employees, boards and commissions by whatever name known and to each and every one of those employed by them or any of them, as to any interference by them or any of them, contrary to the provisions of this act, in the primary elections of this state.

No person whether an officer or not, shall, in order to promote his own candidacy, or that of another person, to be a nominee for public office in any primary in this state, directly or indirectly, himself or through another person, promise to appoint, or promise to secure or assist in securing the appointment, nomination or election of another person to any public position of employment, or to secure or assist in securing any public contract of the employment of any person under any public contractor, or to secure or assist in securing the expenditure of any public funds in the personal behalf of any particular person or group of persons except what the candidate may publicly announce what is his choice or purpose in relation to an election in which he may be called on to take part if elected. And it shall be unlawful for any person to directly or indirectly solicit or receive any promise by this section published. But this does not apply to a sheriff, chancery clerk, circuit clerk, or any other person, of the state or county when it comes to their office force.

Sec. 12A. No person, including a candidate, shall publicly or privately make, in a campaign then in progress, any charge or charges reflecting upon the honesty, integrity or moral character of any candidate, so far as his private life is concerned, unless the charge be in fact true and actually capable of proof; and any person who makes any such charge shall have the burden of proof to show the truth thereof when called to account therefor under any affidavit or indictment against him for a violation of this section. Any language deliberately uttered or

published when fairly and reasonably construed and as commonly understood, would clearly and unmistakably imply any such charge, shall be deemed and held to be the equivalent of a direct charge. And in no event shall any such charge, whether true or untrue, be made on the day of the primary, or within the last five days immediately preceding the date of the primary.

Any person who shall willfully and knowingly violate this section shall be guilty of a misdemeanor, and upon the affidavit of any two credible citizens of this state, before any judicial officer having jurisdiction of misdemeanors, said officer shall thereupon forthwith issue his warrant for the arrest of said alleged offender, and when arrested the officer shall forthwith examine into the matter, and if the proof of guilt be evident or the presumption great, the officer shall place the accused person under bond in the sum of five hundred dollars, with two or more good sureties, conditioned that the person bound will appear at the next term of court where the offense is cognizable, and in addition that the person bound will not further violate this section; and additional affidavits may be filed and additional bonds may be required for each and every subsequent offense. When and if under a prosecution under this section the alleged offender is finally acquitted, the persons who make the original affidavit shall pay all costs of the proceedings.

Sec. 12B. If during any primary or other election campaign in Mississippi, any newspaper either domiciled in the state, or outside of the state circulating inside the state of Mississippi, shall print any editorial or news story reflecting upon the honesty or integrity or moral character of any candidate in such campaign or on the honesty or integrity or moral character of any candidate who was elected or defeated in such campaign, such newspaper shall, on a written or telegraphic request of such candidate or his agents, print in such newspaper not later than the second issue of such newspaper following the receipt of such request, a statement by the candidate or his duly accredited representative giving the candidate's reply. Such statement shall

be printed in the exact language which the candidate or his representative presents and shall be printed as near as is practicable on the same page, in the same position and in the same size type and headlines as the original editorial or news story reflecting on the candidate had been printed.

That this section shall be construed to include those news stories wherein the newspaper quotes from a candidate or individual statements attacking the honesty, integrity or moral character of candidate or ex-candidate.

That if such newspaper fails or refuses to publish such answer when requested the owner of such newspaper shall be liable to a suit for damages by the candidate claiming to be injured by such publication. In event of a verdict in favor of the plaintiff, the measure of damages shall be the injury suffered or a penalty of five hundred (500.00) dollars, whichever is the larger amount. In all cases the truth of the charge may be offered as defense to the suit. But nothing herein contained shall be construed to abolish any existing legal rights of action in such cases.

Sec. 12C. No person shall write, print, post or distribute, or cause to be distributed, a notice, placard, bill, poster, dodger, pamphlet, advertisement or any other form of publication (except notices, posters and the like, which simply announce speaking date and invite attendance thereon), which is designated to influence voters for or against any candidate at a primary, unless and until the same shall have been submitted to, and approved and subscribed by the candidate or his campaign manager or assistant manager, which subscription shall in all cases be printed as so subscribed, and not otherwise. As, for instance, it shall be unlawful to write, print, post, distribute or cause to be written, printed, posted or distributed any such matter when the authority there for is designated simply as "paid political advertisement", or "contributed by a friend", or "contributed by the friends and supporters", and the like. Nor shall any radio station allow any time or place on its programs for any address for or against any candidate at a primary, except in accordance with the provisions of the federal stat-

utes and the rules and regulations of the federal communications commission as applied to the use of radio facilities by a candidate or candidates for office. But the aforesaid written or printed matter and the time for radio addresses shall be paid for at the usual and ordinary rates, and only by a person authorized to make expenditures in behalf of the candidate, as is provided in this act in regard to other expenditures.

