

No. 4.—AN ACT TO PROVIDE FOR PRIMARY ELECTIONS.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. The following words used in this act shall, unless the same be inconsistent with the context, be construed as follows:

(a) The word “primary”, the primary election provided for by this act.

(b) The word “election”, the general, election held in November, as distinguished from the primary election.

(c) The word “party”, any political organization which at the preceding election polled at least five per cent of the entire vote of the state for governor.

SEC. 2. This act shall not apply to town, village, school or fire district elections, except that nothing herein contained shall be construed to take the election of representatives to the general assembly out of the provisions of this act.

SEC. 3. Hereafter all candidates for elective offices shall be nominated:

(a) By primary or convention held in accordance with this act, or

(b) By nomination papers, signed and filed as provided by existing statutes.

SEC. 4. A primary shall be held at the central polling place, and such additional polling places as may be designated in the same manner as additional polling places are now designated for general elections under existing law, in each town in the state on the second Tuesday of September, 1916, and biennially thereafter, for the nomination of candidates to be voted for at the November election, except presidential electors, and justices of the peace.

(a) Primaries shall be conducted by the regular election officers, as elections are conducted under existing laws.

SEC. 5. (a) At least forty days before the time of holding any primary the secretary of state shall prepare and transmit to each town clerk in the state a notice in writing designating the offices for which candidates are to be chosen.

(b) Each town clerk shall, within ten days after the receipt of such notice, cause notice of such primary to be posted in three public places in his town; such notice shall state the time when, and the place or places where the primary will be held in each town, together with the offices for which candidates are to be nominated.

SEC. 6. (a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any party, for any office indicated, if a petition or petitions containing the requisite number of signatures as hereinafter provided, made by members of the party, in the following form, are filed with the secretary of state, or county or town clerks, together with the written assent of said person to the printing of his name on said ballot:

STATE OF VERMONT

County of ss.

City (town) of

I do hereby join in a petition for the publication on the primary ballot in the column of the party, of the name of whose residence is in the city (town) Of in the county of for the office of to be voted for on Tuesday, the day of September, 19. . . ; and I certify that I am qualified to vote for a candidate for such office, that I am a member of the party, and am not at this time a signer of any other similar petition for any other candidate for the above office; that my residence is in the city

(town) of in the county of , and that my occupation is I further certify that I believe the above named person is especially qualified to fill such office.

Signed

STATE OF VERMONT

County of ss.

City (town) of

On the day of 19 , the above named personally known to me, appeared and made oath that the above petition, by him subscribed, is true.

Before me

Town clerk, notary public, or justice of the peace.

(b) The number of signatures on primary petitions to be filed for each office shall be as follows:

1. For governor, United States senator, and all other officers to be voted for throughout the state, five hundred.
2. For representative to congress, two hundred fifty.
3. For all county officers, not less than two per cent of the total number of votes cast for all the candidates for the office at the last preceding election.
4. For representative to the general assembly, not less than three per cent of the total number of votes cast for all the candidates for the office at the last preceding election.

(c) The oath of a voter upon such petition shall be conclusive evidence that he is a member of the party stated therein but no voter shall sign conflicting party petitions, nor shall he sign more than one primary petition for the same office, unless more than one nomination is to be made; in which case he may sign as many primary petitions as there are nominations to be made for the same office.

(d) In case a voter has signed two or more conflicting primary petitions, the signature of said voter shall not be counted on either petition in computing the signers thereon, The officer with whom primary petitions are filed shall immediately, on their receipt, proceed to examine the same and ascertain whether they conform to the provisions of this act. If found not to conform thereto, he shall in writing on such petition state the reason why such petition cannot be accepted, and within twenty-four hours return the same to the candidate in whose behalf it was filed. In such case supplementary petitions may be filed but not later than fifteen days before a primary.

(e) Primary petitions to be filed with the secretary of state or county clerks shall be filed not less than twenty days before the date of the primary, except as provided in subdivision (d) of this section. Primary petitions to be filed with town clerks shall be filed not less than fourteen days before the primary.

(f) The secretary of state, and clerks of counties and towns, shall retain the primary petitions filed with them until the first day of February following the holding of the primary when they shall be destroyed.

