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G. H. Roberts

REVISION OF 1906

STATE OF MICHIGAN

LAWS RELATING TO

ELECTIONS

COMPILED UNDER THE SUPERVISION OF

GEORGE A. PRESCOTT

SECRETARY OF STATE

BY AUTHORITY

LANSING, MICH.
WYNKOOP HALLENBECK CRAWFORD CO., STATE PRINTERS
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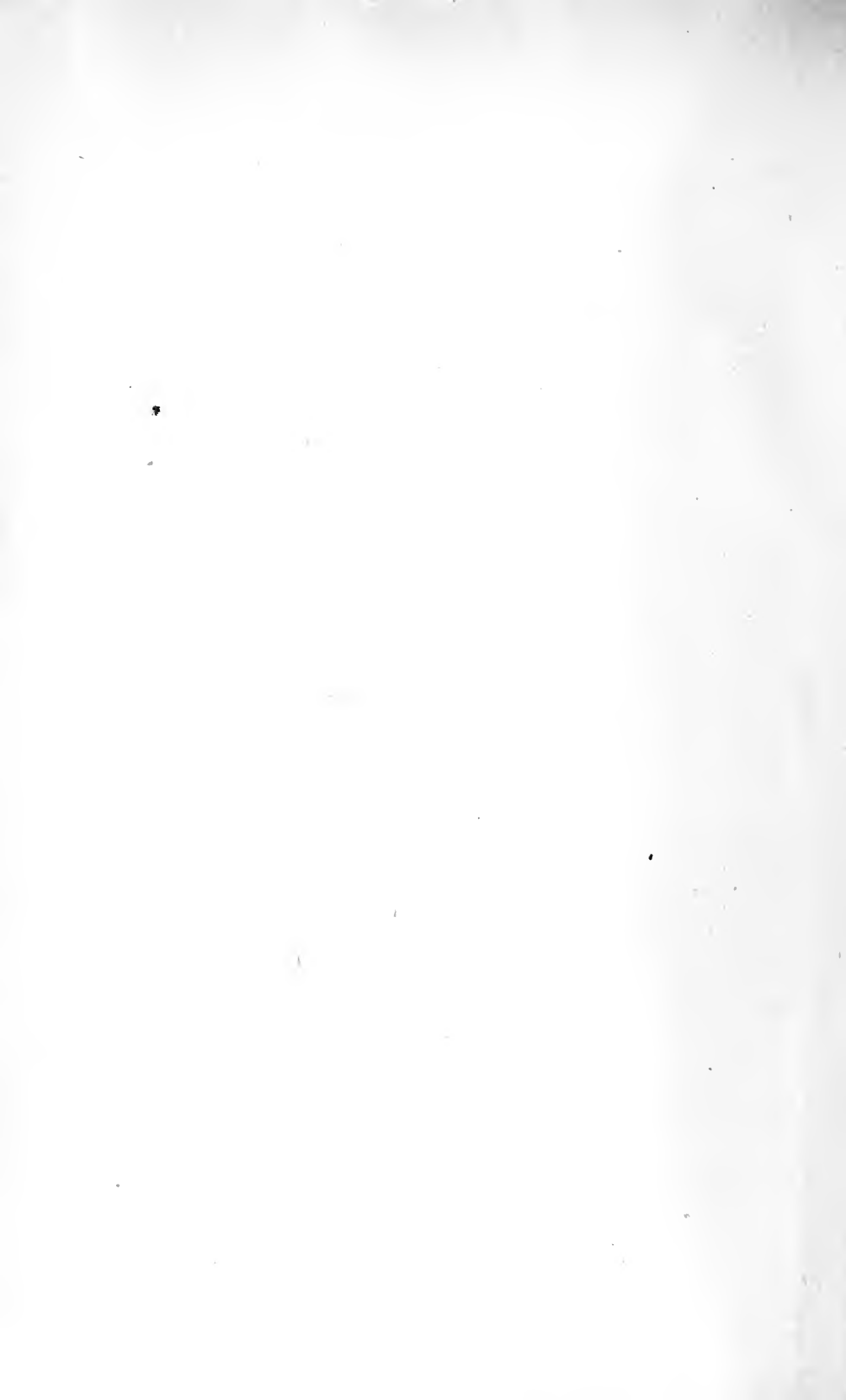
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NOTE.—This compilation includes only laws of a general nature. Local acts which concern particular localities have been omitted.

The annotations include Supreme Court decisions to and including the 135th Michigan report. The character / is used in citing cases, to avoid the repetition of Mich.; the section mark § refers to the section number of the Compiled Laws of 1897.

The section numbers in parentheses, (), are compiler's sections and are consecutive throughout the book, and the notes used refer to these sections.

Abbreviations—Am., amended; C. L., compiled laws.



MICHIGAN ELECTION LAWS.

CHAPTER I.—CONSTITUTIONAL PROVISIONS.

ARTICLE IV.—LEGISLATIVE DEPARTMENT.

(1) SECTION 1. The legislative power is vested in a senate and house of representatives. Legislative power, how vested.

DELEGATION OF LEGISLATIVE POWER: The general law-making power cannot be delegated.—People v. Collins, 3 / 343-427; State Tax Law Cases, 54 / 350, 398, 455. But local legislative power may be delegated as authorized and contemplated by the constitution.—People v. Collins, 3 / 343-415. See also Att'y Gen. v. Bolger, 128 / 362; People v. Salsbury, 134 / 544. The governor has no power to make laws. The legislative power is in no part vested in him; his office is a check upon the legislature.—People v. Dettenthaler, 118 / 602.

(2) SEC. 2. The senate shall consist of thirty-two members. Senate. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive, each of which shall choose one senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more senators.

Hunt v. Buhner, 133 / 113.

DIVISION OF COUNTY: The only counties as yet affected by this provision are Wayne and Kent.

(3) SEC. 3. The house of representatives shall consist of not less than sixty-four, nor more than one hundred members. House of representatives. Representatives shall be chosen for two years and by single districts. Each representative district shall contain, Representative districts. as nearly as may be, an equal number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket, the number of representatives to which it is entitled. Each county hereafter or-

ganized, with such territory as may be attached thereto, shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative the board of supervisors shall assemble at such time and place as the legislature shall prescribe and divide the same into representative districts, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the offices of the Secretary of State and clerk of such county, a description of such representative districts, specifying the number of each district and population thereof, according to the last preceding enumeration.

Am. 1870.

CONTIGUOUS TERRITORY: This does not require contact by land, but portions of territory, although separated by wide reaches of navigable deep waters, may be considered contiguous.—Supervisors v. Sec'y of State, 92 / 638.

GENERAL TICKET: No township has ever come under this provision and only three cities, Detroit, Grand Rapids and Saginaw.

SUBDIVISION OF COUNTY: The power to divide the county into representative districts is vested in the board of supervisors and not in the legislature.—Supervisors v. Sec'y of State, 92 / 638.

See Smith v. Saginaw, 81 / 123; Maynard v. Canvassers, 84 / 228; Hunt v. Buhrer, 133 / 113.

Enumeration
of inhabitants.

Apportion-
ment of
senators and
representa-
tives.

(4) SEC. 4. The legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the senate districts and apportion anew the representatives among the counties and districts, according to the number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe. Each apportionment, and the division into representative districts by any board of supervisors, shall remain unaltered until the return of another enumeration.

Am. 1870.

DISTRICTS UNALTERABLE: The constitution prohibits any alteration of a district and a law which, by the change of city boundaries, transfers electors from one district to another is as much an alteration as it would be if the same result were brought about in a different way.—Att'y Gen. v. Holihan, 29 / 116. But, except as prohibited by the constitution, the legislature can change legislative districts, and the power to do so is not lodged exclusively in the boards of supervisors. Such changes may be made after a new enumeration and prior to the new apportionment.—People v. Bradley, 36 / 447. The organization of a new county out of an entire representative district is not prohibited.—Bay Co. v. Bullock, 51 / 544. An act which consolidates two cities situated in different districts, but expressly preserves the boundaries of the districts and the manner of electing representatives, does not violate this provision of the constitution.—Smith v. Saginaw, 81 / 123.

ENUMERATION: The enumeration here intended is an enumeration of the population by either the federal or state authority.—Bay Co. v. Bullock, 51 / 544.

Senators and
representa-
tives to be
citizens.
Office vacated
by removal.

(5) SEC. 5. Senators and representatives shall be citizens of the United States and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

Royce v. Goodwin, 22 / 496.

(6) SEC. 6. No person holding any office under the United States or any county office, except notaries public, officers of the militia and officers elected by townships, shall be eligible to or have a seat in either house of the legislature, and all votes given for any such person shall be void.

Certain officers ineligible to a seat in the legislature.

See Att'y Gen. v. Detroit Com. Council, 112 / 151.

(7) SEC. 9. Each house shall choose its own officers, determine the rules of its proceedings, and judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election; the reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

Powers of each house.

Rules—expulsion of members.

JUDGE OF ELECTIONS: The decision of each house as to its own membership is conclusive and not subject to review by the courts.—People v. Mahaney, 13 / 481; F. & F. P. R. Co. v. Woodhull, 25 / 99; Aud. Gen. v. Supervisors, 89 / 552; Wheeler v. Canvassers, 94 / 448.

(8) SEC. 11. In all elections by either house or in joint convention, the votes shall be given viva voce. All votes on nominations to the senate shall be taken by yeas and nays, and published with the journal of its proceedings.

Elections by the legislature.

(9) SEC. 18. No person elected a member of the legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the governor, the governor and senate, from the legislature, or any other State authority, during the term for which he is elected. All such appointments and all votes given for any person so elected for any such office or appointment shall be void. No member of the legislature shall be interested, directly or indirectly, in any contract with the State or any county thereof, authorized by any law passed during the time for which he is elected, nor for one year thereafter.

No member to receive civil appointment.

Not be interested in contract with the state.

APPOINTMENT: The term "appointment" seems to be used here as synonymous with "election."—People v. Hurlbut, 24 / 44. The purpose of such provisions is to prevent officers from using their official positions in the creation of offices for themselves, or for the appointment of themselves to place.—Ellis v. Lennon, 86 / 468.

