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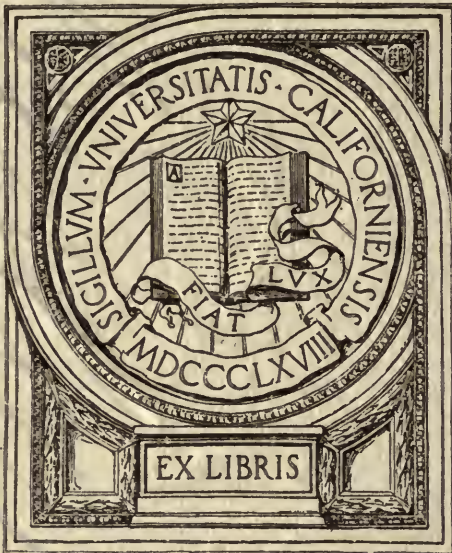


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A DIGEST
OF THE
ELECTION LAWS
OF THE
STATE OF ARKANSAS

In Force April 1, 1904

By JOHN W. CROCKETT
Secretary of State

PUBLISHED
By Authority of the General Assembly

LITTLE ROCK, ARK.:
CENTRAL PRINTING COMPANY,
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A DIGEST
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STATE OF ARKANSAS.

GENERAL ELECTION.

TIME OF HOLDING.

SECTION 2598. On the first Monday in September, eighteen hundred and seventy-six, and every two years thereafter, there shall be held an election in each precinct and ward in this state for the election of all elective state, county and township officers whose term of office is fixed by the constitution at two years; and state senators whose term of office is fixed by the constitution at two years; and state senators in their respective districts when the terms for which senators may have been elected shall expire before the next general election; and for judges of the supreme and circuit courts when the term of office of any judge shall expire before the next general election; and for representatives to the congress of the United States for each congressional district; and for prosecuting attorneys. *Act January 23, 1875, sec. 1.*

STATE AND COUNTY BOARDS OF ELECTION COMMISSIONERS.

SEC. 2599. The governor, secretary of state and attorney general shall constitute a state board of election commissioners, whose duty it shall be, not more than ninety days nor less than thirty days before any general election for state and county officers, to appoint three qualified electors as commissioners in each county to select election judges for each voting precinct, and to perform the other duties herein prescribed. No person who is a candidate for any office to be voted for at such election, or is a deputy, or clerk or employee of any officer or person who is a candidate for election, shall act as county commis-

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sioner. The appointment of the county commissioners shall be in writing under the hands of the state board, and the said state board shall immediately mail to each county commissioner, at the county seat, a notice of his appointment, and, in addition thereto, shall mail to the clerk of the circuit court in such county a certificate of the appointment of such commissioners, and, upon the receipt of such certificate, it shall be the duty of such circuit clerk to cause to be served upon each of said commissioners, by the sheriff, a notice requiring said commissioners to appear before said clerk on or before the day fixed for entering upon their duties, and take and subscribe the oath prescribed by section twenty, of article nineteen of the constitution, which said oath shall be indorsed on the certificate, and when so indorsed, said certificate shall be filed in said office as a record.

SEC. 2600. The said commissioners shall hold office until their successors are appointed and qualified. Said commissioners shall meet at the courthouse at least twenty days prior to the general election, and shall organize themselves into a board of election commissioners by electing one member chairman and another clerk. Each commissioner shall have one vote, and two shall constitute a quorum, and the concurring votes of any two shall decide all questions before them.

[N. B.—The Federal statutes fixes the Tuesday after the first Monday in November for election of members of Congress.]

SEC. 2601. They shall, after their organization as aforesaid, not less than five (5) days before any general election, appoint three (3) judges of election for each voting precinct in the county, which appointments shall be served on or delivered to the persons appointed by the sheriff of the county and the clerk of the board shall make a record of such appointments and shall file the same, attested by the chairman and the clerk of the board, with the county clerk. If any judge so appointed shall die or resign before the election, said board shall fill the vacancy. All of said county commissioners shall not be members of the same political party. *Act May 23, 1901.*

SEC. 2602. Any vacancy in the county board of commissioners shall be filled by appointment by the state board of commissioners, in the same manner as the county commissioners are originally appointed; and if it shall occur that all, or a majority, of the county commissioners shall resign, refuse to act, die, or their places become vacant from any cause, so that there shall not be a quorum in office at the time that said board is required to do and perform any of the acts or things by this act required of them, then, and in that event, the county judge, sheriff and county clerk shall, in the order herein named, fill said vacancies for the time, and shall perform the duties of election commissioners until the vacancies in said board can be filled, as herein provided for. *Act March 4, 1891, sec. 1.*

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QUALIFICATION OF ELECTORS.

SEC. 2603. Every male citizen of the United States, or male person who has declared his intention of becoming a citizen of the same, of the age of twenty-one years, who has resided in the state twelve months, in the county six months and in the precinct or ward one month, next preceding any election at which he may propose to vote, except such person as may, for the commission of some felony, be deprived of the right to vote by law, passed by the general assembly, and who shall exhibit a poll tax receipt or other evidence that he has paid his poll tax at the time of collecting taxes next preceding such election, shall be allowed to vote at any election in the state of Arkansas. *Provided*, That persons who make satisfactory proof that they have attained the age of twenty-one years since the time of assessing taxes next preceding said election and possesses the other necessary qualifications, shall be permitted to vote; *and provided, further*, that the said tax receipt shall be so marked by dated stamp or written indorsement by the judges of election to whom it may be first presented as to prevent the holder thereof from voting more than once at any election. *Constitution of Arkansas, amendment number 2.*

SEC. 2604. No idiot or insane person shall be entitled to the privileges of an elector, nor shall any soldier or marine in the military or naval service of the United States acquire a residence that shall entitle him to vote by reason of being stationed on duty in this state. No one who has been convicted of any offense which is a felony at the common law, or by statute, shall be allowed to vote at any election in this state, unless such person shall have been pardoned by the governor, and the records of the court wherein such person shall have been convicted shall be conclusive evidence of his conviction. Whenever any person shall present himself to vote, and there shall be no specific evidence prescribed by law as being necessary to establish his qualifications, the judges of election may interrogate him under oath, touching his qualifications as an elector, or they may satisfy themselves in relation thereto by any legal testimony. *Act March 4, 1891, sec. 18.*

POLL TAX RECEIPTS.

SEC. 2605. It shall be the duty of the auditor of state to prepare poll tax receipts in book form with stub, to be used by the collectors of the several counties of the state, and shall furnish the same to the county clerk of the several counties, and the said clerks shall deliver the said poll tax receipts to the collectors of taxes at the time of the delivery of the tax books, and when the collector files his delinquent personal list he shall return to the county clerk all unused blank poll tax receipts and the clerk shall at once return the same to the auditor.

SEC. 2606. The sheriff of each county shall, on or before the first day of July of each year, make out under oath, a certified copy, in alpha-

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betical order, of the names of all electors who have paid their poll tax for the preceding year and file the same with the county clerk of his county, for which service he shall be paid by the county the sum of twenty cents for each one hundred names filed with said clerk.

SEC. 2607. The county clerks of the several counties shall file the said list of electors so furnished by the sheriff or collector, and shall record the same in a book kept for that purpose, and shall furnish the sheriffs or collectors with not less than three certified printed copies for each voting precinct in the county at least ten days before any general or special election, and for such service the said clerks shall be paid by the county the same fees as are now allowed them by law for similar services.

SEC. 2608. It shall be the duty of the sheriff of each county to furnish the election judges of each precinct of his county the printed list of electors mentioned in section 2607 at the time he delivers the poll books, and all persons whose names appear on said list, in the event their said receipt be lost or mislaid and possess the other necessary qualifications of an elector, shall be entitled to vote at said election.

SEC 2609. Any person who makes satisfactory proof that he has attained the age of twenty-one years since the time of assessing taxes next preceding said election and possess the necessary qualifications, shall be entitled to vote.

SEC. 2610. The said poll tax receipt of electors presented to the judges of said election shall be so marked by dated stamp or written indorsement by the judges of the election to whom it may be first presented as to prevent the holder thereof from voting more than once at any election.

SEC. 2611. The auditor of state, sheriff, collector, or clerk of any county who shall fail or refuse to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than five hundred dollars.

SEC. 2612. Any elector offering to vote who does not present his poll tax receipt and whose name appears upon the printed list, shall be required by the judges to make oath that he has not voted at any other precinct or ward at the present election. *Act April 10, 1893.*

NOMINATION OF CANDIDATES AND CERTIFICATION THEREOF.

SEC. 2613. The nominations of candidates shall be certified in the following manner: By the chairman and secretary of any convention of delegates, or of the canvassing board of any primary election, held by authority of any organized political party in the state, or subdivision thereof, in which such convention or primary election is held; and also, by electors of the state, district, county, township, ward of a city or incorporated town, for which the nomination is made. *Provided*, the

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number of signatures of electors so required shall not be less than fifty, nor more than one thousand, for the state or any district or county, and not less than ten, nor more than fifty, for any township, or ward of a city or incorporated town. All certificates of nomination made by the chairman and secretaries of conventions, or of canvassing boards of primary elections, shall be duly acknowledged before an officer authorized by law to take acknowledgments. The said certificate of nomination shall be accompanied by the receipt of the treasurer or collector of each county in which any candidate is to be voted for, for the following amounts, namely: Candidates for offices to be voted for by the electors of the entire state, fifty cents each; candidates for offices to be voted for by the electors of a district composed of more than one county, except members of congress, three dollars; candidates for representatives in congress, ten dollars; candidates for offices to be voted for by the electors of a single county, three dollars; candidates for offices to be voted for by the electors of a township, one dollar. These several amounts shall be placed to the credit of the fund for general county expenses. Candidates for offices to be voted for by the electors of any incorporated town or city, shall present the receipt of the treasurer or collector of such municipality for the sum of one dollar each. All money received from this source shall be placed to the credit of the fund for general expenses of said city or town.