(g) Primary petitions shall be filed as follows: for United States senators, representatives to congress and all officers on the state ticket, with the secretary of state; for officers on the county ticket, with the county clerk; for representative to the general assembly, with the town

clerk. Ballots shall be furnished by these officials at the expense of the respective subdivisions, and shall be divided in respect to offices as is provided for general elections,

SEC. 7. At least ten days before any primary is to be held, official ballots shall be prepared by the proper officers and shall be as nearly as is practicable in the same form as ballots now used at elections and printed on white paper. Below the name of each office shall be printed in easily legible words, "Vote for one", "Vote for two", "Vote for three", or a spelled number designating how many persons are to be voted for. Whenever there are two or more candidates for nomination, to the office of governor, the names of said candidates shall be so alternated on the ballots used that each shall appear thereon as nearly as may be an equal number of times at the top, at the bottom, and in each intermediate place, if any, of the list or group in which it belongs. Names of rival candidates for nomination to offices other than governor shall be arranged in the alphabetical order of their surnames. Following the names printed on the ballot after the name of each office to be filled shall be as many blank lines as there are persons to be elected to that office. The names of all candidates for the same office shall be printed upon one ballot, with the names arranged in columns by parties similar to the ballot used at general elections. Each party column shall be headed by the name of the party in plain type. Each voter, in marking his ballot, shall confine his marks to the column of the party of which he is a member. If, when the ballots are counted, it shall appear that a ballot has been marked in the column of more than one party such ballot shall be thrown out as defective.

SEC. 8. Not later than two days before the primary the secretary of state or county clerk shall furnish to the clerk of each town, and the clerk of each town shall provide ballots as follows: for each fifty and fraction of fifty voter as shown by the vote for governor in the town at the last preceding election, he shall furnish seventy-five ballots.

He shall in addition furnish each town clerk with ten sample ballots printed on tinted paper.

Each clerk shall, within one day from the time when he receives such sample ballots, post one of each kind in three public places in his town, and shall retain the others until the date of the primary, when he shall post the same in prominent positions in and about the polling places.

SEC. 9. The selectmen shall prepare and post a check vote of the legal voters in their respective towns and hold sessions for a copy the correction of the same and give notice of such sessions before paper all primaries held under this act, in the same manner as they are canvass required to do before elections under existing laws, a state

No person shall be entitled to vote at a primary unless his name is upon the check-list of the voters in the town wherein he offers to vote.

SEC. 10. After the count is completed it shall be announced by the presiding officer and the clerk shall, in the presence of the other election officers, fill into the blanks provided him for that purpose by the secretary of state complete return of all the votes cast for the different candidates of each party. These blanks shall be prepared in duplicate and shall be signed by the clerk and presiding officer. One copy shall be preserved by the cleric and shall be open to the inspection of all candidates, or his agent authorized in writing. The other copy shall be mailed on the day of the primary, or on the following day, by the clerk to the proper officer.

SEC. 11. The canvassing of the vote and the returns of the reports of primary elections as to candidates for state officers, United States senators and representatives to congress, shall be done by a canvassing board consisting of the secretary of state, one superior judge who shall be assigned to that duty by the chief justice of the supreme court, and the chairman of the state committee of each political party represented on the official ballot at the last preceding election. Such canvassing board shall meet at the office of the secretary of state on the Tuesday next after the September primary, at ten o'clock in the forenoon. In case the chairman of the state

committee of any party is unable to attend, he shall designate in writing some other member of the state committee who shall attend and serve in his place. As soon as said board has canvassed such vote, it shall announce the result and file a certificate with the secretary of state showing the vote of each candidate of each political party for each office. A copy of such certificate shall be published once in some newspaper published in Montpelier, which publication shall be made by the secretary of state forthwith after the same is filed in his office. The vote for candidates for county officers shall be canvassed by a board consisting of the county clerk and the chairman of the county committee of each political party represented on the ballot at the last preceding election. Said board shall meet at the office of the county clerk on the Tuesday next after the September primary, at ten o'clock in the forenoon. In case the chairman of the county committee of any party is unable to attend, he shall designate in writing some other member of the county committee who shall attend and serve in his place. As soon as said board has canvassed such vote, it shall announce the result and file a certificate with the county clerk showing the vote of each candidate of each political party for each office. A copy of such certificate shall be published once in some newspaper published or generally circulated in said county. Such canvassing boards shall file with the county clerk of that county a statement and report of such canvass, which statement and report of said primary election shall contain:

First: A certified statement containing the names of all candidates voted for at the primary election with the number of votes received by each and for what office, said statement to be made as to each political party separately.