But this section shall not apply to editorials, originals or copies, in any newspaper or other publication regularly published and issued to bona fide paid subscribers, and not published and issued solely or principally for political purposes, or to news matter prepared and written by the regularly employed staff of the paper, or to the printing in said paper of any letter together with the signature thereto, provided that any of the matter so printed and published is not prohibited by the provisions of this section, or by some other prohibition law.

For a violation or violations of this subsection 12C, the offender may be proceeded against as provided in the foregoing subsection 12A.

Sec. 13. Candidates for state office, including those nominated by supreme court districts, shall file with the secretary of state a record which shall be open for public inspection of the name and the amount all persons, firms or corporations have contributed to their respective campaigns. It shall likewise be the duty of candidates for district offices to file in the office of the circuit clerk in each county of the district in which such candidates are offering for office, a list and amount of any and all contributions to their respective campaigns. It shall be the duty of candidates for all county and county district offices to file with the circuit clerk of the county in which said candidates are running for office a list of all contributions made by any person, firm or corporation. The reports of candidates for state, district, county or county district offices shall be made on the first and 15th of each month during the time that candidates names are being presented for the consideration of

the electorate, and in each primary election a report must be made and filed by the several candidates, on the Saturday preceding the day of the primary election. Said reports which shall be under oath and in such form as may be prescribed by the secretary of state shall be open to the public and shall be retained in the office of the circuit clerk or of the secretary of state for a period of four years from date of filing.

Sec. 14A. The total expenditures made or contracted or agreed to be made, whether such agreements be valid or invalid, by and/or for any candidate in a primary election and during the entire campaign thereinabout shall be limited to the following amounts. For governor and United States senator, \$15,000. For other state officers, \$7,500. For offices nominated by supreme court districts or congressional districts, \$3,500. For districts composed of more than two counties, \$1,500. For other district officers and county officers, \$1,000, and for county districts, \$500. Provided that (1) any post election expenses unless expressly prohibited by this act shall not be included within said limitations and (2) the salary of the central campaign manager shall not be included nor shall that one separate item be required to be reported; but this exception shall not apply to the expenses of the campaign manager nor to the salary and expense of the assistant campaign managers; and the said limitation shall not include expenditures made by a candidate or other person for him in discovering and prosecuting violations of the primary election laws, but such expenditures must nevertheless be reported. Provided, further that as not to be counted within the stated limitations, a candidate for any office to be nominated by the state at large or by any supreme court or congressional district may maintain county headquarters in addition to his central and district headquarters, at which county headquarters there may be expended not in the excess of \$1,000 in counties of more than 40,000 in population according to the then last federal census, and not in excess of \$500 in counties of less population, the expenditures in said county head-

quarters to be made solely from contributions made by qualified electors of the particular county and not by any supplement from the candidate nor from any other of his state, district or county headquarters, which contributions made by any person to a county headquarters shall be counted however in the limitation placed in this act upon contributions made by one person to any one candidate and shall be reported as other contributions are required to be reported. But otherwise than as expressly excepted in this act, all expenditures as defined in this act by whomsoever made under the provisions of this act shall be included within the computations to be applied to limitations first above mentioned.

Sec. 14B. Within thirty days after the date on which the primary was held and at which the result as to the particular candidate was decided, the candidate shall file with the circuit clerk or with the secretary of state as mentioned in section 13 hereof, a correct and itemized statement of each expenditure made or contracted to be made by him, or by any person for him with his knowledge or consent in aid or support of his candidacy or for the purpose of influencing the result of the election, together with the name of the person or persons to whom the expenditures were made; except that sums spent for the necessary personal traveling expenses of the candidate and the expense of subsistence during such travels, need not be reported and are not to be included within the limitations of expenditures in the next foregoing section 14A. Said report shall be under the oath of the candidate, and in such form as shall be prescribed by the secretary of state, and shall be kept on file as a public record for four years from the date of filing.