SEC. 2614. All certificates of the nomination of candidates for presidential electors and members of congress, and for state and judicial, and district officers, either by convention, primary elections or electors, shall be filed with the secretary of state; and all certificates of the nomination of candidates for county, township, and municipal offices shall be filed with the county election commissioners of the county in which they are to be voted for.

SEC. 2615. Certificates of nomination required by this act to be filed with the secretary of state shall be filed not more than sixty days and not less than twenty days before the day fixed by law for the election of persons in nomination. Certificates of nominations herein directed to be filed with the county election commissioners shall be filed not more than sixty days and not less than fifteen days before the election. *Provided*, in case of any vacancy occurring in any nomination by declination, withdrawal, death or otherwise, the central committee, or a convention or primary election called for that purpose, of the party on whose ticket such vacancy may be, may select and certify to the secretary of state, or proper county election commissioners, the name of the candidate to fill such vacancy.

SEC. 2616. Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names or description of candidates nominated for office, or in the printing of ballots, the circuit court of any county, or the judge thereof in vacation, or if the circuit

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judge be then absent from the county the judge of the county court, shall, upon the application of any elector, by order, require the county election commissioners to immediately correct such error or omission, or show cause why the same should not be done.

SEC. 2617. Not less than eighteen days before each election, the secretary of state shall certify to all the county election commissioners full lists of all candidates to be voted for in their counties respectively, as the nominations have been certified to him.

SEC. 2618. Every person who shall falsely make or fraudulently destroy any certificate of nominations, or any part thereof; or file any certificate of nominations, knowing the same, or any part thereof, to be false, or suppress any nomination which has been duly filed, or any part thereof, or forge or falsely write the name or initials of any judge of election on any ballot, shall be deemed guilty of a felony, and on conviction thereof, punished by confinement at hard labor in the penitentiary not less than one nor more than five years. *Act March 4, 1891, secs. 22, 25, 37 and 40.*

DECLINATION OF NOMINATIONS.

SEC. 2619. The secretary of state shall not certify the name of any candidate whose certificate of nomination shall have been filed in his office, who shall have notified him in writing, acknowledged before an officer authorized by law to take acknowledgments, that he will not accept the nomination specified in the certificate of nomination. And the county election commissioners shall not include in the posting to be made by them as hereafter provided, the name of any candidate whose certificate of nomination shall have been filed with them, who shall have notified them in like manner, that he will not accept the nomination, nor shall the names of such persons be printed on the ballots provided by the commissioners. *Ib., sec. 26.*

SUBMISSION OF AMENDMENTS AND OTHER QUESTIONS.

SEC. 2620. Whenever a proposed amendment to the constitution, or other question, is to be submitted to a vote of the people, the secretary of state shall, not less than eighteen days before the election, duly certify the same to the commissioners of each county in the state, and the commissioners shall include the same in the posting which they are by this act required to make, and also to print the same on the ballots.

PUBLICATION OF NOMINATIONS AND QUESTIONS SUBMITTED.

SEC. 2621. The commissioners of each county shall make publication of all nominations filed with them, and all nominations certified to them by the secretary of state, and also all proposed amendments to the constitution, and other questions certified to them by the secretary of state, or required by law to be submitted to the electors at any election,

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by posting a list thereof at the door of the courthouse at least ten days before the day of election. *Ib.*, secs. 27, 28.

THE BALLOTS.

SEC. 2622. At least three days before each election, the county election commissioners shall deliver to the sheriff one hundred and fifty ballots for each fifty, or fraction of fifty, electors in each township or ward of a city, or incorporated town in the county, and the said sheriff is required to deliver such ballots to the judges of election at the same time and in the same manner that he is required by section 2628 to deliver the poll books and ballot boxes. *Provided*, when the sheriff is a candidate at any election the said ballots shall be delivered to the persons, or one thereof, appointed in his stead as provided in section 2646. *Act March 4, 1891, sec. 29; amended March 26, 1891.*

SEC. 2623. All election ballots used in any presidential, congressional, state, district, county, township, or municipal election in this state, either general or special, shall be provided at county expense by the county election commissioners of the counties in which they are used, respectively; except the ballots used exclusively in municipal elections, which shall be provided by the commissioners at the expense of the cities and incorporated towns in which they are used, respectively.

SEC. 2624. The county election commissioners of each county in this state shall, in due time for each general or special election, provide for each election precinct, and for each ward of a city or incorporated town in their county, one hundred and fifty printed ballots for each fifty, or fraction of fifty, electors voting thereat at the last preceding election; and no ballot shall be received or counted in any election to which this act applies, except it be provided by the county election commissioners as herein prescribed. All ballots cast and not included in the count made by the election judges for want of conformity to the provisions of this act, shall be preserved and sealed in a separate package, and be returned to the county election commissioners.

SEC. 2625. All election ballots provided by the county election commissioners of any county in this state for any election shall be alike, and shall be printed in plain type; and shall contain in the proper place the name of every candidate whose nomination for any office to be filled at that election has been certified to the said commissioners, as provided for in this act, and shall not contain the name of any candidate or person which has not been so certified. Below the names of the candidates for each office nominated by the organized parties, as well as those nominated by electors, shall be left a blank space large enough to contain as many names in writing as there are offices to be filled. *Act March 4, 1891, secs. 19-21.*

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FORM OF BALLOT.

SEC. 2626. The county election commissioners shall prepare the ballots provided for under this act in accordance with the following form, except the order in which the several offices to be filled are stated, namely:

OFFICIAL BALLOT, Election.....189.....

Cross out or scratch off the names of all persons except those for whom you wish to vote.

GOVERNOR. *Vote for one.*

~~John Smith, Dem.~~

William Jones, Rep.

~~Henry Fisher, Ind.~~

SECRETARY OF STATE. *Vote for one.*

Thomas Moore, Rep.

William King, Ind.

James Sinclair, Dem.

AUDITOR OF STATE. *Vote for one.*

William Miller, Dem.

John Pope, Rep.

Thomas Andrews, Ind.

FOR SHERIFF. *Vote for one.*

Thomas Jones, Dem.

James White, Ind.

George Smith, Rep.

FOR REPRESENTATIVE. *Vote for two.*

John Doe, Dem.

Richard Roe, Dem.

Hiram Smith, Ind.

Henry Jones, Ind.

William Carter, Rep.

Nathan Hardy, Rep.

—Act March 4, 1891; amended March 26, 189..

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BALLOT BOXES, POLL BOOKS AND SUPPLIES.

SEC. 2627. It shall be the duty of the county election commissioners to provide for each election precinct a good and sufficient ballot box with lock and key, two blank poll books containing proper captions and supplied with sufficient pages to record the names of all voters in the precinct, tally sheets and envelopes in which to seal up the ballots and certificates. They shall also provide on sheets separate from the poll books blank forms of certificates prepared in such a manner as will enable the judges of election to properly certify the result of the election, upon which certificates shall be indorsed a blank form of oath to be taken by the judges and clerks before entering upon the discharge of their duties.

SEC. 2628. Such ballot box, poll books and blank certificates, tally sheets and envelopes shall be delivered by said commissioners to the sheriff, or in the event of his being a candidate at such election, then the same shall be delivered to the person appointed to perform the duties of said sheriff as provided for in section 2646. It shall be the duty of said sheriff, or person appointed in his stead as in this act provided, to deliver the same to the judges of election when they have assembled at the voting place for the purpose of holding the election. The said ballot box, poll books, tally sheets, envelopes and certificates shall be paid by the several counties of the state. *Act March 4, 1891, sec. 9.*

POLLING PLACES, HOW ARRANGED, ETC.

SEC. 2629. All officers upon whom the law imposes the duty of designating polling places, shall provide in each room designated by them as a polling place, one booth or compartment for each one hundred electors, or fraction of one hundred, voting thereat at the last preceding election, and furnish the same with a table, shelf or desk for the convenience of electors in preparing their ballots. Said booths shall be at least five feet apart, and the walls thereof shall be of wood and so constructed as to enable each elector to enter therein and prepare his ballot free from the interference of any person whomsoever. And no person shall be permitted, under any pretext whatever, to come nearer than fifty feet of any door or window of any polling room, from the opening of the polls until the completion of the count of the ballots and certification of the returns, except as herein provided. *Ib., sec. 30.*

SEC. 2630. The election commissioners of each county shall cause to be printed in large type on cards, instructions for the guidance of electors preparing their ballots. They shall furnish twelve such cards to the judges of election in each election district, at the same time and in the same manner as the printed ballots. The judges of election shall post not less than one of such cards in each place or compartment provided for the preparation of ballots, and not less than three of such

cards elsewhere in and about the polling place upon the day of election. Said cards shall be printed in large, clear type, and shall contain full instructions to the voters as to what should be done: First—To obtain ballots for voting. Second—To prepare the ballots for deposit in the ballot boxes. Third—To obtain a new ballot in place of one accidentally spoiled; also a copy of sections 2650, 2651, 2652, 2653 and 2654.