Second: A statement of the names of the persons or candidates of each political party who are nominated as herein before provided. Where there is more than one person to be elected to a given office at the ensuing election there shall be included in such statement of nominations the names of as many candidates for such office, nominated under the provisions of this act, as there are persons to be elected to such office at the ensuing election. Such statement shall in like manner be made separately as to each political party.

Third: A statement of the whole number of electors voting and the number of ballots cast at such primary election. If two or more of the candidates of the same political party are "tied" for the same office, the choice shall be determined by the party committees of the party in which the tie occurs, and the candidate selected shall be certified to the county clerk or secretary of state by a sworn statement signed by a majority of said committee.

The vote for representative to the general assembly shall be canvassed on the day following the September primary at ten o'clock in the forenoon by the town clerks and the chairmen of the town committees of each political party represented on the official ballot at the last preceding election, and in case the chairman of the town committee of any party is unable to attend he shall designate in writing some other member of said town committee who shall attend and serve in his place. The canvassing board, upon its completion of the canvass, shall forthwith file a certificate in the town clerk's office, stating the vote for each candidate, and the town clerk shall forthwith mail or deliver in person to each candidate so nominated a notice thereof.

The secretary of state and town and county clerks, upon the completion of the canvass by the canvassing boards, shall forthwith mail or deliver in person to each candidate so nominated a notice thereof. The persons whose names are placed in such statement of nomination shall be the nominees of the political party of which they are candidates, and such names shall be printed upon the official ballot prepared for the ensuing election. No names of candidates of a political party which is required to make nominations under this act shall be placed upon the official ballot unless said candidate has been chosen in accordance with this act, except in case of a vacancy occasioned by the death, removal or resignation of any candidate so chosen, or arising otherwise, and in such a case the campaign or party committee of the political party on whose ticket the same appears, or if there is no such committee, then a convention of such party may fill such vacancy except as otherwise specified in this act. The names of said new candidates shall be

certified under oath to the proper officer by the chairman and secretary of said committee or convention. Any withdrawal or resignation of a primary election nominee for a state or congressional office shall be filed with the secretary of state at least thirty days before the election for which the said nominee was named as a candidate and the vacancy shall be filled at least twenty days before such election or the name of the substitute candidate shall not appear upon the official ballot; any withdrawal or resignation of a nominee for county office shall be filed with the county clerk of that county at least twenty days before the election and the vacancy shall be filled at least fifteen days before such election or the name of the substitute candidate shall not appear upon the official ballot; but in case of the death of a regularly nominated candidate the vacancy may be filled, provided it is done not less than twelve days before the election for a state, congressional or county office, and not less than four days for representative to the general assembly.

SEC. 12. Persons voted for at a primary held under this act who receive a plurality of all the votes cast by a party shall be candidates of that party for the offices designated on the ballot.

SEC. 13. Any town clerk who fails to forward the statement of votes cast to the proper officer within two days of the date of the primary, shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both.

SEC. 14. The provisions of the statutes now in force in reference to the holding of elections, the appointment and payment of election officers, the filling of vacancies, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting and preserving the ballots and making returns thereof, and all other kindred subjects, shall apply to all primaries in so far as they are consistent with this act, the intent of this act being to place the primary under the regulation and protection of the laws now in force as to election.

SEC. 15. It shall be the duty of the secretary of state to prepare all forms necessary to carry out the intent of this act and to furnish the same in reasonable quantities to the proper officers; and it shall also be his duty to furnish full directions to the clerks of towns when he sends said clerks the notice provided for in section 5 of this act, or when he furnishes said clerks with ballots, as provided in this act, as to the posting of notices, holding of primaries and making return thereof.

All necessary expenses shall be paid out of the treasury of the state, county or town, the same as for general elections.

SEC. 16. (a) Not later than the first Tuesday of October, upon the call of the chairman of the state committee of the party, the nominee of each party for the office of governor, and other state officers, county senators, and representatives to the general assembly, shall meet in state convention for the purpose of making and adopting the platform of the party, nominating presidential electors, and effecting an organization for the following two years.