Sec. 15. "When and after any contest has been filed with the county executive committee, or complaint with the state executive committee, and the said executive committee having jurisdiction shall fail to promptly meet or having met shall fail or unreasonably delay to fully act upon the contest or complaint, or shall fail to give with reasonable promptness the full relief required by the facts and the

law, the contestant shall have the right forthwith to file in the circuit court of the county wherein the irregularities are charged to have occurred, or if more than one county to be involved then in one of said counties, a sworn copy of his said protest or complaint, together with a sworn petition, setting forth with particularity wherein the executive committee has wrongfully failed to act or to fully and promptly investigate or has wrongfully denied that relief prayer by said contest, with a prayer for a judicial review thereof. But such petition for a judicial review shall not be filed unless it bears the certificate of two practicing attorneys that they are each of them have fully made an independent investigation into the matters of fact and of law upon which the protest and petition are based and that after such investigation they verily believe that the said protest and petition should be sustained and that the relief therein prayed for should be granted, and the petitioner shall give a cost bond in the sum of three hundred dollars, with two or more sufficient sureties conditioned to pay all costs in case his petition be dismissed, and an additional bond may be required, by the judge or chancellor, if necessary, at any subsequent stage of the proceedings.

(b) Upon the filings of the petition certified as aforesaid, and bond, the circuit clerk shall immediately, by registered letter or by telegraph or by telephone or personally notify the chief justice of the supreme court, or in his absence, or disability, some other judge of the supreme court, who shall forthwith designate and notify a circuit judge or chancellor of a district other than that which embraces the county or any of the counties, involved in the contest or complaint, to proceed to said county where in the contest or the complaint has been filed there to hear and determine said contest or complaint, and it shall be the official duty of the said circuit judge or chancellor to proceed to the discharge of the designated duty at the earliest possible date to be fixed by the judge or chancellor and of which the contestant and contestee shall have reasonable notice, to be served in such reasonable manner as the

judge or chancellor may direct, in response to which notice the contestee shall promptly file his answer, and also his cross-complaint if any he have to prefer.

(c) When the day for the hearing has been set the circuit clerk shall issue subpoenas for witnesses as in other litigated cases, and he shall also issue a summons to each of the three election commissioners of the county, unless they waive summons, requiring them to attend said hearing, throughout which hearings the said commissioners shall sit with the judge or chancellor as advisors or assistants in the trial and determination of the facts, and as assistants in counts, calculations and inspections, and in seeing to it that ballots, papers, documents, books and the like are diligently secured against misplacement, alteration, concealment or loss both in the sessions and during recesses or adjournments; the judge or chancellor being however, the controlling judge both of the facts and the law, and to have all the power, in every respect, of a chancellor in term time; and the tribunal shall be attended by the sheriff, and clerk, each with sufficient deputies, and by a court reporter. The special tribunal so constituted shall fully hear the contest or complaint de novo and make a finding dictated to the reporter covering all controverted material issues of fact, together with any dissents of any commissioner, and thereupon the trial judge shall enter the judgement which the county executive committee should have entered, of which the election commissioners shall take judicial notice, or if the matter be one within the jurisdiction of the state executive committee the judgment shall be certified and promptly forwarded to the secretary of the state executive committee, and in the absence of an appeal, it shall be the duty of the state executive committee forthwith to reassemble and revise any decision theretofore made by it so as to conform to the judicial judgment aforesaid; provided that when the contest is upon a complaint filed with the state executive committee and the petition to the court avers that the wrong or irregularity is one which occurred wholly within the proceed-

ings of the state committee, the petition to the court shall be filed in the circuit or chancery court of Hinds county and, after notice served, shall be promptly heard by the circuit judge or chancellor of that county, without the attendance of commissioners.

(d) Within three days after judgment rendered, unless a longer time not exceeding four additional days be granted by the trial judge, the contestant or contestee, or both, may file an appeal in the supreme court upon giving a cost bond in the sum of three hundred dollars, together with a bill of exceptions which shall state with appropriate fullness the point or points of law at issue with a sufficient synopsis of the facts to fully disclose the bearing and relevancy of the said points of law, the said bill of exceptions to be signed by the trial judge, or in case of his absence or refusal, or disability, by two disinterested attorneys, as is provided by law in other cases of bills of exception. If the findings of fact have been concurred in by all the commissioners in attendance, provided as many as two of the commissioners are and have been in attendance, the facts shall not be subject to review on appeal, and the bill of exceptions shall not set up the evidence upon which the facts have been determined. But if not so many as two of the commissioners are and have been in attendance or if one or more of the commissioners dissent, a transcript of the testimony may be filed with the bill of exceptions, or within such short time thereafter as the supreme court may allow, and the supreme court upon a review thereof may make such finding upon the facts as the evidence requires, giving only such consideration as the court may think warranted to the presumption of correctness of the conclusions of the trial judge. The appeal shall be immediately docketed in the supreme court and referred to the court en banc upon briefs without oral argument, unless the court shall call for oral argument, and shall be decided at the earliest possible date, as a preference case over all others and such judgment shall be entered and certified as the tribunal should have entered and certified, with the same effect as had such

judgment been entered by the trial tribunal and no appeal had been taken therefrom.