SEC. 2631. No person shall, during the election, remove, tear down, or destroy any booths or supplies, or other conveniences placed in any booth or polling place as aforesaid for the purpose of enabling the voter to prepare his ballot.

No person shall, during an election, remove, tear down or deface the cards printed for the instruction of voters. Every person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred dollars, nor more than two hundred and fifty dollars, or imprisonment in the county jail not less than one month, or both such fine and imprisonment, at the discretion of the jury trying the case. *Ib.*, secs. 46, 47.

JUDGES OF ELECTIONS.

SEC. 2632. The judges of election shall be discreet persons, able to read and write the English language, and qualified electors in the precincts for which they are appointed to act; and they shall not all be selected from the same political party, if competent persons of different politics can be found.

SEC. 2633. The judges of election appointed under this act shall continue to be judges of election within their respective precincts until the next general election, unless sooner removed by the county election commissioners. *Act March 4, 1891, secs. 2, 3.*

SEC. 2634. No person shall be competent to act as judge or clerk of any election authorized to be holden by the laws and constitution of this state who shall have any moneys, goods, wares or merchandise bet on the result of any such election.

SEC. 2635. Any person who shall act in any election as aforesaid, having any moneys, goods, wares or merchandise bet on the result of any such election, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars, to be fixed by the judge or jury trying the case. *Act January 23, 1875, secs. 6, 7.*

SEC. 2636. If any election judge shall be absent at the time fixed for the opening of the polls, the other judge or judges shall appoint some person or persons having the qualifications prescribed by this act for election judges, to supply such vacancy; and if all the judges shall be absent, then the voters present shall elect as judges persons having the required qualifications.

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SEC. 2637. The judges of election shall appoint two clerks at each precinct. *Act March 4, 1891, sec. 4.*

OATH OF JUDGES AND CLERKS.

SEC. 2638. The judges, before entering on their duties, shall take, before some person authorized by law to administer oaths, the following oath: "I,....., do swear that I will perform the duties of judge of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same, and that I will not disclose how any elector shall have voted, unless required to do so as a witness in a judicial proceeding, or a proceeding to contest an election."

SEC. 2639. The clerks of elections, before entering on their duties, shall take an oath that they will faithfully record the names of all voters, and that they will not disclose how any elector shall have voted, unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election.

SEC. 2640. In case there shall be no person present at the opening of any election authorized to administer oaths, it shall be lawful for the judges of the election to administer the oaths to each other and to the clerks; and such judges shall have full power and authority to administer all oaths that may be necessary in conducting any election.

SEC. 2641. The person who shall administer the oaths to the judges and clerks of any election shall cause a certificate to be prefixed to the poll books in words to the following effect: "I do certify that and, judges, and and, clerks, of the election held in the township of, in the county of, on the day of, in the year one thousand eight hundred and, were severally sworn as the law directs previous to entering on their respective duties;" which certificate shall be subscribed by the persons administering the oaths, and shall be considered as a part of the record of the election. *Act January 23, 1877, secs. 10-13.*

SHERIFF TO MAKE PROCLAMATION.

SEC. 2642. It shall be the duty of the sheriff of each county, at least twenty days before each general election and ten days before the holding of each special election, to give public notice, by proclamation throughout the county, of the time and several places of holding such elections in his county and the officers to be elected at such time.

SEC. 2643. A copy of such proclamation shall be set up at each of the places fixed for holding such election and two or more of the most public places in each township, and published in a newspaper, if one be published in the county. *Ib., secs. 8, 9.*

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MANNER OF VOTING AND CONDUCTING ELECTION.

SEC. 2644. All elections by the people shall be by ballot. Every ballot shall be numbered in the order in which it shall be received, and the number recorded by the election officers, on the list of voters, opposite the name of the elector who presents the ballot. *Act January 23, 1875, sec. 23.*

SEC. 2645. The polls shall be opened at eight o'clock a. m., and shall remain continuously opened until half past six o'clock p. m. *Act March 4, 1891, sec. 5.*

SEC. 2646. The sheriff of the county shall police the election precinct and preserve order. He shall appoint, not exceeding three, deputies at each precinct, and shall allow no crowd to collect at the polling place nearer than herein provided for, and no deputy herein provided for, while engaged in the duties here prescribed, shall in any manner influence, or endeavor to influence, any person in casting his vote; *Provided*, when the sheriff, for the time being, shall be a candidate at any election, it shall be the duty of the county election commissioners to appoint some suitable person or persons at each precinct to perform the duties of the sheriff as hereinbefore prescribed, and the said sheriff and his deputies are hereby disqualified to discharge said duty in such cases. *Ib., sec. 8.*

SEC. 2647. Except as the electors are admitted and pass in, one at a time, to vote, no person shall, under any pretext whatever, be permitted in the polling room, from the opening of the polls until the completion of the count of the ballots and certification of the returns, except the sheriff or deputy, and the judges and clerks of the election. *Provided*, the attendance of the sheriff at the polling place shall only be allowed upon the request of the judges of the election. *Provided, further*, If any person who demands admittance to the polling place for the purpose of voting, whose right to vote is questioned by any elector, the said challenge shall be communicated to the judges before such person is permitted to vote, by the sheriff or some other officer or person in attendance and in charge of admission to the polling place, and when this is the case the witnesses necessary to determine the matter of the voter's qualifications shall be admitted. No elector shall be allowed to occupy a booth or compartment for the purpose of voting, for a longer time than five minutes. If the voter shall not have completed the preparation of the ballot within the time allowed, he may call upon the judges to assist in its preparation, or he can withdraw, after having returned to the judges the ballot delivered to him. After having voted, or declined to do so, the voter shall immediately depart from the polling place, and go beyond the prohibited distance therefrom. *Ib., sec. 31.*

SEC. 2648. The judge to whom any ballot shall be delivered shall, upon receipt thereof, pronounce in an audible voice the name of the elector from whom he receives the ballot, and if no objection be made to him, and the judges be satisfied that he is legally entitled, agreeably

to the constitution and laws of the state, to vote at the election, he shall immediately number the ballot, as provided in section 2644, and put the same in the ballot box without opening or in any way inspecting the name written or printed thereon.

SEC. 2649. It shall be the duty of the clerks of election to register the names of each and all electors in the order in which they may present their ballots, placing opposite each name its appropriate number, as required by section 2644. *Act January 23, 1875, secs. 31, 32.*

SEC. 2650. Each elector upon entering the polling room shall be given one ballot by the judges. Before delivering a ballot to an elector at least one of the judges shall write his name or initials on the back thereof. On receiving his ballot the elector shall forthwith, and without leaving the polling room, retire alone to one of the booths provided for that purpose, and there prepare his ballot. He shall scratch off, erase or cross out the names of all candidates except those for whom he wishes to vote, and write the name of any person for whom he may wish to vote whose name is not printed where he would have it, or not printed on the ballot at all. In the case of a constitutional amendment or other question, as, for instance, "For License," or "Against License," which the county election commissioners shall cause to be printed on the ballots whenever the question of liquor license is to be voted on, the elector shall cross out parts of his ballot in such manner that the remaining part shall be as he wishes to vote. After thus preparing his ballot the elector shall fold the same so as to conceal the face thereof, and show the name or initials of the judge on the back, and hand it to the receiving judge, who shall call out the name of the elector, the number of the ballot, and write the number on the ballot and then deposit it in the ballot box in the sight of the elector, who shall then immediately leave the room and go beyond the prohibited distance.

SEC. 2651. Any voter who shall, by accident or mistake, spoil any ballot so that he cannot conveniently or safely vote the same, may return it to the judges and receive another in the place thereof. In no case shall any person be permitted to carry a ballot outside of the polling room.

SEC. 2652. Any elector who shall tell the judges that he cannot read or write, or that by reason of any physical disability he is unable to mark his ballot, may have the assistance of two of the judges in the preparation of his ballot, who, in the presence of the elector and in the presence of each other, shall prepare his ballot for him as he wishes to vote it. But before any such elector shall be required or permitted to tell how he wishes his ballot made up, or for whom he wishes to vote, all electors, including those in the booths, shall be required to withdraw from the polling room.

SEC. 2653. No ballot shall be received from any elector or deposited

in the ballot box which does not have the name or initials of at least one of the judges indorsed on the back of it.