(10) SEC. 30. No collector, holder nor disburser of public moneys shall have a seat in the legislature, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

Ineligibility of certain persons.

(11) SEC. 34. The election of senators and representatives pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty-two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

Election of senators and representatives.

Westinghausen v. People, 44 / 265; Maynard v. Canvassers, 84 / 228. For general election laws, see sections 94 et seque.

Vacancies.

(12) SEC. 37. The legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

VACANCIES IN OFFICE: Upon the creation of a new office a vacancy exists, whether the legislature so declares or not, and the legislature may provide for filling it.—*People v. Burch*, 84/408. This section refers only to the mode of filling the vacancy and not to the term of the appointee.—*Att'y Gen. v. Trombly* 89/50; *People v. Burch*, 84/408. An appointee to fill vacancy has the same official standing as the officer he succeeds.—*Peck v. Berrien Supervisors*, 102/346. For general statutory provisions as to vacancies, see section 399.

Rights of opinion.

(13) SEC. 41. The legislature shall not diminish or enlarge the civil or political rights, privileges and capacities of any person on account of his opinion or belief concerning matters of religion.

People v. Hurlbut, 24/44; *Pfeiffer v. Bd. of Education*, 118/560.

ARTICLE V.—EXECUTIVE DEPARTMENT.

Governor and lieutenant governor.

(14) SECTION 1. The executive power is vested in a governor, who shall hold his office for two years. A lieutenant governor shall be chosen for the same term.

Eligibility to office of.

(15) SEC. 2. No person shall be eligible to the office of governor or lieutenant governor, who has not been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to either office who has not attained the age of thirty years.

Att'y Gen. v. Abbott, 121/560.

When and how elected.

(16) SEC. 3. The governor and lieutenant governor shall be elected at the times and places of choosing the members of the legislature. The person having the highest number of votes for governor or lieutenant governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for governor or lieutenant governor, the legislature shall, by joint vote, choose one of such persons.

Writs of election.

(17) SEC. 10. He shall issue writs of election to fill such vacancies as occur in the senate or house of representatives.

United States officer ineligible to office of governor.

(18) SEC. 15. No member of congress, nor any person holding office under the United States, or this State, shall execute the office of governor.

The office of mayor of Detroit is an office "under the state."—*Att'y Gen. v. Detroit Com. Council*, 112/145.

Governor, etc., not to receive appointment from legislature.

(19) SEC. 16. No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature, or either house thereof, during the time for which he was elected. All votes for either of them for any such office shall be void.

Att'y Gen. v. Detroit Com. Council, 112/151.

ARTICLE VI.—JUDICIAL DEPARTMENT.

(20) SECTION 1. The judicial power is vested in one supreme court, in circuit courts, in probate courts and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the legislature in cities. Judicial power.

JUDICIAL POWER DEFINED: The judicial power of courts is generally understood to be the power to "hear and determine" controversies between adverse parties and questions in litigation.—*Daniels v. People*, 6 / 381.

JUDICIAL POWER VESTED: Judicial power can be vested only in courts and judicial officers and all the judges and judicial officers, without exception, must be elected directly by the people of the state or of their local districts.—*Allor v. Wayne Auditors*, 43 / 76, 97.

MUNICIPAL COURTS: They are created only for the common judicial business of a municipal tribunal.—*Scott v. Judges*, 58 / 312. The establishment of such courts is germane to the subject matter of acts incorporating cities and of acts revising city charters.—*People v. Hurst*, 41 / 328; *Att'y Gen. v. Amos*, 60 / 372; *People v. Pond*, 67 / 98. The constitutional jurisdiction of the circuit court cannot be interfered with or made subordinate to that of the municipal court.—*Jones v. Judge*, 35 / 494; *Heath v. Judge*, 37 / 372; *Allen v. Judge*, 37 / 474; *G. R., N. & L. S. R. Co. v. Gray*, 38 / 461; *People v. Hurst*, 41 / 328. While municipal courts cannot be considered as inferior courts, yet they are limited in their jurisdiction by the residence of the parties.—*G. R., N. & L. S. R. Co. v. Gray*, 38 / 461; *Denison v. Smith*, 33 / 155.

See also *Nichols v. Judge Sup. Court*, Grand Rapids, 130 / 187; *Fitch v. Bd. of Auditors*, 133 / 184; *Att'y Gen. v. Loomis*, D. L. N., Vol. 12, p. 553, and numerous citations on page 91, C. L., 1897.

(21) SEC. 2. For the term of six years and thereafter until the legislature otherwise provide, the judges of the several circuit courts shall be judges of the supreme court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years the legislature may provide by law for the organization of a supreme court, with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and three associate justices, to be chosen by the electors of the State. Such supreme court, when so organized, shall not be changed or discontinued by the legislature for eight years thereafter. The judges thereof shall be so classified that but one of them shall go out of office at the same time. The term of office shall be eight years. Supreme court.

The legislature of 1903 increased the number of justices to eight and made the term of office eight years.

People v. Aud. Gen., 5 / 193; *Royce v. Goodwin*, 22 / 496.

(22) SEC. 6. The State shall be divided into judicial circuits, in each of which the electors thereof shall elect one circuit judge, who shall hold his office for the term of six years, and until his successor is elected and qualified. The legislature may provide for the election of more than one circuit judge in the judicial circuit in which the city of Detroit is or may be situated, and in the judicial circuit in which the county of Saginaw is or may be situated, and in the judicial circuit in which the county of Kent is or may be situated, and in the judicial circuit in which the county of St. Clair is or may be situated. And the circuit judge or judges of such circuits, in addition to the salary provided by the constitution, shall receive from their respective counties such additional salary as may from time to time be fixed and Judicial circuits.

determined by the board of supervisors of said county. And the board of supervisors of each county in the Upper Peninsula, and in the counties of Bay and Washtenaw and the county of Genesee in the Lower Peninsula, is hereby authorized and empowered to give and to pay the circuit judge of the judicial circuit to which said county is attached, such additional salary or compensation as may from time to time be fixed and determined by such board of supervisors. This section as amended shall take effect from the time of its adoption.

Amendment approved by the people at the April election, 1905.

CIRCUIT JUDGES: The constitution does not in terms require that a circuit judge shall reside within his circuit or prevent the election of one who resides elsewhere.—*Royce v. Goodwin*, 22 / 496.

Election of judges in new circuits.

(23) SEC. 7. The legislature may alter the limits of circuits or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the electors of such circuit, and his term of office shall continue, as provided in this constitution for judges of the circuit court.

Judges ineligible to other than judicial office.

(24) SEC. 9. Each of the judges of the circuit courts shall receive a salary, payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected and for one year thereafter. All votes for any person elected such judge for any office other than judicial, given either by the legislature or the people, shall be void.

Judges of probate, election of.

(25) SEC. 13. In each of the counties organized for judicial purposes, there shall be a court of probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers, and duties of such court shall be prescribed by law.

PROBATE JUDGES: The duties performed by probate judges are in no sense services performed for their respective counties and they are in no sense county officers. They exercise a portion of the judicial and prerogative power of the state and cannot be subjected to the direction of any body inferior to the legislature.—*Douvielle v. Manistee Supervisors*, 40 / 585. But probate judges must reside within the counties for which elected.—*Royce v. Goodwin*, 22 / 496. Appointment to fill vacancy.—*People v. Lord*, 9 / 227.

Vacancies, how filled.

(26) SEC. 14. When a vacancy occurs in the office of judge of the supreme, circuit or probate court, it shall be filled by appointment of the governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

The appointee under this provision holds only until the election of a successor.—*People v. Lord*, 9 / 227; *Lawrence v. Hanley*, 84 / 405; *People v. Burch*, 84 / 408; *Adsit v. Sec'y of State*, 84 / 420; *People v. Palmer*, 91 / 283.

Circuit court commissioners.

(27) SEC. 16. The legislature may provide by law for the election of one or more persons in each organized county, who

may be vested with judicial powers not exceeding those of a judge of the circuit court at chambers.

CIRCUIT COURT COMMISSIONER: The powers of this officer cannot be conferred upon a city recorder ex officio.—*McClintock v. Laing*, 19 / 300. Nor upon a notary public.—*Chandler v. Nash*, 5 / 409. The circuit court commissioner is a subordinate and assistant to the circuit court rather than an independent judicial officer.—*Burger's Case*, 39 / 203. As to requirement that he be an attorney at law, see *People v. May*, 3 / 609. See statutory provisions as to this officer, see section 387.

(28) **SEC. 17.** There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the townships, and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any township they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The legislature may increase the number of justices in cities. Justices of the peace, election of.

FOUR JUSTICES: There has always been, under the constitution, four justices provided by law for each township, and the term of years of the office, and the provision for classification of the terms at the first election tend to support the theory that it was intended by the constitution that there should be four justices in each township; but the constitution strictly, by its terms, does not provide that there must be four justices in a township, but that there shall be not exceeding four.—*Brooks v. Hydorn*, 76 / 273. A justice of the peace is a constitutional officer and cannot be legislated out of office by the reorganization of a municipality or the amendment of a charter.—*Gratupp v. Van Epps*, 113 / 590; see also *Att'y Gen. v. Loomis*, D. L. N., Vol. 12, p. 553. As to the election of justices in townships, see section 269 of this compilation, also sections 2369-73 of C. L., 1897.

MUST BE ELECTED: The constitution requires all justices to be elected and it is against public policy to have them chosen otherwise except for temporary purposes.—*Edison v. Almy*, 66 / 329; *Brooks v. Hydorn*, 76 / 275.

TERM OF OFFICE: See *Messenger v. Teagan*, 106 / 654; *Hulbert v. Henry*, 105 / 212.

(29) **SEC. 20.** The first election of judges of the circuit courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provision shall be made to hold the subsequent election of such additional judge at the regular elections herein provided. Circuit judges, when elected.

The manifest intent of the constitution is that the judiciary shall be elected. Upon the creation of a new circuit judgeship, a vacancy in office exists, which may be filled provisionally by appointment by the governor, until the next election, general or special.—*People v. Burch*, 84 / 408. As to the election of circuit judges, see sections 413-420.