(e) The trial judge shall have the same power to compel the attendance of the election commissioners upon and throughout the hearings as is given to the judge of a circuit court to compel the attendance of jurors, and the commissioners must attend unless physically unable to do so. But if any one or more or all of the commissioners are absent so as to not be served with notice, or is or are physically unable to attend, the trial judge shall proceed without them or any of them, so that the hearing shall not be delayed on their account or on account of any one or more of them. And when under the following section the hearing is transferred in whole or in part to another county or counties, the election commissioners of the county or counties to which the hearing is transferred shall attend the hearings in their respective counties, subject to foregoing provisions in respect to absent or disabled commissioners.

(f) If more than one county be involved in a contest or complaint, the judge or chancellor shall have the authority to transfer the hearing to a more convenient county within the district, if in relation to a district office, or within the state if a state office; or the judge or chancellor may proceed to any county or counties wherein the facts complained of are charged to have transpired, and there hear the evidence and make a finding of facts relating to that county and any convenient neighboring county or counties, but, in any event, if possible with due diligence to do so, the hearing must be completed and final judgment rendered in time to permit the printing and distribution of the official ballots at the election for which the contested nomination is made. When any judge or chancellor lawfully designated to hear a contest or complaint, in this section mentioned, shall not promptly and diligently proceed with the hearing and final determination of such a contest or complaint he shall be guilty of a high misdemeanor in office unless excused by actual illness, or by an equivalent excuse. When no final decision has been made in time as hereinabove specified, the

name of the nominee declared by the party executive committee shall be printed on the official ballots as the party nominee, but the contest or complaint shall not thereby be dismissed but the cause shall nevertheless proceed to final judgment and if the said judgment be in favor of the contestant, the election of the contestee shall thereby be vacated and the governor, or the lieutenant governor in case the governor be a party to the contest, shall call a special election for the office or offices involved, if the contestee has already entered upon the term he shall vacate the office upon the qualification of the person elected at said special election, and may be removed by *uo warranto* if he fail to do so.

(g) The reasonable traveling expenses of the judge or chancellor shall be paid by order of the board of supervisors of the county or counties wherein a contest or complaint under this section is heard, upon an itemized certificate thereof by the said judge or chancellor. And the election commissioners shall be compensated for their services rendered under this section as is provided in section 6257, code of 1930.

Sec. 16. If upon the hearing of a primary election contest or complaint, under the foregoing section, it shall distinctly appear to the trial judge that any person, including a candidate or election officer, has wilfully and corruptly violated any primary election statute and which violation is by said statute made a criminal offense, whether a misdemeanor or a felony, it shall be the duty of the trial judge to issue immediately his warrant for the arrest of the guilty party, reciting in his order therefore, in brief, the grounds or causes for the arrest, which warrant and a certified copy of the order shall be forthwith placed in the hands of the sheriff of the county wherein the offense occurred, and the sheriff shall at once upon receipt of the warrant arrest the party and commit him to prison, unless and until the party give bond in the sum of five hundred dollars with two or more good and sufficient sureties conditioned for his appearance at the next term of the circuit court and from term to

term until discharged by law. And when the arrest has been made and the bond, if any, given, the sheriff shall deliver all the papers therein with his return thereon to the circuit clerk who shall file, and thereafter personally deliver, the same to the foreman of the next grand jury.

Sec. 17. Vacancies in the office of judge of the supreme court or circuit judge, or chancellor, shall be filled for the unexpired term by the qualified electors at the next regular election for state officers or for representatives in congress, occurring more than nine months after the existence of the vacancy to be filled, and the term of office of the person elected to fill a vacancy shall commence on the first Monday in January following his election. Upon the occurring of such a vacancy the governor shall appoint a qualified person from the district in which the vacancy exists to hold the office and discharge the duties thereof until the vacancy shall be filled by election as hereinabove provided. And at the primary election in the year in which the election shall be held to fill the said vacancy nominations shall be made therefor in the manner as nominations are made for full terms.