SEC. 2654. Any person taking or carrying any ballot obtained from any judge outside of the polling room, or having in his possession outside of the polling room before the closing of the polls, any ballot provided by any county election commissioners, as prescribed in this act, or any paper purporting to be such a ballot, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars, and imprisoned in the county jail not less than one month nor more than six months. *Act March 4, 1891, secs. 32-36.*

SEC. 2655. In precincts in which more than one hundred votes were cast at the election next preceding the one then being held, where the electors consist of persons belonging to the different races, the judges of election and the sheriff in attendance shall, when there are persons of both races present and ready to vote, so conduct admittance to the voting place as to permit persons of the white and colored races to cast their votes alternately. *Ib., sec. 7.*

SEC. 2656. No officer of election shall do any electioneering on election day. No person whomsoever shall do any electioneering in any polling room, or within one hundred feet of any polling room on election day. No person shall at or before any election, directly or indirectly, hire or bribe any elector to vote for or against the nominee of any political party, or for or against any particular question or candidate, by any threat or warning of personal violence or injury, or by any threat or warning of ejection from rented or leased premises, or by the foreclosure of any mortgage or deed of trust, or of any action at law or equity, or of discharge from employment, or of expulsion from membership in any church, lodge, secret order or benevolent society, or by any oath, or affirmation or secret written pledge. Nor shall any elector take or receive any money or other valuable thing, or the promise of any money or other valuable thing, in consideration that he shall or will vote for or against any candidate for office, or for or against any candidate or question, or shall promise to vote for or against any such candidate or question. Any violation of this section shall be deemed a felony, and on conviction, shall be punished by imprisonment in the penitentiary not less than one year nor more than three years. *Ib., sec. 39.*

PENALTIES FOR VIOLATING THESE LAWS.

SEC. 2657. Every public officer, upon whom any duty is imposed by this act, who shall willfully neglect or omit to perform such duty, or who shall do anything which is by this act forbidden, other than the things specifically enumerated in sections 2618 and 2658, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished

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by removal from office, and imprisonment in the county jail not less than six months nor more than twelve months, or by fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment. *Ib.*, *sec.* 38.

SEC. 2658. Any election officer or other person whomsoever who shall willfully make a false count of any election ballots, or falsely or fraudulently certify the returns of any election, or steal, destroy, secrete or otherwise make way with any election ballot, tally sheet, certificate or ballot box, either before or after the closing of the polls, shall be deemed guilty of a felony, and on conviction thereof, punished by imprisonment at hard labor in the penitentiary not less than two years nor more than seven years.

SEC. 2659. Any violation of this act by any election officer, or other person whomsoever, except a state or county officer, for which no punishment is elsewhere specifically prescribed in this act, shall be deemed a misdemeanor and punishable as in this act provided for misdemeanors. *Ib.*, *secs.* 43, 44.

COUNTING THE BALLOTS—RETURNS, ETC.

SEC. 2660. At the closing of the polls, the poll books shall be signed by the judges and attested by the clerks, and the names therein shall be counted and the number set down at the foot of the poll books. After the poll books are signed, the ballot box shall be opened, and the ballots therein contained shall be taken out one by one, at a time, by one of the judges, who shall read distinctly, while the ballot remains in his hands, the name or names contained therein, and then deliver it to the second judge, who shall examine the same to see that there is no mistake, and pass it to the third judge, who shall examine and carefully preserve the same. The same method shall be observed in respect to each of the ballots in the ballot box, until the number of ballots taken out of the ballot box is equal to the names in the poll books.

SEC. 2661. When two or more ballots are found folded together, it shall be considered as conclusive evidence of their being fraudulent, and neither of them shall be counted.

SEC. 2662. If a ballot shall be found to contain a greater number of names for any one office than the number of persons required to fill said office, it shall be considered fraudulent as to the whole of the names designated to fill said office, but no further.

SEC. 2663. A ballot shall not be considered fraudulent for containing a less number of names than are authorized to be inserted. *Act January 23, 1875, secs.* 33, 36-38.

SEC. 2664. If for any reason the judges shall deem it proper to do so, they may adjourn the count for any reasonable period, not beyond the day succeeding that on which the election is held. Pending the making of the count, any judge shall have the right to remain with the

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ballot box, but during the time for which the count is adjourned, a safe place of deposit may be agreed upon by all of the judges.

SEC. 2665. After the examination of the ballots shall be completed, the number of votes cast for each person shall be enumerated under the inspection of the judges, who shall prepare and sign in duplicate a certificate showing the number of votes given for each person, and the office for which such votes were given, which certificates shall be attested by the clerks. And after making such certificate, the judges, before they disperse, shall put under cover one of said tally sheets, certificates and poll books and seal the same, and direct it to the board of county election commissioners.

SEC. 2666. The said certificate and the ballots, sealed in separate packages, shall be conveyed by one of the judges, to be determined by lot, if they cannot otherwise agree, to the county election commissioners, within three days after the close of the polls; and the other certificate, tally sheets and poll books shall be retained by the judges, free for the inspection of all persons. It shall be the duty of the judges of election of the several precincts, after the ballots shall have been inspected and counted, to securely envelope all such ballots and send the same together with the certificate, tally sheets and poll book as aforesaid to the county election commissioners, to be kept as hereinafter provided.

SEC. 2667. If any judge of election, on whom the lot may fall to carry such ballots, certificates, tally sheets and poll books to the election commissioners, shall neglect or refuse to perform the service according to the provisions of this act, he shall forfeit the sum of two hundred dollars to be recovered by indictment, or by action of debt, in the name of the state for the use of the county.

SEC. 2668. If any judge of election in any precinct, whose duty it may be, should fail to deliver to the county election commissioners the certificate, tally sheets, poll books and ballots within three days, on the fourth day the said commissioners shall dispatch a messenger to bring up the same, or the duplicate certificate, tally sheets, poll book and ballots, in which case the return shall not be compared until the seventh day, and all expense incurred by sending the messenger shall be paid by the defaulting judge of election.

ASCERTAINING AND DECLARING THE RESULT.

SEC. 2669. As soon as the returns from all of the precincts are received, but in no event later than the seventh day after the election, the county election commissioners shall, from the certificates and ballots received from the several precincts, proceed to ascertain and declare the result of said election, and shall within fifteen days after the day of said election, deliver a certificate of his election to any person having the highest number of legal votes for member of the house of representatives or any county or township office; and the said commissioners shall also file

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in the office of the clerk of the circuit court a certificate setting forth in details the result of said election. The commissioners of election shall, within two days after the comparison and examination of the returns of any election, deposit in the nearest post office, on the most direct route to the seat of government, certified copies of the abstracts of the returns of the election for members of congress and all executive, legislative and judicial officers, directed to the secretary of state, and they shall, at the time, enclose in a separate envelope and direct to the speaker of the house of representatives, in care of the secretary of state, at the seat of government, a certified copy of the abstract of votes given for governor, secretary of state, auditor of state, treasurer of state and attorney general. It is made the duty of the secretary of state to safely keep the returns addressed to the speaker of the house of representatives until the same shall be required, for the purpose of ascertaining and declaring the result of the election, as prescribed in section three, article six, of the constitution.

SEC. 2670. At any time before the county election commissioners shall finally complete the canvass of the returns and make declaration of the result thereof, any candidate voted for who may be dissatisfied with the returns from any precinct may have a recount of the votes cast therein, by presenting to the county election commissioners a petition showing reasonable grounds for believing that the return, as made by the judges of election, does not give a correct statement of the vote as actually cast, as the same is shown by the ballots returned with the certificate of the judges. Upon the prayer of such petition being granted the commissioners shall open the package containing the said ballots and proceed to recount the same in the manner prescribed by law for the count to be made by the judges in the first instance, and the result as found upon such recount, if the same differs from that certified by the judges, shall be included in the canvass as the vote for the particular precinct for which said recount was ordered and made. After the recount is completed, the ballots shall again be sealed and kept as herein provided.

DISPOSITION OF BALLOTS AND CERTIFICATES.

SEC. 2671. The county election commissioners shall retain the custody of and safely keep all ballots and certificates returned to them from the several precincts for a period of six months, after which time the same shall be destroyed, unless the commissioners shall be sooner notified in writing that the election of some persons voted for at such election and declared to have been elected, has been contested, or that criminal prosecution has been begun against any officer of election, or person voting thereat, for any fraud in said election, before a tribunal of competent jurisdiction, in which event, so many of said ballots and certificates as may relate to matters involved in said contest, or any prosecution, shall

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be preserved for use as evidence in such contest or prosecution. During the time such ballots may be retained, the package containing the same shall not be opened by any one unless directed to do so by some competent tribunal before which an election contest or prosecution is pending, in which such ballots are to be used as evidence. Any person violating the provisions of this section, or who shall disclose how any elector may have voted, unless compelled to do so in a proceeding pending as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars. *Act March 4, 1891, secs. 10-16.*

COMPENSATION OF COUNTY BOARD.

SEC. 2672. The members of the county board of election commissioners shall each receive for his service the sum of two dollars per day for each day actually engaged in the duties of his office, but in no event shall the number of days charged for exceed ten, for services to be rendered in connection with any particular election. *Ib., sec. 48.*

FEES OF JUDGES AND CLERKS OF ELECTION.

SEC. 2673. The judges and clerks of the election shall receive one dollar per day for each day they may be engaged in holding an election, to be paid by the order of the county court, as other county expenses.

SEC. 2674. There shall be allowed to each judge of the election carrying the returns from his township to the county board of election commissioners, five cents per mile in going and returning from the place of holding the election to the office of said board, to be paid by the county.

SEC. 2675. The county election commissioners shall certify to the county court the per diem of judges and clerks of election, and the mileage of the judge carrying the returns to the clerk's office for allowance. *Act February 25, 1875, secs. 49, 50, 51, as modified by sec. 49, Act March 4, 1891.*

EXPENSES OF ELECTION.

SEC. 2676. All printing, and other things required by this act to be done, except the posting of municipal nominations alone, and the printing of ballots to be used exclusively in municipal elections, shall be at the expense of the several counties in which they shall be done, respectively, and shall be defrayed in the same manner as other county general expenses are defrayed.