(b) The party nominees in said state convention from each county shall elect a county committee for their party, and shall designate a legal voter from such county to be voted on by the state convention, and if elected to be a member of the state committee.

(c) The party members in each town may effect such an organization as they deem expedient, and may nominate candidates for justices of the peace.

(d) Upon application of the chairman of the state committee of any political party, the secretary of state and county clerks shall deliver to him a duly certified roll of the nominees of his party for the several offices named in subdivision (a) of this section. None but such nominees shall take part in such state convention.

SEC. 17. This act shall be liberally construed so that the real will of the voters shall not be defeated, and so that the voters of any town shall not be deprived of their right to nominate or participate in the nomination of candidates for office by any informality or failure, to comply with the provisions of law in respect to giving notice of or conducting the primary or certifying the results thereof.

SEC. 18. The polls in the several polling places on the primary election day shall be kept open from twelve o'clock noon until eight o'clock in the evening of such day. If at the hour of closing there are any electors in the polling places desiring to vote, who are qualified to participate therein and who have not been able to do so since appearing at the polling place, such polls shall be kept open long enough after the hour of closing to allow those present a reasonable opportunity to vote. No one not present at the hour of closing shall be entitled to vote because the polls may not be actually closed when he arrives. No adjournment or intermission whatever shall take place until the polls are closed, and until all the votes cast at such poll have been counted and the result publicly announced.

SEC 19. Whenever it appears by affidavit to a justice of the supreme court or a superior judge that an error or an omission has occurred or is about to occur in the printing of the name of a candidate on the official ballots, or that an error has been or is about to be committed in printing the ballots, or that the name of a person has been or is about to be wrongfully placed upon such ballots, or that any wrongful act has been or is about to be performed by an election officer, the secretary of state, a town or county clerk, canvassing board or member thereof, or by a person charged with a duty under this act, or that a neglect of duty by the persons aforesaid has occurred, or is about to occur, such judge shall by order, require the officer or person charged with the error, wrongful act or neglect, forthwith to correct the error, desist from the wrongful act, or perform the duty, and to do as the court shall order, or to show cause forthwith why such error should not be corrected, wrongful act desisted from or such duty or order not performed. The failure to obey the order of such court shall be contempt. A candidate of such primary election who desires to contest the nomination of a candidate for the same office at such primary election may proceed by affidavit presented to a justice of the supreme court or a superior judge provided, that such affidavit is presented within five days after the completion of a canvass of said canvassing board, and the candidate whose nomination is so contested shall, by order of said judge, duly reserved, be required to appear and abide by the order of the court to be made therein.

SEC. 20. A political party which at the last preceding election cast less than five per cent of the votes, may nominate candidates in the manner provided by existing law by convention or by petition; provided, however, that all conventions to nominate candidates shall be held upon the same day as the primary election is held. Persons nominated as provided in this section shall be subject to the provisions and penalties of sections 22 and 23 of this act.

SEC. 21. The secretary of state shall, on or before April first, 1916, prepare all forms necessary to carry out the provisions of this act, which forms shall be substantially followed in all primaries held in pursuance hereof. Such forms shall be printed with copies of this act for public use and distribution.

SEC. 22. A candidate for nomination under this act shall, not less than ten days after the date of the primary election at which he is a candidate, file a sworn itemized statement with the officer with whom his nomination papers were filed, setting forth each sum of money and thing of value, or any consideration whatever contributed, paid or promised by him, or by anyone for him, with his knowledge or acquiescence, for the purpose of securing influencing or in any way affecting his nomination to such office. Such statement shall set forth the sums paid as personal expense and state fully the nature, kind and character of the expenses for which the sums were expended separately, and the party to whom the sums were paid and the purpose for which such payments were made; and in this statement all sums or other considerations promised and not

paid shall be included. Such statement, when so filed, shall be subject to the inspection and examination of any voter and shall be a part of the public records.

SEC. 23. A candidate for nomination under this act who fails neglects or refuses to file the statement provided herein, or who fails fully to set out in detail all sums of money or other things of value or consideration expended, paid, contributed or promised, as provided in section 22, shall be fined not more than five hundred dollars or be imprisoned in a county jail not more than six months, or both.