(30) **SEC. 21.** The first election of judges of the probate courts shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter. Judges of probate, when elected.

ARTICLE VII.—ELECTIONS.

(31) **SECTION 1.** In all elections, every male inhabitant of this State, being a citizen of the United States, every male inhabitant residing in this State on the twenty-fourth day of June, eighteen hundred thirty-five, every male inhabitant residing in the State on the first day of January, eighteen Qualification of electors.

Proviso.

hundred fifty, every male inhabitant of foreign birth who, having resided in the State two years and six months prior to the eighth day of November, eighteen hundred ninety-four, and having declared his intention to become a citizen of the United States two years and six months prior to said last named day, and every civilized male inhabitant of Indian descent, a native of the United States, and not a member of any tribe, shall be an elector and entitled to vote; but no one shall be an elector or entitled to vote at any election unless he shall be above the age of twenty-one years, and has resided in this State six months and in the township or ward in which he offers to vote twenty days next preceding such election: Provided, That in time of war, insurrection or rebellion no qualified elector in the actual military service of the United States, or of this State, or in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward or State in which he resides, and the legislature shall have the power, and shall provide the manner in which and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election district in which they respectively reside or otherwise.

Amendment approved by the people in 1894.

QUALIFICATION OF ELECTORS: The source of all authority to vote at popular elections is the constitution; the electorate is constituted by the fundamental law; and the qualifications of electors must be uniform throughout the state.—Coffin v. Election Commissioners, 97/189; Att'y Gen. v. Abbott, 121/545. As to uniformity, see also, Att'y Gen. v. Common Council, 58/216; Maynard v. Canvassers, 84/239. The qualifications of voters at school meetings have never been identical with those of electors as defined in the constitution.—Belles v. Burr, 76/1.

TOWNSHIP OR WARD: No one can vote anywhere but in the township or ward where he resides, except as now provided in the case of soldiers.—People v. Blodgett, 13/127. [This is the decision on the "soldiers' voting law" of Feb. 5, 1864, which led to the adoption of the proviso.]—People v. Maynard, 15/463; Att'y Gen. v. Hollan, 29/116; Att'y Gen. v. Common Council, 58/213; Warren v. Board of Registration, 72/401. For election purposes each ward is made by the constitution equivalent to a township.—Allor v. Wayne Auditors, 43/76. The intention of the voter is an important factor in determining residence.—Harbaugh v. Cicott, 33/241, 250.

Votes to be
by ballot.

(32) SEC. 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

BALLOT: People v. Blodgett, 13/143; Belles v. Burr, 76/23; Maynard v. Canvassers, 84/234; Att'y Gen. v. May, 99/547. The object of this provision was to secure the entire independence of the electors, to enable them to vote according to their own individual convictions of right and duty.—People v. Cicott, 16/312. The ballot is a constitutional method which cannot be changed.—Att'y Gen. v. Detroit Com. Council, 58/213, 217.

Privilege of
electors from
arrest.

(33) SEC. 3. Every elector, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

From military
duty.

(34) SEC. 4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

Residence of
electors.

(35) SEC. 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the

service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States; or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison, except that honorably discharged soldiers, sailors and marines who have served in the military or naval forces of the United States or of this State, and who reside in soldiers' homes established by the State, may acquire a residence where such home is located.

Amendment approved by the people in 1894.

(36) SEC. 6. Laws may be passed to preserve the purity of elections and guard against abuses of the elective franchise.

People v. Blodgett, 13/177; Att'y Gen. v. Detroit Com. Council, 58/215; Att'y Gen. v. Detroit, 78/552; Common Council v. Rush, 82/537; Att'y Gen. v. May, 99/547; Todd v. Election Commissioners, 104/474.

REGISTRATION: Registration is imperative and must be complied with before the elector can vote; and the failure of the board of registration to meet is of no avail to the elector.—People v. Kopplekom, 16/312. For the various statutory provisions as to registration, etc., see sections 56-93.

(37) SEC. 7. No soldier, seaman nor marine, in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

(38) SEC. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the constitution and laws of this State and shall not be permitted to vote at any election.

ARTICLE VIII.—STATE OFFICERS.

(39) SECTION 1. There shall be elected at each general biennial election a secretary of state, a superintendent of public instruction, a state treasurer, a commissioner of the land office, an auditor general, and an attorney general for the term of two years. They shall keep their offices at the seat of government and shall perform such duties as may be prescribed by law.

As to extra compensation for duties performed by certain officers, see Warner v. Aud. Gen., 129/648.

(40) SEC. 2. Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

See Hunt v. Buhrer, 133/114.

(41) SEC. 4. The secretary of state, state treasurer, and commissioner of the state land office shall constitute a board of state auditors to examine and adjust all claims against the

To be state
canvassers.

State, not otherwise provided for by general law. They shall constitute a board of state canvassers, to determine the result of all elections for governor, lieutenant governor, and State officers, and of such other officers as shall by law be referred to them.

STATE CANVASSERS: The determination of this board is subject to no review except as provided in the next section.—*People v. Cicott*, 16/301; *Royce v. Goodwin*, 22/501; *Ayres v. State Auditors*, 42/427; *Newton v. Canvassers*, 94/459; *Vance v. Canvassers*, 95/466. As to when a succeeding board may be compelled to convene and recanvass returns, see *Belknap v. State Canvassers*, 95/155; *Rich v. State Canvassers*, 100/453. When mandamus will not be issued against.—*Baker v. St. Canvassers*, 69/656. See section 173 and notes.

See *Warner v. Aud. Gen.*, 129/650.

In case of a tie,
legislature to
make choice.

(42) SEC. 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the board of state canvassers, the legislature in joint convention, shall choose one of said persons to fill such office. When the determination of the board of state canvassers is contested, the legislature, in joint convention, shall decide which person is elected.

See cases cited under preceding section.

ARTICLE X.—COUNTIES.

Vote of elec-
tors on divi-
sion of county.

(43) SEC. 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships as surveyed by the United States, unless in pursuance of law a majority of electors residing in each county to be affected thereby shall so decide. The legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

County offi-
cers, elec-
tion of.

(44) SEC. 3. In each organized county there shall be a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, chosen by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office, or disconnect the same.

A county may exist without officers.—*Carleton v. People*, 10/250. Officers are to be chosen by the electors of the county.—*People v. Maynard*, 15/463. In case of a tie vote.—*Keeler v. Robertson*, 27/116. Vacancies in offices upon organization of a new county, how filled.—*Att'y Gen. v. Welmer*, 59/580. The prosecuting attorney must be an attorney at law.—*People v. May*, 3/598; *Att'y Gen. v. Abbott*, 121/541.

Sheriff to hold
no other office.

(45) SEC. 5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default

To give
security.

of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts.

County not responsible.

Dunphy v. Whipple, 25 / 10. Upon the expiration of this constitutional limitation of the tenure of the office of sheriff, the under-sheriff and all the deputies go out of office with their principal.—Lamoreaux v. Att'y Gen., 89 / 146.

ARTICLE XI.—TOWNSHIPS.

(46) SECTION 1. There shall be elected annually, on the first Monday of April, in each organized township, one supervisor, one township clerk, who shall be ex officio school inspector, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district, whose powers and duties shall be prescribed by law.

Township officers, when elected.

ORGANIZED TOWNSHIP: Townships, in which electors can lawfully vote and whose supervisors conjointly may exercise the legislative and administrative powers of the corporations, are necessary subdivisions of the county. A county cannot be organized without the existence of townships, and there must be more than one township.—People v. Maynard, 15 / 463. A new township, organized without special conditions, becomes a "township" within the meaning of the constitution and laws, clothed with the same rights and powers and subject to the same duties as belong to new townships generally. It becomes severed from the school district organization in which it was formerly embraced.—People v. Ryan, 19 / 203. There is nothing to indicate that it was intended to embrace organized and incorporated cities and villages within the term "organized townships."—White v. Supervisors, 105 / 612.

ELECTIONS: The townships in which elections are held must be organized townships.—People v. Maynard, 15 / 463.

TOWNSHIP OFFICERS' FUNCTIONS: The functions of township officers, who are continued by constitutional enactment, are as clearly within the contemplation and protection of the constitution as are the officers themselves, and the legislature has no more power to deprive those officers of their authority and confer that authority upon officers not of local selection, than it has to abolish the offices.—Davies v. Supervisors, 89 / 295.

SUPERVISORS: These officers, who may constitute a county board, are necessary to the organization of a county.—People v. Maynard, 15 / 463. The effect of this section, construed with sec. 7 of art. x, is to limit the power of the legislature to give organized townships more than one representative on the board of supervisors, and imposes the duty to give cities some representation therein.—Att'y Gen. v. Preston, 56 / 177. For the distinction between a supervisor and an ex officio member of the board of supervisors, see the case last cited and Holden v. Supervisors, 77 / 202.

HIGHWAY OFFICERS: Highway commissioners are constitutional officers.—Burnham v. Township, 46 / 555. The powers of highway commissioners and overseers are subject to legislative modification, but no legislation can abolish the offices or take away all their functions. The highways in each district must, to some extent at least, be subject to an overseer elected by the people.—Hubbard v. Twp. Board, 25 / 153.

SCHOOL INSPECTOR: People v. Ryan, 19 / 203; Donough v. Dewey, 82 / 309; Pingree v. Board of Education, 99 / 404.

CONSTABLES: No municipal corporation ever existed here or in England without constables or officers answering to constables. They are here and always have been the local peace officers of their vicinage, the ministerial officers of justices of the peace and the bailiffs of courts of record of criminal jurisdiction in the county.—Allor v. Wayne Auditors, 43 / 76, 102.

ARTICLE XIII.—EDUCATION.

(47) SEC. 6. There shall be elected in the year eighteen hundred and sixty-three, at the time of the election of a justice of the supreme court, eight regents of the university, two of whom shall hold their office for two years, two for four years, two for six years, and two for eight years. They shall enter upon the duties of their office on the first of January next succeeding their election. At every regular election of a

Regents of the university, election of.

justice of the supreme court thereafter there shall be elected two regents whose term of office shall be eight years. When a vacancy shall occur in the office of regent, it shall be filled by appointment of the governor. The regents thus elected shall constitute the board of regents of the University of Michigan.