SEC. 2677. Sheriffs being allowed the same fees for services performed hereunder as for similar services for which fees are fixed by law. *Act March 4, 1891, sec. 42.*

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ELECTION PRECINCTS, CHANGES, ETC.

SEC. 2678. The county election commissioners are empowered to alter the boundaries of existing election precincts and to establish new ones when, in their judgment, it may be necessary, and to fix a place in each election precinct where the election shall be held; and in changing the boundaries of existing precincts, or in creating new ones, the said commissioners shall so arrange the same that all qualified voters residing therein may vote on the same day. *Provided*, The said commissioners shall not have power to change the boundaries of existing precincts, or to create any new precinct, or to change the voting place in any precinct, within thirty days of any election, but all such elections shall be held at the places, and within the boundaries, as the same existed thirty days before the date of said election.

The action of said commissioners in changing the voting place in any precinct, or in altering the boundary of any precinct, or in establishing any new one, shall be entered in the record to be kept by them, and a copy of said order shall set out intelligently and accurately the boundaries of said precincts as so altered or established, shall be filed with the clerk of the county court, who shall record the same at full length on the record book in which the minutes of the proceedings of the county court are recorded. If the county election commissioners shall fail to fix a place in any precinct at which the election is to be held, it shall be the duty of the sheriff to fix temporarily a place of holding said election. Notice of any change made shall be given to the electors by posters put up in at least five public places in such precinct. All voting places shall be fixed at well-known points in the several precincts and easily accessible to all electors entitled to vote therein. *Ib.*, sec. 6.

RETURNS IN SENATORIAL DISTRICTS.

SEC. 2679. In all senatorial districts composed of two or more counties, the election boards of all the counties in the district shall transmit to the election board of the county first named in the district, within ten days after such election, a certified copy of the abstract of the senatorial election in each county.

SEC. 2680. The election board of the county to which such returns shall be made, after examining the same, shall give the person having the highest number of votes a certificate of his election.

SEC. 2681. Compensation shall be allowed to the messenger employed to convey the returns of any senatorial election to the county boards in the district to whom such returns are required to be made, at the rate of ten cents per mile, going and returning, to be paid by the county sending such returns. *Act January 23, 1875, secs. 54, 55 and 87, as amended by sec. 49, act March 4, 1891.*

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PROCEEDINGS WHEN RETURNS ARE NOT MADE.

SEC. 2682. If there shall be a failure to receive at the seat of government the copy of the returns from any county, intended either for the secretary of state, or the speaker of the house of representatives, for two days after the same is due, the secretary of state shall dispatch a messenger to the county from which said returns have not been received, with directions to bring up such returns or copies thereof. If such failure shall happen by neglect of the county election commissioners, they shall forfeit to the state the sum of one hundred dollars, together with the expense of such messenger, to be recovered by action of debt before any court having jurisdiction thereof. *Act March 4, 1891, sec. 17.*

CANVASS OF VOTES BY SECRETARY OF STATE.

SEC. 2683. It shall be the duty of the secretary of state, in the presence of the governor, within thirty days after the time herein allowed to make returns of election by the county election commissioners, or sooner, if all the returns shall have been received, to cast up and arrange the votes from the several counties, or such of them as may have made returns, for each person voted for as member of congress; and the governor shall immediately thereafter issue his proclamation, declaring the person having the highest number of votes to be duly elected to represent this state in the house of representatives of the congress of the United States, and shall grant a certificate thereof, under the seal of the state, to the person so selected.

SEC. 2684. Should any two or more persons have an equal number of votes, and a higher number than any other person, the governor, in such case, shall issue his proclamation, giving notice of such fact, and that an election will be held at the several places of holding elections in the district for such member of congress, in which he shall mention the day on which the election is to be held, and it shall be conducted, and returns thereof made, agreeably to the provisions of this act.

SEC. 2685. It shall be the duty of the secretary of state, in the presence of the governor, within thirty days after the time herein allowed to make returns of elections by county election commissioners, or sooner, if all the returns shall have been received, to cast up and arrange the votes from the several counties for each person voted for for any legislative, judicial or executive office, except the offices named in section 3, article VI, of the constitution; and such persons as shall have received the highest number of votes for judge of the supreme court, commissioner of state lands; judges of the circuit court and prosecuting attorneys, in their respective districts or circuits; judges of the county and probate court, circuit clerk, county clerk, sheriff, coroner, surveyor and assessor, in their respective counties; and justices of the peace, in their respective townships, and all other officers required by law, shall be immediately commissioned by the governor.

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SEC. 2686. If two or more persons have an equal number of votes for the same office, and a higher number than any other person, the governor, in such case, shall issue a writ of election, directed to the sheriff of the proper county or counties in which such election shall be held, on a day therein named, for the purpose of electing any legislative, judicial or executive officer, except the officers named in section 3, article VI, of the constitution, and constables, where there appears to be a tie vote.

SEC. 2687. It shall be the duty of the secretary of state, on the first day of each regular session of the general assembly, to lay before each house a list of members elected agreeably to the returns in his office.

CANVASS OF VOTES FOR STATE OFFICERS.

SEC. 2688. The speaker of the house of representatives, during the first week of the session after each election for governor, secretary of state, treasurer of state, auditor of state and attorney general, shall, in the presence of both houses of the general assembly, open and publish the votes cast and given for each of the respective officers hereinbefore mentioned. The person having the highest number of votes for each of the respective offices shall be declared duly elected thereto; but if two or more shall be equal and highest in votes for the same office, one of them shall be chosen by a joint vote of both houses of the general assembly, and a majority of all the members elected shall be necessary to a choice. The president of the senate and the speaker of the house of representatives shall make and deposit in the office of the secretary of state a certificate declaring what persons have been elected to any offices named. *Act January 23, 1875, secs. 60-64, as amended by sec. 49, act March 4, 1891.*

VACANCIES IN OFFICE, ELECTIONS TO FILL.

SEC. 2689. When any vacancy shall happen in the office of a member of congress from this state by death, resignation, removal or otherwise, it shall be the duty of the governor, by proclamation, to order the several county election boards to order an election to be held, on a certain day to be named in such proclamation, to supply such vacancy, and such election shall be conducted in the same manner, and returns thereof made, as herein prescribed for general elections.

SEC. 2690. Whenever the office of governor shall have become vacant by death, resignation, removal from office or otherwise, provided such vacancy shall not happen within twelve months next before the expiration of the term of office for which the late governor shall have been elected, the president of the senate or speaker of the house of representatives, as the case may be, exercising the powers of governor for the time being, shall immediately cause an election to be held to fill such

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vacancy, giving, by proclamation, sixty days' previous notice thereof, which election shall be governed by the same rules prescribed for general elections of governor, as far as applicable; the returns shall be made to the secretary of state, and the acting governor, secretary of state and attorney general shall constitute a board of canvassers, a majority of whom shall compare said returns and declare who is elected; and if there be a contested election the same shall be decided as contests for the office of supreme judge. *Ib.*, secs. 65, 66.

SEC. 2691. If a vacancy shall occur in either of the offices created by article VII of the constitution, by death, resignation, removal from the state, circuit, township, or otherwise, if such vacancy is required by section 50, article VII, of the constitution to be filled by special election, except the office of constable; it shall be the duty of the governor to issue a writ of election to fill such vacancy, directed to the board of election commissioners of the proper county or counties, which election shall be holden on a day named in said writ of election, and the person so elected to fill a vacancy shall hold his office for the unexpired term of his predecessor, and until his successor is elected and qualified.

SEC. 2692. All special elections which may be held by virtue of the provisions of sections 2684, 2686, 2689 and 2691, whether in the case of a tie or to fill a vacancy, shall be holden within thirty days from the date of the writ of election, and when such election shall be holden for the purpose of electing a judge of the supreme, chancery, or circuit courts, or prosecuting attorney, the governor shall cause a copy of such writ of election to be published in one of the newspapers at the seat of government, and in all the newspapers within the circuit in which such election is to be held. *Ib.*, secs. 69, 70.

CONTESTED ELECTIONS.

SEC. 2693. If the election of any supreme judge, or commissioner of state lands, be contested, it shall be before the circuit court of Pulaski county. If the election of any circuit judge, prosecuting attorney, chancellor, a judge of the county and probate court, be contested, it shall be before the circuit court of the county where the defendant or contestee resides, or the county where the contestant resides and the contestee may be found.

SEC. 2694. All actions to contest the election of supreme judges shall be commenced within one year after the election or commissioning of said judges, and actions for contesting the elections of all other officers herein mentioned within six months after they are elected or commissioned.

SEC. 2695. All actions or proceedings for contests as herein mentioned shall be by complaint filed in the circuit court as other actions at law, in which the contestant shall plainly and fully set forth the grounds upon which the contest is found, and upon the trial of the

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same he shall be confined to such grounds as are therein mentioned, but may amend the same in such manner and upon such terms as do not prejudice his opponent.

SEC. 2696. If the contestant shall succeed in his action, he shall not only have a judgment of ouster, but for damages, not exceeding the salary and fees of the office during the time he was excluded therefrom, with costs of suit; *Provided*, either party shall have the right to appeal, with or without *supersedeas*, as in other cases at law. *Ib.*, secs. 67, 68.

