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Compendium of Essential Legal Principles From His
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interest thereon owed by the corporation.”⁴²⁹ The opinion also held that “[i]t is not a defense to individual liability for one who acts as an officer of a corporation to assert that he was not properly elected as an officer.”⁴³⁰

XIX. ELECTION LAW

A. *Enforcing Election Laws*

Justice Cleckley addressed the issue of enforcing election laws through a writ of mandamus in *State ex rel. Sowards v. County Commission of Lincoln County*.⁴³¹

The public policies in protecting fundamental rights, preserving electoral integrity, and promoting both political and judicial economy have prompted a practical approach in assessing whether an election case is appropriate for mandamus relief. The fundamental and constitutional right to run for public office cannot be denied unless necessary to achieve a compelling state interest. It is only when a writ of mandamus has been invoked to preserve the right to vote or to run for political office that this Court has eased the requirements for strict compliance for the writ’s preconditions, especially those relating to the availability of another remedy.⁴³²

B. *Limiting Candidate Eligibility*

The decision in *State ex rel. Sowards v. County Commission of Lincoln County*⁴³³ addressed the legislature’s authority to impose requirements for being eligible to run for a political office. Justice Cleckley observed that “[t]he State of West Virginia through its Legislature retains the authority to prescribe reasonable rules for the conduct of elections, reasonable procedures by which candidates may

⁴²⁹ *Id.* at Syl. Pt. 1.

⁴³⁰ *Id.* at Syl. Pt. 2.

⁴³¹ 474 S.E.2d 919 (W. Va. 1996).

⁴³² *Id.* at Syl. Pt. 3.

⁴³³ 474 S.E.2d 919 (W. Va. 1996).

qualify to run for office, and the manner in which they will be elected.⁴³⁴ The opinion then held

[t]he State of West Virginia has a valid interest in preserving the integrity and reliability of both the electoral process and its civil service laws. The Legislature may place limits on campaigning by public employees if the limits substantially serve state interests that are important enough to outweigh the employee's First Amendment rights. Thus, a legislative body may bar a public employee from becoming a candidate for an elected office not only to prevent potential conflict in the workplace between the employee and the supervisor-incumbent during the campaign, but also to prohibit any tacit coercion of fellow employees and subordinates to assist in a political campaign.⁴³⁵

Justice Cleckley elaborated further on the consequences that may be inflicted upon a specific public employee (there a deputy sheriff) who seeks political office in violation of election laws:

It is constitutionally permissible to suspend, or even to discharge, a deputy sheriff who seeks political office. As long as the political activity limitation does not infringe on the deputy sheriff's access to the ballot box or his or her ability to participate in nonpartisan political discussions and activities, the requirement of orderly management of law enforcement personnel outweighs the limited infringement on the First Amendment to the United States Constitution and Section 7 of Article III of the West Virginia Constitution.⁴³⁶

C. *Filing Requirements*

In *State ex rel. Browne v. Hechler*,⁴³⁷ Justice Cleckley addressed third-party filing requirements:

⁴³⁴ *Id.* at Syl. Pt. 4.

⁴³⁵ *Id.* at Syl. Pt. 5.

⁴³⁶ *Id.* at Syl. Pt. 6.

⁴³⁷ 476 S.E.2d 559 (W. Va. 1996).

Pursuant to W. Va. Code § 3-5-23(a) (1986), the deadline for filing with the secretary of state the certificate and fee for a person seeking ballot access as a candidate for the office of president or vice-president as the nominee of a third-party otherwise qualifying for inclusion on the general election ballot by method other than primary election is the first day of August preceding the general election, and such persons are not required to file a declaration of candidacy pursuant to W. Va. Code § 3-5-7 (1991).⁴³⁸

D. *Setting Aside an Election*

*State ex rel. Sowards v. County Commission of Lincoln County*⁴³⁹ examined nullification of an election. Justice Cleckley wrote that “[t]o achieve the goal of enfranchisement wherever possible, judicial authority to take a candidate off the ballot, especially after the voters have expressed their preference in a primary election, should be sparingly used.”⁴⁴⁰ The opinion then held

[p]olitical candidacy is a fundamental interest which can be trod upon only if less restrictive alternatives are not available. It is only when an election has been subverted by a candidate’s clear constitutional or statutory disqualification, bribery, fraud, intimidation, or similar unlawful conduct that a court should invalidate the preference of the voters and, in effect, annul the election. Therefore, a mere violation of W. Va. Code, 7-14-15(a) (1971), prohibiting deputy sheriffs from engaging in partisan political activity, is insufficient to set aside an election and, in effect, disenfranchise the voters of a county.⁴⁴¹

XX. APPELLATE PROCEDURE

A. *Appellate Jurisdiction*

In order for the West Virginia Supreme Court of Appeals to hear and decide

⁴³⁸ *Id.* at Syl. Pt. 2.

⁴³⁹ 474 S.E.2d 919 (W. Va. 1996).

⁴⁴⁰ *Id.* at Syl. Pt. 7.

⁴⁴¹ *Id.* at Syl. Pt. 8.