Am. 1862.

Election of regents, see sections 421-424.

Board of education, election of.

(48) SEC. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a state board of education: One for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The superintendent of public instruction shall be ex officio a member and secretary of such board. The board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law.

ARTICLE XV.—CORPORATIONS.

Election of officers in cities and villages.

(49) SEC. 14. Judicial officers of cities and villages shall be elected and all other officers shall be elected or appointed at such time and in such manner as the legislature may direct.

Belles v. Burr, 76 / 23; *Coffin v. Elec. Com'rs*, 97 / 190; *Pingree v. Board of Ed.*, 99 / 407; *White v. Supervisors*, 105 / 613. The legislature cannot appoint the local officers of cities and villages.—*People v. Hurlbut*, 24 / 44; *Att'y Gen. v. Lothrop*, 24 / 235. Jury Commissioners are not judicial officers.—*People v. Reilly*, 53 / 260. Continuing in office, under a new act, a police judge elected under an old act repealed does not confer a judicial office by legislation, but simply abstains from legislating him out of office.—*Coon v. Att'y Gen.*, 42 / 65. The duties of the Detroit Board of Health are not purely municipal and hence its members may be appointed by the governor.—*Davock v. Moore*, 105 / 128. Provisional appointment of superintendent of public works by the governor, is void as an invasion of the right of local self-government.—*Moreland v. Millen*, 126 / 382. This section does not mean appointment by the legislature, but by the local authorities.—*Att'y Gen. v. Lowrey*, 131 / 654.

ARTICLE XVIII.—MISCELLANEOUS PROVISIONS.

Oath of office.

(50) SECTION 1. Members of the legislature, and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this State, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability." And no other oath, declaration or test shall be required as a qualification for any office or public trust.

OFFICER: The term officer can be taken to refer to only such officers as have some degree of permanence and are not created by a temporary nomination for a single and transient purpose.—*Underwood v. McDuffee*, 15 / 361; *Shurbun v. Hooper*, 40 / 505.

OATH: The oath required is the oath of allegiance to the United States and to the state and to perform faithfully the duties of the office.—*Underwood v. McDuffee*, 15 / 361. See also, *People v. Salsbury*, 134 / 549.

ARTICLE XIX.—UPPER PENINSULA.

(51) SEC. 6. That elections for all district or county officers, state senators or representatives, within the boundaries defined in this article, shall take place on the Tuesday succeeding the first Monday of November in the respective years in which they may be required. The county canvass shall be held on the first Monday thereafter, and the district canvass on the third Monday of said November.

Elections,
when held.

County and
district can-
vass.

Am. 1862.

As originally adopted this section provided for elections in the upper peninsula on the last Tuesday in September; for a county canvass on the first Tuesday in October and for a district canvass on the last Tuesday of October.

ARTICLE XX.—AMENDMENT AND REVISION OF THE CONSTITUTION.

(52) SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on the journals respectively, with the yeas and nays taken thereon, and the same shall be submitted to the electors at the next spring or autumn election thereafter, as the legislature shall direct, and if a majority of electors qualified to vote for members of the legislature, voting thereon, shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

Amendment to
constitution,
how made.

Amendment proposed by J. R. 29 of 1875 and ratified at the election of 1876. "The amendment consisted in striking out "general" before "election," and inserting "spring or autumn" in lieu thereof; and inserting "as the legislature shall direct." The meaning of "general election" was confined to the biennial November election for state officers.—*Westinghausen v. People*, 44 / 265.

Under this section as it now stands, amendments to the constitution take effect from the time of their ratification by the people.—*Mining Co. v. Osmun*, 82 / 573. See *Rich v. Board of Canvassers*, 100 / 459; *Peck v. Supervisors*, 102 / 355.

PUBLICITY OF CONSTITUTIONAL AMENDMENTS: For an act to secure greater publicity for proposed amendments, see sections 536-7, *infra*.

(53) SEC. 2. At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter, and also at such other times as the legislature may by law provide, the question of the general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature, and in case a majority of the electors so qualified voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of such delegates to such convention. All the amendments shall take effect at the commencement of the year after their adoption.

Revision of
the constitu-
tion.

Am. 1862.

The amendment consisted in striking out the word "political," before the word "year," where it last occurs.

THE SCHEDULE—WHEN OFFICIAL TERMS BEGIN.

Terms of
office, when
to begin.

(54) SECTION 28. The terms of office of all State and county officers, of the circuit judges, members of the board of education, and members of the legislature shall begin on the first day of January next succeeding their election.

As to right of legislature to extend term of office of an incumbent, see *Hunt v. Buhrer*, 133 / 107.

ELECTIONS DEFINED.

[Extract from Ch. 1, R. S. 1846.]

Annual town-
ship meeting.

(55) § 50. SEC. 3. Sub. Div. 4. The words "annual meeting," when applied to townships, shall be construed to mean the annual meeting required by law to be held in the month of April.

General elec-
tion.

Sub. Div. 19. The words "general election," shall be construed to mean the election required by law to be held in the month of November.

GENERAL ELECTION: The general election is not a township meeting in any legal sense.—*People v. Knight*, 13 / 426. Under the constitution there was only one election which was ever referred to as a general election, and that the term was used as identical with the November election, which was previously annual, and thereby made biennial. That was the only election held simultaneously throughout all the state for officers to represent the whole State.—*Westinghausen v. People*, 44 / 269. And it is hardly necessary to say that subsequent legislation could not change the meaning or effect of any part of the constitution.—*Id* 270. The only foundation for any notion that the spring elections can serve the purpose of the general election mentioned in the constitution is that in organizing the present supreme court in 1857, the statute declared that a "general election" should be held on the first Monday in April every second year for the election of judges. Of course, the legislature can make their own definitions for statutory purposes, but this would not change the constitutional definition or make it apply to any election not within the constitutional contemplation.—*Id* 271. The language of Art. 20 of the constitution taken with all the various other provisions which refer to general elections, very plainly refers to the fall election, and that the practical construction put upon it is correct and binding.—*Id* 272. The words "general election" used in the constitution and statute, as applied to the office of judge of probate, can have no other meaning than the biennial election held in November, and an election at any other time to that office must be regarded as a special election.—*People v. Palmer*, 91 / 283. The term "general election" must be held to mean the November, and not the April election, unless inconsistent with the manifest intent of the legislature.—*Edgar v. Election Commissioners*, 118 / 418.

CHAPTER II.—REGISTRATION OF ELECTORS.

An Act further to preserve the purity of elections, and guard against the abuse of the elective franchise, by a registration of electors.

[Act 177, S. L. 1859.]

The People of the State of Michigan enact:

Registration
ordered.

Board of reg-
istration.

(56) § 3536. SECTION 1. That there shall be, in the year one thousand eight hundred and fifty-nine, a registration of the qualified electors of the State. The aldermen of every incorporated city, and the supervisor, treasurer, and clerk of

every township, shall constitute a board of registration for such city or township, and their duties shall be as follows: They shall respectively provide suitable bound books or registers, one for each township and one for each ward, so made and arranged as to contain an alphabetical list of the respective names, christian or baptismal, and surnames, in full, of all persons declared by the constitution of the State to be electors and entitled to vote, residing in their townships or wards, and the date of the registration; and, if the elector resides in a city or incorporated village, also his residence by the number of the dwelling and the name of the street, if any, and if none, a description of the locality of the same.

Board to provide books or registers.
How arranged, etc.

REGISTRATION NECESSARY: This act is grounded upon the same article of the constitution which gives the right to vote and is imperative; it must be complied with before the elector can vote, and the omission of the board of registration to meet is of no avail to the elector as an excuse for not registering.—People v. Kopplekom, 16/342. See Common Council v. Rush, 82/537; Att'y Gen. v. McQuade, 94/441.

PURITY OF ELECTIONS: The laws to regulate elections and to preserve their purity, and to guard against abuses of the elective franchise, must be reasonable, uniform and impartial, and must be calculated to facilitate and secure, rather than to subvert and impede, the exercise of the right to vote.—Att'y Gen. v. Detroit, 78/553.

REGISTRATION IN CITIES.

(57) § 3537. SEC. 2. Each city board shall, at least two weeks previous to the time of their meeting in each ward, cause to be published in one or more newspapers printed and published in such city, a notice that the board of registration will meet on the first Monday of October, in the year one thousand eight hundred and fifty-nine, at nine o'clock in the forenoon, to make a perfect list, as near as may be, of all persons residing in such ward, qualified as electors under the constitution; and designating the place in each ward where said board will meet for that purpose. And they shall also cause handbills to be posted in at least twenty conspicuous places in each ward, containing a similar notice of the time and place of such meeting of the board for that ward; which notice shall also contain a true copy of section one of article seven of the constitution, relative to the qualifications of electors. And the board may so divide and classify themselves that two or more of them may be assigned to different wards, the more speedily to complete the registration; and in case of the sickness or absence of any alderman, or his inability or refusal to serve at the session in any ward, the board shall, in writing, under the hand of their chairman, immediately appoint the assessor of the ward, or any justice of the peace, to act in his stead, who shall be, for the purpose of registration in that ward, deemed a member of the board of registration. They shall continue in session not less than three nor more than five days in each ward. All necessary blanks and instructions to aid the board in the discharge of their duties, and all other expenses in performing the same, including the employment of printers for printing such notices, and the

City boards to publish notice of meeting of board of registration.

Time and place of meeting designated.

Handbills to be posted.

What notice to contain.

Board may classify to facilitate registration.
Duty of board as to vacancies.

Length of session.
Expenses, how paid.

registry lists, shall be provided by the board and be paid for by the city.

Duty of boards
of registration.

(58) § 3538. SEC. 3. At the time and place mentioned in such notice, the board, or those members thereof so classified and assigned for that ward, shall meet and proceed to the registration in such book, which book shall be called the "Register of Electors" for such ward, of the names of persons at the time residing in such ward, and so qualified as follows,

Sessions to be
public.

to wit: Their sessions shall be public, and during the first two days thereof they shall not write in the register the name of any person without a request made by him personally and in their presence; but shall allow him, if able and willing so to do, to write his own name therein in the proper place.

Registration,
how made.