SEC. 2697. When the election of any clerk of the circuit court, sheriff, coroner, county surveyor, county treasurer, county assessor, justice of the peace, constable, or any other county or township officer, the contest of which is not otherwise provided for, shall be contested, it shall be before the county court, and the person contesting any such election shall give the opposite party notice in writing ten days before the term of the court at which such election shall be contested, specifying the grounds on which he intends to rely, and if any objections be made to the qualifications of voters, the names of such voters, with the objections, shall be stated in the notice, and the parties shall be allowed process for witnesses.

SEC. 2698. Either party may, on giving notice thereof to the other, take depositions to be read in evidence on the trial, and the court shall, at the first term (if fifteen days shall have elapsed after such election, and if less than fifteen, then at the second term) in a summary manner, determine the same according to evidence.

SEC. 2699. If the court shall be of the opinion that the person proclaimed elected is not duly elected, and the person contesting is elected, an order shall be entered to that effect, and a copy thereof shall forthwith be transmitted to the governor, who shall commission the person declared duly elected by such order.

SEC. 2700. If the person proclaimed duly elected shall have been commissioned previous to making the order annulling his election, it shall be the duty of the governor to cause such person to be notified that his commission is revoked.

SEC. 2701. Nothing in this act shall be construed so as to make void any act of the person so commissioned that would otherwise have been lawful. *Ib.*, secs. 71-75.

CONTESTANT TO GIVE BOND FOR COSTS.

SEC. 2702. In all suits brought in any of the circuit courts, or in any of the county courts in this state, to contest the election of any state, district, circuit, county or township officer, the contestant shall be required to enter into a bond, with good and sufficient security, to be approved by the clerk of the court in which such suit shall be brought, conditioned that the contestant and his securities will pay to the contestee or defendant in the action and the officers of court such of money as

shall be adjudged against him in the court in which the suit shall be brought or in any other court to which it shall be carried by appeal or otherwise.

SEC. 2703. The contestant in such suits as are contemplated in the preceding section, shall not proceed with his case in any manner, save filing his complaint, or take any testimony in his case until he shall have filed in the clerk's office and obtained the approval of such a bond as is contemplated in said section.

SEC. 2704. If, upon the trial of any such suit as is mentioned in section 2702, judgment shall be rendered against the contestant, judgment shall immediately be rendered against him and his securities in the bond for costs in favor of the contestee or defendant in the action and the officers of court for the amount due them as costs in the case. *Act February 24, 1879, secs. 1, 2 and 4.*

CONTESTING ELECTION OF SENATORS AND REPRESENTATIVES.

SEC. 2705. If any candidate of the proper county or district contests any election of any person returned duly elected to the state senate or house of representatives, such person shall give notice thereof, in writing, to the person whose election he contests, or leave a written notice thereof at the house where such person last resided, within twenty days after the return of the election to the office of county election commissioners, expressing the points on which the same will be contested and the names of the two justices of the peace who will attend to the taking of the depositions, and when and where they will attend to take the same. *Act January 23, 1875, sec. 76, as amended by sec. 49, act March 4, 1891.*

SEC. 2706. The time for taking depositions in chief on part of the contestant shall not exceed thirty days from the day of the election. The justices, or either of them, shall issue subpoenas for all witnesses required by the contestant, commanding such persons to appear before them to testify at the time and place therein mentioned.

SEC. 2707. The contestant shall close his evidence in chief before the contestee commences, and if the contestee does not desire to take any depositions, and so states to the justice, then, in that event the justice shall close the case and transmit the papers as herein directed.

SEC. 2708. If the contestee desires to take any proof on any point not set out in the notice served on him, he shall serve a notice in writing on the contestant, setting forth the ground of his cross contest or new points to be raised on his part, and naming therein some person authorized to take depositions before whom the depositions are to be taken, and such notice to be served at least three days before the commencing to take depositions.

SEC. 2709. The contestee shall be confined to the grounds or points set out in the notice given by him, and the contestant, after the con-

clusions of the evidence taken by the contestee, may produce evidence on the said grounds or points; all of his evidence shall be closed at least ten days before the day fixed for the meeting of the general assembly.

SEC. 2710. The contestant may take rebutting testimony up to the day before the meeting of the general assembly, but shall take no evidence thereafter. *Ib.*, sec. 77, as amended by act March 3, 1883.

SEC. 2711. If any person summoned as a witness to testify in any contested election shall fail to attend, his attendance may be compelled by attachment.

SEC. 2712. The justices shall hear and certify all testimony relative to such election to the president of the senate, if the contest is for a seat in the senate; and if for a seat in the house of representatives, then to the speaker of the house of representatives.

SEC. 2713. No testimony shall be received on the part of the person contesting the election by the justices which does not relate to the points specified in the notice, a copy of which notice, attested by the person who delivered or served the same, shall be delivered to the justices, and be by them transmitted with the depositions. *Ib.*, secs. 78-80.

CONTEST FOR THE OFFICE OF GOVERNOR, SECRETARY OF STATE, ETC.

SEC. 2714. All contested elections of governor, secretary of state, treasurer of state, auditor of state and attorney general, except as herein provided, shall be decided by the joint vote of both houses of the general assembly, and in such joint meeting the president of the senate shall preside.

SEC. 2715. If any person contests the election of governor, he shall present his petition to the general assembly, setting forth the points on which he will contest the same, and the fact which he will prove in support of such points, and shall pray for leave to introduce his proofs, and a vote shall be taken by yeas and nays in each house whether the prayer shall be granted.

SEC. 2716. If a majority of the whole number of votes of both houses shall be in the affirmative, they shall appoint a joint committee to take testimony on the part of the petitioner, and also on the part of the person whose place is contested, with power to send for witnesses: who may issue warrants, under the hand of the chairman, to any judge or justice of the peace to take the depositions of witnesses at such time and place as the warrant shall direct, and the points to which the testimony is to be taken shall be set forth in such warrant.

SEC. 2717. Reasonable notice shall be given by the party in whose favor depositions shall be allowed to be taken to the opposite party of the time and place of taking the same, and the judge or justice shall proceed in all things, in the attendance of witnesses and in taking and certifying the testimony, as is directed in the preceding section.

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SEC. 2718. The party shall also be allowed to attend the examination of witnesses before the committee, and to cross-examine them, but no testimony shall be taken except in relation to the points set forth in the petition.

SEC. 2719. The committee shall report the facts to the two houses, and the day shall be fixed by a joint resolution for the meeting of the two houses to decide upon the same, on which decision the yeas and nays shall be taken and entered on the journal of each house.

PRESIDENTIAL ELECTORS—WHEN CHOSEN, ETC.

SEC. 2720. The election or appointment of electors for president and vice president of the United States shall be had and held on the Tuesday next after the first Monday in the month of November of the year eighteen hundred and seventy-six, and every four years thereafter.

SEC. 2721. The qualified voters in this state shall meet at their respective places of holding elections, and shall proceed to choose as many fit and proper persons as the state shall be entitled to as electors of president and vice president, which election shall be conducted by the judges who may have been appointed to hold the general election of the state for the same year, and under the same regulations as are or may be required by the law regulating such general election; and it shall be the duty of the judges of such election, in the different townships, to make returns thereof to the board of county election commissioners within five days after such election; which boards shall, within five days after they receive such returns, certify and transmit the same by some person employed for that purpose, or by mail, to the governor, whose duty it shall be, within twenty days after the day of election, to add up the votes from the several counties, and the persons having the highest number of votes shall, by him, be declared elected; and it shall be the duty of the governor, at the expense of the state, in all cases, immediately to notify the persons chosen of their election as soon as the same shall have been ascertained, agreeably to the provisions aforesaid.

SEC. 2722. The governor shall, on or before the meeting of such electors, cause three lists of the names of such electors to be made and delivered to them; and the person employed in giving the notices, or conveying the returns, as aforesaid, shall be allowed ten cents per mile for every mile such person may travel in going and returning in the performance of the service aforesaid, to be audited and paid as other claims.

SEC. 2723. The electors shall meet at the seat of government on the second Monday in January next ensuing their appointment, and shall then and there give their votes for president and vice president, and shall do and perform all other duties required of them by the act of congress in that case made and provided.

SEC. 2724. Each elector for president and vice president of the United States shall have and receive as a full compensation for his

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services the sum of two dollars for every twenty miles of travel from his residence and returns to his home, and four dollars per diem for every day engaged at the seat of government in casting the vote for president and vice president of the United States.

SEC. 2725. If the electors appointed under this act, or any of them, fail to attend at the seat of government by the hour of two o'clock in the afternoon of the day pointed out in this act for electing president and vice president of the United States, then, and in that case, the general assembly, if in session, shall proceed immediately, by a joint vote of the two houses, to fill such vacancy or vacancies; but if said general assembly shall not on said day be in session, then, and in that case, the governor shall immediately fill such vacancy or vacancies.

SEC. 2726. No senator or representative in congress, or any person holding an office of trust or profit under this state or the United States, shall be eligible as an elector of president and vice president.

SEC. 2727. In case the election of said electors, or any of them, be contested, it shall be decided as provided by this act for contesting the election of a judge of the supreme court. *Ib.*, 92-99, as amended by act March 4, 1891, and act of congress, February 3, 1887.