Sec. 18. It shall be the duty of the judges of the circuit court to give a reasonable time and opportunity to the candidates for the office of judge of the supreme court, circuit judge and chancellor to address the people during court terms. And in order to give further and every possible emphasis to the fact that the said judicial officers are not political but are to be held without favor and with absolute impartiality as to all persons, and because of the jurisdiction conferred upon the courts by this act, the judges thereof should be as far removed as possible from any political affiliations or obligations within their party, it shall be unlawful for any candidate for any of the offices mentioned in this section to align himself with any candidate or candidates for any other office or with any political faction within his party at any time during the primary election campaign. And likewise it shall be unlawful for any candidate for any office nominated

or to be nominated at any primary election, wherein any candidate for any of the judicial offices in this section mentioned, is or are to be nominated, to align himself with any one or more of the candidates for said offices or to take any part whatever in any nomination for any one or more of said judicial offices, except to cast his individual vote. Any candidate for any office, whether nominated with or without opposition, at any primary wherein a candidate for any one of the judicial officers herein mentioned is to be nominated who shall deliberately, knowingly and wilfully violate the provisions of this section shall forfeit his nomination, or if elected at the following general election by virtue of said nomination, his election shall be void.

Sec. 19. It shall be unlawful for any person, trustee, or corporation or any association of persons, by whatever name known, to make any contribution, as the terms contribution is hereinabove defined, to or for any candidate at any primary for nomination to any of the judicial offices mentioned in the foregoing section, save and except that a member of the bar, in active practice and in good standing and who himself is not a candidate for any office at said primary, may contribute in the aggregate as much as fifty dollars to any such candidate, in the manner, and in that manner only, that contributions are made to other candidates under the provisions of this act.

Sec. 20. (a) Any candidate, or any other person who shall wilfully and deliberately violate the provisions and prohibitions of sections 10 and 11 and 14 of this act shall be guilty of the crime to be known as corrupt practice in primaries, and upon indictment and conviction therefor and thereof shall be punished by a fine in a sum not to exceed five hundred dollars or imprisoned in the county jail not to exceed one year, or by both fine and imprisonment. And when such violations have been wilfully and deliberately done by a candidate, or who has wilfully and knowingly permitted said violations to be done in his behalf, by and through a persistent course of conduct throughout the

territory or any substantial part thereof wherein his candidacy is or was concerned, he shall forfeit his nomination, or if elected at the following general election by virtue of said nomination, his election shall be void.

(b) The wilful and deliberate violation by any person of any of the other sections of this act, wherein no specific grade of crime for said violation is prescribed and no criminal penalty is provided in the particular violated section shall be a misdemeanor and the prosecutions therefore may be conducted as in other prosecutions for misdemeanors; and, upon conviction the person convicted shall be punished by a fine not to exceed two hundred dollars or by imprisonment in jail not to exceed ninety days or by both fine and imprisonment; and where in any of the said other sections the offense is expressly made a felony but no penalty is prescribed, the person upon indictment and conviction shall be fined as for a misdemeanor and in addition thereto shall be imprisoned in the county jail for a term not to exceed six months.

(c) And wherever in any section of this act there is a provision that the offender shall be placed under bond conditioned not to further violate the section involved, one-half of the penalty thereof when recovered shall belong to the candidate against whose candidacy the offence was committed, and he shall be allowed to prosecute the same, either independently or in assistance to the district or county attorney.

Sec. 21. The candidate who received the majority number of votes cast for the office which he seeks, shall thereby become the nominee of his party for such office and no person shall be declared to be the nominee of his party unless and until he has received a majority of the votes cast for such office, except as hereinafter provided. If no candidate received such majority of the votes cast in the first primary, then the two candidates who receive the highest number of votes cast for such office shall have their names submitted as such candidates to the second primary and the candidate who leads in such second primary shall be nominated for the of-

fice.

If the candidate who received the second highest number of votes cast for such office for any reason declines to enter the second primary, then in that event the candidate who received the third highest shall have his name submitted to the second primary, together with the candidate who received the highest number of votes cast for such office.

If the candidate who received the third highest number of votes cast for such office for any reason declines to enter the second primary, then in that event the candidate who received the fourth highest shall have his name submitted to the second primary, together with the candidate who received the highest number of votes cast for such office.

If no candidate will enter the second primary with the candidate who received the highest number of votes cast, then the can-

didate who received the highest number of votes cast in the first primary shall be declared the nominee of his party for such office.

Sec. 22. All the provisions of this act as far as practicable shall apply to and regulate primary elections for the nomination of elective municipal offices.

Sec. 23. All laws and parts of laws in conflict with this act or any part thereof are, to the extent of such conflict, and to that extent only, hereby repealed. And if any section or part of a section of this act shall be held unconstitutional by the courts, every remaining word, phrase, sentence or other part of the section shall remain in full force and effect.

Sec. 24. This act shall take effect and be in force from and after its passage.

Approved November 25, 1935.