In case of such request, the name of the elector shall be plainly written by a member of the board, who shall also note his residence as required by section one of this act. After the first two days of the session it shall be the duty of such board to proceed to complete the list, by writing in such register the names of all the remaining residents of the ward, known by them to be such and to be qualified as aforesaid, with the proper descriptions above mentioned; but they shall, during their whole session, permit any such qualified person residing in the ward, whose name has not already been entered in the register, to write it there himself. Opposite to every name on such register shall be noted by the board the day and year of its entry, and during such session and all future sessions of the board in any city or township, they may, for their better information in making the registration, have before them the poll list of the next preceding general election, charter election, or township meeting, to be returned to the proper keeper at the close of the session, and all such entries shall be made with ink. The board, at every session, shall have power, and it shall be their duty, to question every person presenting himself for registration, touching his residence and other qualifications as an elector of the ward; and it shall be the duty of the applicant to make truthful answers to all such questions, and the board may, for the more perfect examination of the applicant, swear and employ an interpreter, truly and impartially to interpret all such questions and answers, and if the applicant shall, in his answers, make any material statement which is false, he shall, upon conviction thereof, pay a fine of not more than one hundred nor less than five dollars, and be imprisoned in the county jail not more than thirty nor less than five days.

Board may
question and
require appli-
cant to make
oath.

Penalty for
making false
statement.

BOARD OF REGISTRATION: Their duty as to the mode of determining the qualification of voters. When a person applies to the board of registration for the purpose of having his name registered as a voter, and offers to be sworn as to his qualifications, it is the duty of the board to examine such person upon his oath. They have no right to reject him on mere inspection. Where the return made by respondents denies that the relator was entitled to be registered as a voter, an issue will be directed to determine the fact.—People v. Board of Registration of Nankin, 15/137. Where a person appears before the ward board of registration and claims to be registered, the board are bound to examine him under oath and hear testimony offered by him. They have no right to pass upon the question of his legal right by mere personal inspection.—People v. Board of Registration, 17/427.

(59) § 3539. SEC. 4. The name of no person but an actual resident of the ward at the time of the registration, and entitled, under the constitution, if remaining such resident, to vote at the then next general or charter election, shall be entered in the register. Neither the board, nor any member thereof, shall write or enter in the register the name of any person, nor suffer him to write or enter his name therein, whom they know, or have good reason to believe, not to be such resident and so qualified; nor shall any person knowing or having good reason to believe himself not to be such resident and so qualified, write his name therein, or cause it to be done; and every person so offending shall, upon conviction, be punished for each offense by a fine of not more than five hundred nor less than twenty-five dollars, and be imprisoned in the county jail not more than ninety nor less than ten days.

What persons
not entitled to
registration.

Penalty for
fraudulent
registration.

RESIDENCE: The general act for the incorporation of cities of the fourth class provides that "the residence of any elector, not being a householder, shall be deemed to be in the ward or election district in which is located his regular place of lodging." See section 450. Charters of other cities generally contain special provisions of a similar nature. See residence or domicile defined in Appeal of Rue High, 2 Doug. 523. The intention of the elector is one of the most important inquiries involved in the question of residence. A man may have a residence in one place, although his family may be living elsewhere, if such is his intention.—Harbaugh v. Cicott, 33/252. See further, as to intention, Warren v. Registration Board, 72/402; Beecher v. Com. Council, 114/228. As to students, persons in the public service, sailors and inmates of asylums, etc., see section 35. See, as to where the elector must vote, notes to section 31. As to change of elector's residence by alteration of boundaries of representative districts, see notes to section 4.

REGISTRATION IN CITIES AFTER 1859.

(60) § 3540. SEC. 5. The board of registration provided for in this act shall convene and meet for the registration of electors on the third Tuesday and Wednesday preceding any general fall election, and on the third Tuesday and Wednesday preceding any general spring, charter or special election. The board of registration of the city, to be constituted as aforesaid, shall be in session at such places in the several wards as they shall designate in their notices, to be published and posted up as hereinafter provided, from seven o'clock in the forenoon until eight o'clock in the afternoon, for the purpose of completing the lists of the qualified voters; during which session it shall be the right of each and every person then actually residing in the ward, and who, at the then next approaching election, may be a qualified elector, and whose name is not already registered, to have his name entered in the register, which shall be done in the manner above described; and such boards, and each member thereof, and each applicant for registration, is hereby vested and charged with the same rights, powers, duties and penal liabilities, touching the examination of applicants, as hereinbefore provided: Provided, That the provisions of this amendment shall not be applied to electors in the city of Detroit, nor to any cities to which any other registration law may apply.

When registration board
to meet.

When to be in
session.

Proviso as to
city of Detroit.

Am. 1901, Act 32.

As to Detroit, see sections 3573-8, 3580-81, C. L., 1897.

The laws to regulate elections, and to preserve their purity, and to guard

against abuses to the elective franchise, must be reasonable, uniform and impartial, and must be calculated to facilitate and secure, rather than to subvert and impede, the exercise of the right to vote.—Attorney General v. Detroit, 78 / 546. No registry law is valid which deprives an elector of his constitutional right to vote by any regulation with which it is impossible for him to comply.—Id. Requirements which compel a naturalized elector to produce his certificate, or show by evidence other than his own oath that such certificate was issued, make an unfair and unnecessary distinction between native born and naturalized electors.—Id.

QUALIFIED ELECTORS: See section 31 and notes thereto.

Notice to
be given.

(61) § 3541. SEC. 6. At least two weeks previous to the commencement of any such session, the board, at the expense of the city, shall cause a notice thereof to be printed and published in one or more newspapers in such city, designating the place of holding the same, and shall cause the same notice to be printed in handbill form, and posted up in at least ten conspicuous places in each ward; which handbill shall also contain a true copy of the list of names then appearing in the register for the ward. And immediately after the close of the polls of such election, the clerk of the board of inspectors of that election, and before the counting of the votes, shall, under the direction and by the assistance of the inspectors, insert and write upon or attach to such printed handbill, all the names of electors appearing on the register and not on such handbill, so that such handbill so corrected shall be a true copy of the list then appearing in such register. and shall, with the inspectors, or a majority of them, certify and sign such copy, and file the same in the office of the county clerk, who shall carefully keep and preserve the same, and the same shall be evidence, prima facie, of the original; and in case of the loss or destruction of the original, the same, or a certified copy thereof, shall be used in its stead.

What notice
shall contain.

Duty of
inspectors
of election.

The law requires the registration and poll lists to be preserved and filed. They are, therefore, public records and admissible as evidence of the facts therein stated.—Att'y Gen. v. May, 97 / 574.

List of registration to be
filed with the
city clerk.

(62) § 3542. SEC. 7. At the close of their sessions, the board, or the members who made the registration in the particular ward, shall sign the list, adding the date of their signature, and shall immediately deposit the same for safe keeping with the city clerk, who shall carefully preserve the same in his office until delivered as hereinafter provided.

List to be
given to
inspectors
of election.

(63) § 3543. SEC. 8. At any such general, special or charter election in the city, and as soon, at least, as the poll in each ward is opened, the city clerk shall cause the proper register to be placed in the hands of the inspectors of election, to be used by them during the same, and returned to the city clerk immediately thereafter; and they shall not receive the vote of any person whose name is not written therein. But if any person shall offer and claim to vote at such election, whose name is not so registered, his name may be registered by the clerk of the election, under the direction of the inspectors, upon the same terms and conditions hereinafter prescribed for the like cases arising at elections in townships, substituting ward for township; and both the appli-

Names may be
registered on
the day of
election.

cant and the qualified elector shall be subject to the same penalties prescribed in cases so arising.

The object of a registry law, or of any law to preserve the purity of the ballot box, and to guard against abuses to the elective franchise, is not to prevent any qualified elector from voting, or unnecessarily to hinder or impair his privilege.—Att'y Gen. v. Detroit, 78/546. A registration law is unreasonable which contains no provision by which an elector who is sick on the days fixed for registration can vote on election day.—Id. No elector can lose his right to vote, the highest exercise of the freeman's will, except by his own fault or negligence.—Id. In order to prevent fraud at the ballot box, it is proper and legal that all needful rules and regulations be made to that end; but it is not necessary that such rules and regulations shall be so unreasonable and restrictive as to exclude a large number of legal voters from exercising their franchise. The power of the legislature in such cases is limited to laws, regulating the enjoyment of the right, by facilitating its lawful exercise, and by preventing its abuse. The right to vote must not be impaired by the regulation. It must be regulation, not destruction.—Id.

REGISTRATION IN TOWNSHIPS.

(64) § 3544. SEC. 9. It shall be the duty of the board of registration in each township, to wit: The supervisor, treasurer and clerk thereof, and in case of the absence of any of them, or his inability to serve, the justice of the peace not holding the office of supervisor or town clerk, whose term of office will first expire, to provide, at the expense of the township, the like book for their township for the purposes of the like registration of the qualified electors thereof, to be arranged in the same manner, save that in cases where the elector does not reside within the limits of an incorporated village, a description of his residence may be omitted; but in case he resides within such limits and in the township, a description of his residence by the street, and the number of the dwelling, or other brief but intelligible method; and the names of such resident electors of the village, shall be written in said register in a list separate and distinct from those of other electors of the township, so as to exhibit a correct registration for the village; which list shall be called the village election register.

Registration in townships; who to constitute the board.

Books of registration, how arranged.

QUALIFIED ELECTORS: See section 31 and notes thereto. When a person is registered in a ward or precinct, he is presumed to be a legal voter there.—Harbaugh v. Cicott, 33/250.

REGISTRATION IN TOWNSHIPS IN 1859.

(65) § 3545. SEC. 10. At the annual meeting of each township, on the first Monday of April, in the year one thousand eight hundred and fifty-nine, the township treasurer shall, at a place as near as practicable to that of the meeting, and of convenient access to the electors, have said book or register in readiness for the entry of their names, and each qualified elector residing in the township may then write his name at length in the proper place in said register, if able and willing to do so, or the treasurer shall, upon request made in his presence by the elector, personally, write the name of such elector in its proper place. And in all cases under this act the board, or the members thereof, receiving or making

Proceedings at township elections in 1859.