SEC. 2728. When not otherwise provided, this chapter shall apply to and govern the election of all officers required to be elected. *Act January 25, 1875, sec. 101.*

AN ACT to amend the laws in relation to the payment of poll tax, and for other purposes.

Be it Enacted by the General Assembly of the State of Arkansas:

SECTION 1. That at any time after the assessment lists have been delivered to the county clerk for the purpose of enabling him to prepare the tax books for the collector, any person whose name has for any cause been omitted from the said lists may have his name included in said list and placed upon the tax lists in the hands of the collector by application to the said clerk at any time before the Saturday next preceding the first Monday of July, when the collector is required to make his final settlement with the county court. If the said application shall be made after the tax books have been delivered to the collector, the clerk shall certify the said supplemental assessment, which he is hereby authorized to make, to the collector, and shall charge to said collector the amount of tax and penalties so added. In addition to the sum assessed against any such applicant for poll tax, the clerk shall extend against him a penalty for failing to return his assessment to the assessor at the proper time, one dollar—twenty-five cents of which shall go to the clerk for his services, and seventy-five [cents] shall go into the fund for general county expenses; and if said application shall be made after the 10th of April, the collector shall collect a penalty of twenty-five cents for a

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failure to pay the said poll tax at the time prescribed for making payment of taxes without penalty. In addition to the assessment of poll tax in such cases, it is hereby made the duty of said clerk to assess any property held by said applicant, and which, for any reason, has been omitted from the tax books.

SEC. 2. Upon the payment of poll tax assessed against any person liable therefor, and the specific penalties imposed for a failure to cause the same to be assessed or paid at the time allowed for severally doing these acts without penalty, the person making such payment shall be entitled to receive from the collector a separate poll tax receipt, and to have his name included in the collector's official list of persons who have paid poll tax; and it shall be unlawful for any collector to refuse to execute such receipt, or to enter on said list the name of any such person, because of the failure or refusal to pay the taxes due upon any property held by such person. But all other remedies now given by law for a failure to pay such taxes on any such property are hereby preserved.

SEC. 3. On the first Monday in July of each year, the collector shall file with the county clerk a list containing the correct names, alphabetically arranged, of all persons who have, up to and including that date, paid the poll tax assessed against them respectively. The correctness of this list shall be authenticated by the affidavit of the collector in person. The county clerk shall at once record the said list in a well-bound book to be kept for that purpose, and on or before the 15th day of July, shall deliver to the county election commissioners, or to the chairman or secretary of the said board, a certified copy thereof. The original shall be kept on file in the office of the said clerk, free to the inspection of any elector of said county, and the clerk shall, on demand, accompanied by the fee prescribed by law for making a copy of any instrument or record, make a copy thereof for any person. The county election commissioners shall cause to be printed a sufficient number of said lists to supply to each judge of election, at every general or special election a copy thereof, to be sent to such judge with the ballots and blank poll books now directed to be sent preparatory to holding any election. The said election commissioners are authorized to have said printing done at an expense not to exceed one dollar and fifty cents for each one hundred names on said list. The fees of the county clerk for all services to be rendered by him in filing, recording and furnishing to the election commissioners a certified copy of said list shall be ten cents for each one hundred words contained in said list, and the certified copy thereof so furnished to said commissioners.

SEC. 4. All expenses connected with the holding of any municipal election shall be borne by the respective municipalities, and no part thereof shall be a charge against the county in which such municipality may be situated. The *per diem* of the election commissioners, and that of the judges and clerks, shall be included in the expenses chargeable to

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such municipalities. In all elections in special school districts, the board of directors shall provide for the *per diem* of judges and clerks of such elections, as well as all other expenses connected therewith.

SEC. 5. The "time for collecting taxes," as this term is employed in the constitution in connection with the payment of poll taxes, is hereby defined to be the period between the first Monday in January and the Saturday next preceding the first Monday in July, on which last named date the collector is required by law to make his final settlement with the county court. Any person liable to pay poll tax, and who has paid the same at any time within the dates named, shall, if possessed of the other qualifications required by law of an elector, be entitled to vote at any election held in this state at any time before the first Monday in July of the year succeeding that in which the payment is made. The auditor shall cause to be printed in the blank poll tax receipt which he is required to furnish to the collector, and the county election commissioners are required to have printed in plain type and in a conspicuous place on the lists which they are required to furnish to the election judges, an express statement of the time within which the payment in any particular case will authorize the taxpayer, otherwise qualified, to vote. The auditor shall furnish to each collector in the state as many blank poll tax receipts containing the statement aforesaid, as will be necessary to supply to each taxpayer a proper receipt. It is hereby made unlawful for the auditor to fail to furnish to such collector a sufficiency of said blanks, or for any collector to furnish to any taxpayer a receipt prepared otherwise than on one of said official blanks. It is made the duty of the collector at the time he makes his final settlement with the state treasurer to deliver to the auditor all unused blanks. If the collector shall fail to file said unused blank receipts, the auditor shall charge him on his account for the benefit of the general revenue fund with a sum equal to one dollar (\$1.00) for each of said blanks not so returned, and the auditor shall not issue to the said collector a *quietus* until said sum is fully paid, and in addition thereto the collector shall be liable to the penalties prescribed by this act as for a violation of its provisions.

SEC. 6. Any person whose name appears on the official list filed by the collector, shall, if otherwise qualified, be permitted to vote without being required to do more than to state, without being sworn, if asked by the election judges, that the receipt is not in his immediate possession, and that he has not previously used the receipt to vote at the particular election, and that he does not purpose doing so. In the event that the elector does not present his poll tax receipt, the clerk shall write on the poll book, opposite his name and the number of his ballot, the word "list," which shall be taken to mean that said elector has voted at that precinct without having exhibited his receipt. In any prosecution of an elector for having voted more than once this entry shall be deemed and taken to be *prima facie* evidence that the said elector

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has voted without exhibiting his poll tax receipt. If the judges of election have any doubts as to the identity of any person being the person whose name appears upon the official list of those who have paid poll tax, they may take evidence by the oath of the person who presents himself claiming to be such person, or by other competent evidence, and in this connection the judges of election are hereby empowered to administer oaths. Any person offering to vote outside the county in which his poll tax has been paid, must present the collector's receipt or a certificate from the county clerk of the county in which the payment was made, to the effect that such person's name appears upon the official list filed by the collector, and by making proof to the satisfaction of the election judges of his identity with the person named in the clerk's certificate or receipt.

SEC. 7. The nomination fee required by law to be paid as a condition for having the name of any candidate printed on the official ballot, may, in the case of a state or district office, be paid into the state treasury and the receipt of this officer for such payment shall authorize the secretary of state to include in his certificate to the county election commissioners of the respective counties, the name of any person making such payment, and who has otherwise complied with the law relating to nominations. The sum so paid shall be credited to the several counties of the state or district as the particular case may be. The auditor shall charge the treasurer with the several amounts thus paid, and shall notify the several county clerks thereof. It is also hereby made the duty of the secretary of state, immediately after the passage of this act, to certify to the several county clerks a statement of the amounts for which collectors' and county treasurers' receipts have been filed in his office on account of nomination fees at former elections, and upon receipt of such certificate, it shall be the duty of the said clerks to charge these amounts to the collector or treasurer who executed such receipt in any given case, if upon examination it shall appear that this has not been done already.

SEC. 8. Any clerk, collector, election commissioner or other person who shall willfully violate any of the provisions of this act, shall, upon conviction, be punished by a fine of not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment for a period not less than one month nor more than six months, or by both such fine and imprisonment at the discretion of the court.

SEC. 9. That all laws or parts of laws inconsistent with this act be, and the same are hereby, repealed, and that this act take effect from and after its passage.

Approved March 18, 1895.

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AN ACT to prevent disorderly conduct during primary elections and conventions.

Be it Enacted by the General Assembly of the State of Arkansas:

SECTION 1. It shall be unlawful for any person to sell or give away, or to cause to be sold or given away, or used or furnished in any manner or form, any intoxicating liquors during the day of, or succeeding night of, any legalized primary election, held by any political party in any county, city, township or ward; and any person selling or giving away or causing to be sold or given away, or furnished in any manner or form, any intoxicating liquors during said day or night in which any such legalized primary election may be held, shall be guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than one hundred dollars (\$100.00) for each and every offense, or imprisoned not less than six months or both.

SEC. 2. That this act take effect from and after its passage.

Approved March 3, 1897.

AN ACT to legalize primary elections.

Be it Enacted by the General Assembly of the State of Arkansas:

SECTION 1. That whenever any political party in this state shall by primary election nominate any persons to become candidates at any general election, regular or special, or before the legislature for United States senator, or for congress or any legislative, judicial, state, district, county, township or municipal office, the said primary election shall be and is hereby made a legal election; *Provided*, This act shall not apply or be in force unless the county central committee of such party, shall, twenty days before said primary election, file in the office of the county clerk of the county a certificate signed by the chairman, and attested by the secretary of such county central committee, certifying that said primary election will be held under the provisions of this act.

SEC. 2. The judges and clerks selected to hold said election shall possess the same qualifications as are required for judges and clerks under the law governing general elections in this state, provided that all shall be of the same political party as that for which said primary election is held.

SEC. 3. The judges holding said primary election before entering upon their duties, shall qualify before some officer duly qualified to administer an oath, and they shall then have power to administer oaths to the clerks of said election and to voters when deemed necessary to ascertain the qualifications of electors.