SEC. 24. A person who solicits, requests, or demands directly or indirectly, any money, intoxicating liquor, or anything of value or promise thereof, either to influence his vote or to be used, or under the pretense of being used, to procure the vote of another person to be used at any poll or other place prior to or on the day of a primary election under this act, for or against a candidate for office, shall be fined not more than one hundred dollars or be imprisoned not more than six months or both.

SEC. 25. For the violation of any of the provisions of this act for which a penalty is not otherwise provided herein the penalty shall be a fine of not more than five hundred dollars or imprisonment not more than six months, or both, Municipal and city courts shall have concurrent jurisdiction of offenses under this act.

SEC. 26. In every presidential year there shall be held a presidential primary in accordance with the provisions of this act for other primary elections so far as they may be applicable. Such presidential primary shall be held on the third Tuesday of May of each presidential year.

SEC. 27. The secretary of state shall prepare and supply to the clerks of the several towns, at the expense of the state, ballots for the presidential primary provided for in the preceding section. Such ballots shall be of uniform size and printed on white paper. The secretary of state shall cause to be printed upon such ballots in columns by parties the names of all presidential candidates for whom no petitions have been filed in the same manner and to the number required in the case of a candidate for governor. The primary shall be held and the ballots counted and the canvass and the announcement made in the manner and form prescribed for candidates for office on the state ticket. The state committee of each party shall call a party convention under the regulations provided by the committee to be held within three weeks subsequent to the presidential primary. At such convention delegates and alternates to the national convention of such party to the number apportioned to this state shall be elected. Each delegate and alternate so elected shall be furnished by the secretary of state with a certified statement showing the vote cast at the presidential primary for the candidate of the party of which said delegate or alternate is a member.

SEC. 28. Should no nominating petition be filed for any office to be filled, a vacancy on a party ticket so arising shall be filled as provided in section 11 except in the case of a candidate for representative to the general assembly for the choice of which a party caucus shall be called, as provided by existing laws, not later than fifteen days before the election. In case such a caucus is held, the nomination shall be made by ballot conforming as far as is possible to the primary plan specified in this act, and the ballot box shall remain open not less than two hours.

SEC. 29. Nominations of candidates not specified in this act and independent nominations may be made in the manner provided by law prior to the passage of this act.

SEC. 30 In case of a special election of United States senator or representative in congress, a special primary shall be called by the governor to be held not less than thirty days or more than forty days previous to said special election.

SEC. 31 This act shall take effect on the twentieth day of March AD. 1916, provided that a majority of the ballots to be cast as hereinafter provided shall be YES, and provided that, if a

majority of the ballots to be cast as hereinafter provided shall be NO, then this act shall take effect on the twentieth day of March, A.D. 1927, that as to sections 31, 32, 33, 34 and 35 this act shall take effect from its passage.

SEC. 32. In each town and city the warning for the annual meeting in 1916 shall contain an article in substance as follows:

“Shall an act of the general assembly of 1915, entitled ‘An act to provide for primary elections,’ become a law March 20, 1916?”

The secretary of state shall at least ten days prior to said annual meeting in 1916, furnish the town clerk of each town and city with a sufficient number of ballots to be used in voting upon the question of the acceptance of the provisions of this act. Said secretary shall also, when furnishing such ballots, furnish each town clerk with a sufficient number of sample ballots printed on different colored paper, which shall be posted in three or more public places in such town, at least six days prior to said annual meeting.

SEC. 33. The ballot clerks, board of civil authority and town and city clerks shall perform the same duties in respect to the ballots to be used under this act as are imposed upon said officials by chapters 11 and 12 of the Public Statutes, except as otherwise provided in this act, and all regulations provided by law for conducting general elections shall be applicable to the votes provided for in this act.

SEC. 34. A special box shall be provided for the reception of the ballots provided for in this act, which shall be opened at the hour the meeting is called, and shall remain open until the close of the meeting not earlier than 3 o'clock in the afternoon.

SEC. 35. The town clerks of the several towns shall within twenty-four hours from the adjournment of said annual meeting in 1916, report to the secretary of state upon blanks furnished by said secretary of state the result of the vote upon the question of the acceptance of the provisions of this act. On the fifteenth day of March, AD. 1916, said secretary of state shall canvass the returns so made to him, and shall, within two days thereafter, issue his proclamation certifying the result of such vote, and declaring the time when the provisions of this act shall take effect.

Approved April 1, 1915.