Board to have access to township poll list.

Supervisors to register names while making assessment.

Register to be deposited with township clerk.

Registration after 1859, how made.

Penalty for fraudulent registration.

the entry of a name, shall note or cause to be noted the day and year thereof. During such township meeting, and during all future sessions of the board, the township poll list of the next preceding general election or township meeting, shall be before him or them for their better information in making the registration, to be returned to the clerk at the close of the meeting or the session. The supervisor or other person or persons charged by law with the assessment of property in the township for the purpose of State taxation, shall, while making such assessment, and in connection with the performance of that duty, in the year one thousand eight hundred and fifty-nine, have with him the said register, and shall allow each qualified elector residing in the township whose name has not been entered therein, to write the same, or shall himself, at the like personal request of the elector, write the same therein at the proper place, and shall, after completing his valuation of property, and on or before the first day fixed by law for reviewing his assessment, deposit said register with the township clerk, who shall carefully keep and preserve the same in his office.

(66) § 3546. SEC. 11. After the year one thousand eight hundred and fifty-nine, it shall be the right of any such qualified elector residing in the township, and entitled to vote at the next election therein, and whose name has not been registered, on any day except Sunday, the days of the session of the board of registration, and the days intervening between them and the next approaching election, to apply to the supervisor, township treasurer, or township clerk, in person, for the registration of his name, and if, upon such examination, as is required by the next following section of this act, the supervisor, treasurer or clerk shall be satisfied that such applicant is a resident of the township, and otherwise qualified and entitled to vote in such township at the next election to be held therein, the name of such applicant shall be written, either by himself or by the supervisor, treasurer or clerk, upon a separate paper to be kept by the supervisor, treasurer or clerk, his residence described, and the date of the entry noted, as required in the two last preceding sections, which paper shall be laid before the board of registration of each township, at its next meeting for examination and review, and the names of such persons appearing thereon as the board shall be of opinion are qualified electors at the then next election, and entitled to vote thereat, may, by some member of the board, and under their direction, be entered in a proper register, in the manner above set forth, and every applicant to the supervisor, treasurer or clerk, so causing his name to be entered upon such separate paper, knowing or having good reason to believe himself not to be such resident and qualified to vote in such township at the then next election, shall, upon conviction thereof, be punished by fine and

imprisonment, as provided in the thirteenth section of this act.

REGISTRATION IN TOWNSHIPS AFTER 1859.

(67) § 3547. SEC. 12. On the Saturday next preceding the general election, and the annual township meeting, and preceding any special election, after the year one thousand eight hundred and fifty-nine, the board of registration of each township shall be in session at the office of the township clerk, from nine o'clock in the forenoon until five o'clock in the afternoon, for the purpose of completing the list of qualified electors; during which session it shall be the right of each and every person who, at the next approaching election or township meeting, may be a qualified elector and entitled to vote thereat, and whose name is not already registered, to have his name duly entered on such register, which shall be done in the manner above set forth. The board shall have the power, and it shall be their duty, and the duty of the clerk, and of the supervisors individually, when acting under this statute, to question every person presenting himself for registration, touching his residence, and his other qualifications as an elector of the township, and it shall be the duty of the applicant to make truthful answers to all such questions. And the board, supervisor, clerk or treasurer, as the case may be, may, for the more perfect examination of the applicant, swear and employ an interpreter, truly and impartially to interpret such questions and answers. And if any such applicant shall, in his answers, make any material statement which is false, he shall, upon conviction thereof, pay a fine of not more than one hundred dollars nor less than five dollars, and be imprisoned in the county jail not more than thirty nor less than five days.

Sessions of board of registration, when held.

Their powers and duties.

Penalty for false statement.

See *People v. Bd. of Registration*, 17 / 428; *People v. Bd. of Registration*, 15 / 156.

(68) § 3548. SEC. 13. The name of no person but an actual resident of the township at the date of the registration, and entitled, under the constitution, if remaining such resident, to vote at the then next election or township meeting, shall be entered in the register. Neither the board, nor any member thereof, shall write or enter therein the name of any person, nor suffer him to write or enter his name therein, whom they know or have good reason to believe not to be such resident and so qualified; nor shall any person, knowing or having good reason to believe himself not to be such resident and so qualified, write his name therein; and every person so offending shall, upon conviction, pay for each offense a fine of not more than five hundred nor less than twenty-five dollars, and be imprisoned in the county jail not more than three months nor less than ten days.

Who not entitled to registration.

Penalty for fraudulent registration.

QUALIFIED ELECTORS: See section 31 and notes thereto.

RESIDENCE: See note to section 59.

Township clerk to deliver register to inspectors on day of election.

Names may be registered on election day.

Conditions of such registration.

Penalty.

(69) § 3549. SEC. 14. At such election or township meeting, and as soon, at least, as the poll is opened, the township clerk shall cause the register to be placed in the hands of the inspectors of the election, to be used by them during the election, and to be returned to the clerk immediately thereafter; and they shall not receive the vote of any person whose name is not written therein. But in case any person shall offer and claim the right to vote whose name is not so registered, his name may then be registered by the clerk, under the direction of the inspectors, upon the terms and conditions following: One of the inspectors shall administer to him an oath in the following form, viz.: You do solemnly swear that you will true answers make to such questions as shall be asked you touching your qualifications as an elector at this poll, so help you God; or an affirmation to the same effect, which oath or affirmation, if he be unable to understand the English language, may be interpreted to him by an inspector, or interpreter sworn by an inspector, which interpreter shall also interpret his answers to the inspectors. If, in his answers on oath, he shall state positively that he has resided in the township ten days next preceding said election, designating, particularly, the place of his residence, and that he possesses the other qualifications of an elector under the constitution, stating such qualifications; and shall, furthermore, swear that, owing to the sickness or bodily infirmity of himself, or of some near relative residing in the same household (giving the name of said relative), or owing to his absence from the township on public or official business, or his own business, and without intent to avoid or delay his registration, during the then last session of the board, he has been prevented from causing his name to be previously registered; and if, furthermore, some qualified elector of the township, and not a candidate for any office at that election, shall take an oath before said inspectors, which oath any one of them may administer, that he is well acquainted with such applicant, that he has in fact resided in the township ten days previous to such election, and that he, the freeholder [qualified elector], has good reason to believe, and does believe, that all the statements of such applicant are true, the inspectors may, in their discretion, direct the clerk to register his name in the proper place, with the proper date; and if such applicant or such qualified elector shall, in said matter, wilfully make any false statement, he shall be deemed guilty of perjury, and, on conviction, be subject to the pains and penalties thereof.

TEN DAYS: Now twenty. See section 31.

REGISTRATION ON ELECTION DAY: Where a person applies for registration on election day, the inspectors act upon discretion and are not compelled to admit a vote, unless satisfied of its legality. (Per Campbell, J.)—People v. Cicott, 16 / 302. If an elector is unable to attend the meetings of the board for certain specified reasons, he may be registered on election day upon taking the prescribed oath.—Att'y Gen. v. McQuade, 94 / 441.

Vote may be challenged.

(70) § 3550. SEC. 15. Any person offering to vote at any such election, in a city, township or village, whose name

is not written in the proper register, may be objected to, and his vote challenged for that cause by any elector present and entitled to vote at that poll; and on such challenge being made, the inspectors shall, if on inspection they find his name not so written in the proper register, refuse the vote. But nothing in this act contained shall be held or construed in any way to affect or impair the right of any inspector or elector to challenge any person offering to vote, nor the effect of such challenge, as now established by law, or as such right and such effect may hereafter be established: Provided, however, That the vote of no person shall be received whose name is not so registered. Proviso.

(71) § 3551. SEC. 16. Any person knowing that his name is not so registered, who shall vote or offer to vote at any such election, either in a city or township, and every inspector knowing such name not to be so registered, wilfully and corruptly consenting to receive such vote, shall, if the vote be received by reason of such consent, be, for every such offense, punished as above provided in section thirteen of this act; and on the trial of the person so voting or offering to vote, the presumption shall be that he knew his name was not so registered. Penalty for illegal voting.

(72) § 3552. SEC. 17. The name of no person shall be registered in any township or ward where he does not actually reside at the time of the registration; and every person who shall wilfully register, or cause or procure, by enticements or other means, the name of any person to be registered contrary to the provisions of this act, shall, upon conviction of any such offense, be also punished as above provided in section thirteen of this act. Actual residence a condition of registration.
Penalty.

DEATH AND REMOVAL OF ELECTORS.

(73) § 3561. SEC. 18. At every session of the board of registration of any township or ward, after the year one thousand eight hundred and fifty-nine, it shall be their duty to review the list of names in their register, and if it shall have come to their knowledge that any person, whose name has been registered, has died, or has removed therefrom, and ceased to reside therein, they shall place the letter "D" against the name of the deceased person, and the letter "R" against the name of the person who has so removed, with the date of the entry and the initials of the member making it, so as to show by whom and when made, and thereafter such name shall be considered and treated as no longer on the list, and shall be omitted in the copies above provided for. But if it shall happen that such entry was erroneously made, and such person shall thereafter appear at any election and claim the right to vote thereat, his name may, on his application, be again registered but upon the following terms: He shall, upon his oath or affirmation, which any member of the board Board to review and correct lists.
Provisions for a subsequent registration.
Conditions.

of inspectors or the board of registration may administer, declare that he has not removed from, but is still a resident of the township or ward, and is otherwise a qualified elector and entitled to vote; and on making such oath or affirmation, his name may be registered in the manner above described, either by the board of registration or the board of inspectors; and if such applicant shall swear or affirm falsely, he shall be subject to the pains and penalties of perjury. But in case such entry shall be made falsely, maliciously and without credible information, the member of the board making it shall be deemed guilty of a misdemeanor, and punished as such, and the party aggrieved shall be entitled to recover of him in an action on the case, treble damages for the injury, and treble costs of suit in any court having jurisdiction of the cause, and the record of the defendant's conviction of the criminal offense, duly authenticated, shall be prima facie evidence of his liability.

Penalty.

Penalty for false entry.

Copy of register furnished by township clerk.