SEC. 4. Any judge or clerk serving at any such primary election who shall in any manner falsify the returns of the same, or knowingly make a false count of the ballots cast, or aid or abet any such act of

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another person, or knowingly permit such to be done by others, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than two hundred dollars and imprisoned in the county jail not less than thirty days.

SEC. 5. Any person voting in said primary election not possessing all of the qualifications of an elector as required under the general election laws of the state, or who shall cast more than one ballot in said election, or accept any money or its equivalent for his vote, or use any money or its equivalent, to influence the vote of any other person, or employ any force, threats or intimidation to influence the vote of any other person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than two hundred dollars and imprisoned in the county jail not less than thirty days. Every repetition of any or either of the acts herein specified shall constitute a separate offense.

SEC. 6. All acts or parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force on and after its passage.

Approved April 20, 1895.

AN ACT to regulate the sale of wine.

Be it Enacted by the General Assembly of the State of Arkansas:

SECTION 1. At the general election when the vote is taken "For License" or "Against License," the sale of wine shall not be affected by that vote, but a separate vote "For the sale of Wine" or "Against the sale of Wine," shall be taken in the same manner as the vote on license.

SEC. 2. When the county court is petitioned to prohibit the sale of liquors under the three-mile law, the petition may specify all kinds of liquors as now provided by law, or may specify wine as the only liquor to be prohibited, or may except wine from the petition.

SEC. 3. If it shall appear that the people of any county, township or ward of a city, or if any "three-mile" district under the operation of present laws as modified by the two preceding sections, are not opposed to the sale of wine, and if there be no provisions in special acts or orders of courts forbidding the sale of wine, then it shall be lawful for any person who grows or raises grapes or berries to make wine thereof and without license sell the same in any quantities not less than one-fifth of a gallon anywhere in the state, except in counties, townships, or wards of cities, or three-mile districts, or under districts under special acts where the people have voted or petitioned or secured special laws against the sale of wine.

SEC. 4. All wines sold in the state, shall, before sale, be labeled so as to designate their qualities. Nothing but pure, fermented juice of the grape or berry shall be labeled "Natural Wine." Wine to which sugar

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has been added to insure its keeping qualities, shall be labeled "Sugared Wine."

SEC. 5. It shall be unlawful for any person to sell or offer for sale, any wine containing poisonous or injurious drugs, or to sell any wine which contains more than 17 per cent of alcohol, and it shall be the duty of circuit judges at the beginning of each term of circuit court to charge the grand juries to investigate and return indictment for violations of any of the provisions of this act.

SEC. 6. Any one violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, and the prosecuting attorney shall receive the same fees for convictions as is now allowed for convictions for selling liquor without license.

SEC. 7. All fines collected under this act shall be paid into the general revenue fund of the county in which the offense is committed, and the present law governing the selling or giving of liquors to minors shall govern the selling or giving of wine to minors.

SEC. 8. All laws and parts of laws in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage, except where the vote at the last election was against license or the three-mile law is now in force, or special acts forbid the sale of wine.

Approved June 26, 1897.

MUNICIPAL CORPORATIONS.

ELECTION, APPOINTMENT AND QUALIFICATION OF OFFICERS.

SECTION 5127. The annual election of cities of the first and second class and incorporated towns shall be held on the first Tuesday in April of each year; and all officers whose election is provided for by this act, or any ordinance, shall be elected on that day. Special elections of the members of the city council of all cities and incorporated towns shall be held at such time and place as the mayor by proclamation shall direct, so that at least ten days' notice thereof shall be given. Special elections herein authorized to be held shall be held at such time and place as the city council may direct. In all cities there shall be a place appointed in each ward for holding elections. Any person who, at the time of the election of municipal officers, is a qualified voter under the laws of the state, for state or county officers, and has resided within the corporation for six months next preceding the election and thirty days in the ward where he offers to vote, shall be deemed a qualified elector. All elections shall be held and conducted in the manner prescribed by law for holding state and county elections, so far as the same may be applicable. *Act March 9, 1875, sec. 71; acts March 28, 1885, and February 15, 1887.*

SEC. 5128. The returns of all municipal corporations shall be made to the election commissioners of the county in which the corporation is situated, and shall be by them opened within three days after receiving the same, who shall count the vote as the same appears from the poll books, make an abstract thereof, and forward the same to the mayor; they shall, in like manner and without delay, furnish to each candidate elected a certificate of election, or leave the same at his usual place of abode. *Ib., sec. 2, as amended by sec. 49, act March 4, 1891.*

SEC. 5129. All officers elected or appointed in any municipal corporation shall take the oath or affirmation prescribed by the constitution of this state, for officers. The aldermen or council may require from such officers as they think proper a bond with good and sufficient security, with proper penalty, for the faithful discharge of their offices and duties; and shall have power to declare the office of any person elected vacant who shall fail to take the oath of office or give the bond herein required within ten days after he shall have been notified of his election or appointment, and proceed to appoint as in other cases of vacancy. *Ib., sec. 73.*

SEC. 5220. The charters and all the amendments thereto of all

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municipal corporations within this state designated as cities of the second class and incorporated towns may be surrendered, all officers held thereunto abolished and the territory and inhabitants thereof remanded to the government of this state in the manner hereinafter provided.

SEC. 5221. Whenever one hundred qualified electors of any city of the second class, or twenty-five qualified electors of any incorporated town shall petition the city or town council thereof asking the surrender of the charter of said municipal corporation, it shall be the duty of said city or town council immediately to submit the question whether such surrender shall be made to the qualified electors of said municipal corporation at an election to be held for that purpose, after having given notice of such election four weeks by advertisement in one of the newspapers published in said corporation, or if there be no newspaper published therein, by advertisement posted in two or more public places in said corporation.

SEC. 5222. Said election shall be held and conducted by, and the returns thereof shall be made to, said city or town council in such manner as by said city or town council may be directed.

SEC. 5223. When said returns shall have been made as aforesaid, it shall be the duty of said city or town council to count the votes cast at said election, and if a majority of the votes so cast shall be in favor of the surrender of the charter of such municipal corporation, the said city or town council shall present to the county court of the county in which said corporation is situated, a petition showing that an election has been held as aforesaid and the result thereof, and praying that the charter of said municipal corporation may be surrendered.

SEC. 5224. If it shall appear to the satisfaction of said court that said election has been held as aforesaid, and that a majority of the votes cast at said election was in favor of the surrender of the charter of such municipal corporation, it shall be the duty of said county court to make and enter upon its record an order declaring the charter and all the amendments thereto of said municipal corporation to be surrendered under the provisions of this act, and to order the clerk of said court to make out and certify under his official seal two transcripts of said order, one of which said clerk shall forward to the secretary of state, to be kept on file in his office and the other he shall deliver to the recorder of said county, whose duty it shall be to record the same in his office.

ELECTION OF OFFICERS, SALARIES, DUTIES OF.

SEC. 5263. The qualified voters of cities of the first class shall on the first Tuesday in April, 1875, and every two years thereafter, elect one mayor, one city treasurer and one police judge, who shall hold their offices two years, and until their successors are elected and qualified, and shall have such powers and perform such duties as are required by law, or may be prescribed by any ordinance of the city not inconsistent with

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this chapter. Also one city clerk and one city attorney, who shall hold office for two years, and until their successors are elected and qualified; who shall give the bond, perform the duties and receive such salary as is now or may hereafter be prescribed by ordinance in each of said cities of the first class. *Acts March 9, 1875, sec. 51; March 28, 1885, and April 11, 1893.*

SEC. 5264. There shall also be elected at such election aldermen by the qualified electors of the entire city, two aldermen for each ward, who shall reside in their several wards, as now provided by law. *Act March 9, 1875, sec. 51, as amended by act of March 21, 1893.*

SEC. 5265. The aldermen shall be residents of their respective wards, and when they shall have organized as hereinafter provided, they shall proceed to determine by lot the time of service of each alderman so elected, so that one of the aldermen of each ward shall serve for the term of two years, and the other for one year; and at every succeeding general election to be held therein one alderman shall be elected by the qualified voters of said ward, who shall possess the qualifications hereinbefore required, and whose term of service shall be two years, so that the terms of two aldermen of each ward shall always expire on different years, and the persons thus chosen shall hold their offices until their successors are elected and qualified.

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2713. Irrelevant testimony not received.

CONTEST FOR THE OFFICE OF GOVERNOR,
SECRETARY OF STATE, ETC.

2714. General assembly to decide.
2715. Petition to contest election of governor.
2716. Committee to be appointed, when; powers, etc.
2717. Reasonable notice to be given by contestee of taking depositions.

ELECTION LAWS OF ARKANSAS

SECTION.

- 2718. Contestee allowed to attend examination of witnesses.
- 2719. Committee to report facts; joint session to decide on same.

PRESIDENTIAL ELECTORS.

- 2720. Election of, when held.
- 2721. How election conducted.
- 2722. Governor to furnish list of electors; mileage allowed.

SECTION.

- 2723. Meeting and casting vote of.
- 2724. Per diem and mileage of electors.
- 2725. Vacancy in electors, how filled.
- 2726. What officers not eligible.
- 2727. Contest of election of electors, how decided.
- 2728. This act to govern election of all officers not otherwise provided for.

EXHIBIT 100
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