(74.) § 3562. SEC. 19. It shall be the duty of any city or township clerk, except during the session of the board, or on days of election, on the demand of any qualified elector of the ward in such city, or of such township, on payment or tender of his legal fees, to make out, certify, and at his office deliver to such elector a true copy of the contents of the register of election of such ward or township, for which he shall be entitled to receive at the rate of fifty cents for every one hundred names.

Destroyer, etc., of register, guilty of larceny.

(75) § 3563. SEC. 20. Whoever shall wilfully cut, burn, mutilate or destroy any such register of electors, or copy thereof filed for preservation, or shall unlawfully take and carry away the same, or unlawfully conceal or refuse or neglect to surrender the same, with intent to prevent its being used as authorized by law, shall be deemed guilty of larceny; and whoever shall falsify any such register or copy by unlawfully erasing or obliterating any name or entry lawfully made therein, or by unlawfully inserting therein any name, note, or memorandum, with intent thereby to influence or affect the result of any election, or to defraud any person of an election to office, shall be deemed guilty of forgery; and the person so offending shall, for every such offense, be punished by imprisonment in the State Prison not more than five years, or by fine not exceeding five hundred dollars and imprisonment in the county jail not more than one year nor less than ninety days.

Falsifier, etc., of register, guilty of forgery.

Penalty.

Township clerk to file copies of register with county clerk and township treasurer.

(76) § 3564. SEC. 21. To the end that the contents of such registers may not be lost, it shall be the duty of every township clerk, within twenty days after each general election, to make, certify, and transmit to the county clerk of the proper county, and also to the township treasurer, a true copy of such contents, to be by such county clerk and township treasurer filed and preserved in his office; for which, when received, he shall give such township clerk a receipt;

and such township clerk shall be entitled to receive therefor, Fees.
 from the township, at the rate of fifty cents for every one
 hundred names. And such copy, or a copy thereof, certified Certified copy
to be evidence.
 by the county clerk or township treasurer, shall be prima
 facie evidence of the contents of the original, and in case of
 the loss or destruction of the original, shall be used in its
 stead.

VILLAGE ELECTIONS.

(77) § 3565. SEC. 22. Whenever any village shall be Duty of
inspectors.
 set off, organized, or incorporated, by act of the legislature,
 or by the board of supervisors of any county, pursuant to
 the laws of this State, it shall be the duty of the persons
 named or appointed to act as inspectors of the first election
 to be held in such village, to procure from the clerk of the
 township or of the townships respectively, within which such
 village may wholly or in part lie; and it is hereby made the
 duty of the township clerk to furnish to them, at the expense Duty of town-
ship clerk.
 of such village, from the register of the electors of the town-
 ship or townships within which such village is situated, a
 true copy of the names of all the electors residing within the
 limits of such village, contained upon the registration books
 of such township or townships, for a village election register
 for such first election, such copy or list to be certified to by
 the clerk of the township, and to be delivered to the said in-
 spectors of election appointed for such village, to be used for
 the purpose of such first village election, in the same manner
 and to the same effect as is above provided for the general
 election and township meetings in townships, as near as may
 be; and there are hereby given to the inspectors of any such
 village election, the same power and authority, and to appli- Inspectors of
election and
applicants for
registration.
 cants for registration the same rights and privileges, which
 are given to township inspectors, and to applicants at town-
 ship elections respectively, at such elections; and such in-
 spectors and applicants, and other persons mentioned in the
 foregoing provisions regulating elections in townships, are
 charged with the same duties, and subject to the same penal-
 ties and liabilities as are provided in like cases at such elec-
 tions in townships; and the vote of no person shall be re-
 ceived at such election whose name is not written in such
 register, or in the copy thereof used by the inspectors of such
 first election. Such copy of the township election register
 for the use of such village election, shall be furnished at least When copies
must be fur-
nished.
 ten days previous to the time fixed for holding such first vil-
 lage election, on the application of the persons named as such
 inspectors, or either of them; and if no persons are named as
 such inspectors, upon the written request of any three quali-
 fied electors in said village, to be delivered to the proper in-
 spectors when appointed and chosen, and to be used as above

Duty, etc., of
president, and
trustees.

specified and provided. It shall be the duty of the president and trustees of every village, after the same shall be fully organized, to conduct the registration of electors in such village for village elections, and for such purpose shall give at least ten days' notice, by publication in a public newspaper, or by posting notices in not less than six public places in said village, of the annual meeting of the village board of registration for such village; and on the Saturday next preceding the time specified for holding the annual village election, the president and trustees, or three of their number, shall meet as a board of registration for such village; and all the proceedings of such board shall be conducted, and the board shall possess and exercise the same duties and powers, and be subject to the same liabilities, and the electors shall be entitled to all the rights and privileges, in making such registration, as provided herein for registration in townships, as nearly as the same can be made applicable to such registration and election.

Voting under
assumed
name.

(78) § 3566. SEC. 23. If any person, falsely personating any qualified elector, whose name is registered, shall, at any election, vote or offer to vote in the name of such elector, or if any person shall knowingly encourage or persuade any such person to vote or offer to vote, or if any person, assuming a false or fictitious name shall vote or offer to vote by that name, or shall enter or cause to be entered upon the register as his own a false name, the person so offending shall, for every such offense, be punished as above provided in section twelve of this act.

Penalty.

What courts
to have juris-
diction, etc.

(79.) § 3567. SEC. 24. The recorder's court in the city of Detroit shall have cognizance and jurisdiction of all offenses under this act, committed within the limits of said city, and the offender may in all cases be there proceeded against by information, as provided by the charter of said city or any other statute applicable thereto. In all other cases the circuit or district court for the proper county shall have cognizance of such offenses committed within the county; and in cases where the punishment is by such fine or such imprisonment, one or both, as the justice's court may impose, the proper justice's court shall have cognizance and jurisdiction thereof.

Violation of
duty a mis-
demeanor.

(80) § 3568. SEC. 25. Any willful violation of duty by any person charged with the execution of this act or any provision thereof not herein particularly provided for, shall be deemed a misdemeanor, and the person guilty thereof shall be punished accordingly. And it is hereby made the duty of every circuit and district court, in its charge to the grand jury, to call their special attention to the necessity of making diligent and careful inquiry touching offenses arising under this act; and also the duty of every prosecuting attorney, whenever he shall receive credible information that any such offense has been committed, to cause the same to be prosecuted.

Duties of cir-
cuit and dis-
trict courts
and prosecu-
ting attorney.

(81) § 3569. SEC. 26. It shall be the duty of every city clerk and township clerk, annually in the month of November, to forward by mail to the Secretary of State of this State, at the seat of government, the aggregate number of names not marked with the letter "D" or "R," appearing in the register for such city or township, omitting the names. And the Secretary of State is hereby required to keep a record thereof in such manner as to show the number of votes in such city and township, arranged in alphabetical order, in a book to be kept for that purpose. And he shall, within twenty days from the approval of this act by the governor, cause a printed copy of the same to be forwarded by mail to every such city and township clerk in the State.

City and township clerks to report to secretary of state.

Duty of secretary of state.

(82) § 3570. SEC. 27. Each member of a city board of registration, while acting under this act, shall be entitled to receive two dollars a day for every day he shall actually serve in performing his duties, to be paid by the city. And each member of a township board shall receive the same compensation as now provided for inspectors of elections.

Compensation.

(83) § 3571. SEC. 28. Each member of a board of registration shall, before he enters upon the discharge of his duties under this act, make and subscribe the oath of office contained in the first section of article eight of the constitution.

Oath.

FORM OF OATH: Evidently means form specified in section I, art. 18 of constitution, see section 50 of this compilation.

(84) § 3572. SEC. 29. Every register shall be of good paper, well bound, and arranged alphabetically in the following form, as near as practicable:

Registers, in what form arranged.

DATE.	NAME.	RESIDENCE.	REMARKS.
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REGISTRATION IN WAYNE COUNTY.

(85) § 3579. SEC. 36. The boards of registration in each township, village, or city, respectively, in the county of Wayne, outside of the city of Detroit, shall cause a session of the said respective boards to be held on the first Monday in October, in the year eighteen hundred and seventy-two, and on the first Monday in October in every fourth year thereafter, for the purpose of making a re-registration of the qualified electors of each town, village, city, ward or election district therein. The said several respective boards shall be in session on the first Monday in October, aforesaid, and for not less than three nor more than six days thereafter, from nine o'clock in the morning to one o'clock in the afternoon, and from two o'clock to five o'clock in the afternoon, and shall be provided with the proper blank books for registering the names of voters of the form heretofore used, and shall

Time for meeting of board in Wayne Co., outside Detroit, and duration of session.

When former
registry shall
be deemed
invalid.

have the same powers, and perform the same duties as are conferred upon or required of boards of registration under the act aforesaid and the acts amendatory thereto, and the same rules and requirements shall be observed in such re-registration, in all respects, as were required in the original registration under said act. When such registration shall be completed, the former registry of electors in such townships, cities, villages, or election districts shall henceforth be deemed invalid, and shall not be used at the ensuing elections, and no person shall vote at any public election in said towns, cities, or villages, after such re-registration, whose name shall not be registered anew under the provisions of this section, or be afterwards properly entered on such new registry according to the provisions of said act. The provisions concerning a re-registration in the city of Detroit shall apply to the aforesaid cities as far as the same may be adapted thereto.

Registration in Detroit City, see sections 3573-8, 3580-81, C. L., 1897.

REGISTRATION IN NEW TOWNSHIPS.

An Act to provide for the registration of electors in new townships.

[Act 4, S. L. 1869.]

The People of the State of Michigan enact:

Inspectors of
election to
constitute a
board of reg-
istration.

(86) § 3553. SECTION 1. That the persons named in the act erecting any new township, as inspectors of election, whether passed by the legislature of this State, or the board of supervisors of the proper county, shall constitute a board of registration for such new township, until such officers are elected and qualified as provided by law.

Meeting of
board.

(87) § 3554. SEC. 2. Such inspectors shall meet in the capacity of such board of registration, on the Saturday next preceding the first township meeting in such new township, at the place mentioned in the act providing for the organization thereof, for holding such first township meeting, and shall be governed, in all respects, by the provisions of act number 177, of session laws of 1859, which pertain to registration of electors in townships, as far as the same are applicable, except as is hereinafter provided.

Act of 1859 to
govern action.

The act referred to above precedes this act, see especially sections 64-72.

Who may
register.

(88) § 3555. SEC. 3. The name of any person may be registered at such first township meeting, who shall make due proof, by his own oath, before the board of inspectors of such meeting, that he is possessed of the qualifications of an elector in such new township, under existing laws, other than that requiring registration.

(89) § 3556. SEC. 4. The members of such board of registration hereby created, shall elect one of their number chairman, and another clerk of said board, who shall respectively possess the same powers and perform the same duties which belong to and devolve upon the supervisor and township clerk, while acting on a board of registration in an organized township, as now provided by law.

Election of chairman and clerk.
Powers and duties of.

(90) § 3557. SEC. 5. In case one or more of the persons appointed as such inspectors of election hereinbefore mentioned shall, from any cause, fail to appear at the place specified for the holding of such first township meeting, to form a board of registration, as herein provided, such vacancy or vacancies on said board shall be filled from among the electors, by a majority vote of the electors present at the hour appointed for opening the session of said board.

Vacancies on board, how filled.

(91) § 3558. SEC. 6. It shall be the duty of such board of inspectors, or the surviving member or members thereof, in case of the decease or removal of one or more of the same, to give public notice of such meeting, for the purpose aforesaid, by causing a written or printed notice, which shall state the object of such meeting, the time when, and the place where the same is to be held, to be posted in five of the most public places in such new township at least fifteen days previous to the time of holding said meeting.

Notice of meeting, how given.

BOARDS OF REGISTRATION NOT TO MEET NEAR CERTAIN PLACES.

An Act to prohibit boards of registration from holding sessions in or near places where intoxicating liquors are sold or kept for sale, and to prescribe penalties for the violation of the provisions of this act.

[Act 23, P. A. 1889.]

The People of the State of Michigan enact:

(92) § 3559. SECTION 1. That it shall be unlawful for the board of registration of any township, village or city in this State, or of any election district or voting precinct therein, to meet or hold any session for the purpose of registering the electors thereof, in any room or building where intoxicating liquors are sold or kept for sale, or any room adjacent to a room where such liquors are sold or kept for sale, or connected by hall or doorway with such room or saloon where intoxicating liquors are sold or kept for sale.

Board of registration, where not to meet.

(93) § 3560. SEC. 2. Any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof be punished by a fine not less than fifty nor more than two hundred dollars

Violation a misdemeanor.
Punishment.

and the costs of his prosecution or by imprisonment in the county jail not less than thirty days nor more than six months, or both such fine and imprisonment in the discretion of the court.

CHAPTER III.—GENERAL AND SPECIAL ELECTIONS.

An act to provide for holding general and special elections.

[Act 175, S. L. 1851.]

The People of the State of Michigan enact:

General election, when held.

Officers to be elected.

Proviso.

Schedule to const., sec. 5.

(94) § 3595. SECTION 1. That a general election shall be held in the several townships and wards of this State, on the Tuesday succeeding the first Monday of November, in the year eighteen hundred and fifty-two, and on the Tuesday succeeding the first Monday of November, every second year thereafter, at which there shall be elected so many of the following officers as are to be chosen in such years respectively, that is to say: A governor, lieutenant governor, secretary of state, state treasurer, auditor general, attorney general, superintendent of public instruction, commissioner of the state land office, members of the state board of education, electors of president and vice president of the United States, representatives in congress, the senators and representatives in the state legislature, and the following county officers, viz.: Judges of probate, sheriffs, clerks, treasurers, registers of deeds, prosecuting attorneys, and such other officers as may by law be required to be elected at such general election: Provided, The provisions of this section shall not apply to the election of the senator and representatives in the state legislature, nor to the election of county officers, in that portion of the State denominated the Upper Peninsula, as described in section one, article nineteen, of the revised constitution, and such other territory as may be attached thereto for election purposes. On the first Tuesday of November, eighteen hundred and fifty-one, there shall be elected a governor and lieutenant governor, whose term of office shall commence on the first Monday of January, eighteen hundred and fifty-two, and who shall hold their respective offices until the first day of January, eighteen hundred and fifty-three, and until their successors are elected and qualified; which election shall be conducted in the manner provided by the constitution and laws in force on the thirty-first day of December, eighteen hundred and fifty; and the returns and canvass of votes given thereon shall be proceeded and determined in the same manner herein provided for the same officers to be elected at general biennial elections.

TOWNSHIPS: The townships in which elections are held must be organized townships.—*People v. Maynard*, 15/468. Nor can the election for a township be held within the corporate limits of a city located within such township.—*People v. Knight*, 13/424.

GENERAL ELECTION: The term "general election" means the biennial November election.—*People v. Palmer*, 91/286; *Westinghausen v. People*, 44/268; *People v. Lord*, 9/227. So far as the election of judge of probate is concerned an election at any other time must be regarded as a special election.—*People v. Palmer*, 91/286.

CONDUCT OF ELECTIONS: Statutory provisions prescribing the conduct of elections are to be regarded as directory only, except where they are of such a character that a failure to comply with them would have the effect to prevent or obstruct the complete expression of the popular will or the production of satisfactory evidence thereof.—*People v. Cicott*, 16/323 (*Cooley, J.*). See *People v. Sackett*, 14/320; *Lindstrom v. Canvassers*, 94/469. As to statutory provisions requiring notices of elections, see *People v. Witherell*, 14/48; *People v. Hartwell*, 12/508; *Secord v. Foutch*, 44/92. Irregularities on the part of election officers do not necessarily defeat the election, but may require it to be subjected to rigid scrutiny.—*People v. Sackett*, 14/320. An election is not to be set aside because of an irregularity, unless it appears that that irregularity affected the result.—*People v. Cicott*, 16/324 (*Cooley, J.*). Even where the statutory provisions disregarded are mandatory, the irregularity does not necessarily defeat the election, if the means exist of determining the result.—*Id.*; *People v. Van Cleve*, 1/362; *People v. Higgins*, 3/233; *People v. Bates*, 11/362; *Keeler v. Robertson*, 27/116. Illegal votes will not be allowed to affect the result, except where it can be shown for whom they voted.—*People v. Cicott*, 16/283. As to irregular adjournment of the election from one place to another, see *Farrington v. Turner*, 53/27. As to certain other irregularities, see *People v. Avery*, 102/572.

UPPER PENINSULA: The proviso was enacted when sec. 6 of art. xix of the constitution provided for elections in the upper peninsula on the last Tuesday of September. But, as amended, that section now makes no distinction between the two peninsulas as to date of election. After the amendment, act 68 of 1863, see sections 436-7 *infra*, was passed, changing the time of election to correspond. Act 40 of 1857 was entitled "to abolish the office of district attorney," but provided for its continuance instead. But act 191 of 1865 finally abolished the office, and act 253 of 1865, see section 438 *infra*, changed the time for the election of prosecuting attorneys, provided for by act 40 of 1857, so as to correspond with the amendment to the constitution. That removed all the differences between the two peninsulas relative to general elections.

(95) § 3596. SEC. 2. Special elections may be held in the following cases, and for the election of the following officers, viz.: In what cases special elections may be held.

1. When a vacancy shall occur in the office of senator or representative in the state legislature, representative in congress, judge of the circuit or district court, regent of the university, or member of the state board of education;

2. When there has been no choice at a general election of representative in congress;

3. When the right of office of a person elected to any of the aforesaid district or county offices shall cease before the commencement of the term of service for which he shall have been elected;

4. When a vacancy shall occur in either of the said county offices after the commencement of the term of service, and more than six months before the next general election;

5. When, in any other case of a vacancy not particularly provided for in this section, the governor shall, in his discretion, so direct.

SUBDIVISION 3: The death of an officer elect before qualification and before the expiration of the term of the incumbent, creates no vacancy to be filled by appointment, but the full term must be filled by special election under this subdivision.—*Lawrence v. Hanley*, 84/399; *People v. Lord*, 9/227.

SUBDIVISION 4: *People v. Palmer*, 91/286. Filling vacancies in office of county clerk.—Const. vi. 10; section 409. Register of Deeds.—Sections 380, 409. County treasurer.—Section 372. Sheriff, coroner and county surveyor.—Section 409.

When vacancies may be filled at general election.

(96) § 3597. SEC. 3. A vacancy in either of the offices named in the first section of this act, which shall not have been supplied before a general election, may be supplied at such election.

This section is merely permissive.—Secord v. Foutch, 44 / 92.
See annotations under section 103 infra.

When special elections not to be held.

(97) § 3598. SEC. 4. No special election shall be held within three months next preceding a general election, except in cases where the governor shall order a special election.

When to be ordered by board of supervisors.

(98) § 3599. SEC. 5. Special elections for the choice of the county officers named in section one of this act shall, except in cases in which a special election is to be ordered, by the governor, be ordered by the board of supervisors.

Lawrence v. Hanley, 84 / 404; People v. Palmer, 91 / 287.

To be held one day only.

(99) § 3600. SEC. 6. Special elections shall be held and continued one day only, and shall be conducted, and the result thereof canvassed and certified in all respects, as near as may be, in like manner as general elections, except as otherwise directed.

Persons deemed elected.

(100) § 3601. SEC. 7. In elections for the choice of all officers named in the first section of this act, the persons having the greatest number of votes shall be deemed to have been duly elected.

PLURALITY ELECTS: In general elections in this state we have adopted, and constantly act upon, the principle that plurality elects, and whenever, as, in some cases, in the board of supervisors and some municipal charters, a majority of the body voting is required, it is especially stated in the law.—Conrad v. Stone, 78 / 639.

Election of electors of President and Vice President.

(101) § 3602. SEC. 8. Whenever the time fixed by the law of congress for the election of electors of president and vice president of the United States, shall not occur on the day appointed for holding the general election, such election for electors of president and vice president shall be held on the day so fixed by the law of congress therefor.

Idem.

(102) § 3603. SEC. 9. All the provisions of law relating to the notifying and holding of the general elections, and the election of electors of president and vice president thereat, shall apply to every such election held pursuant to the provisions of the preceding section; and the votes given for such electors shall be returned and canvassed, and the result determined in the same manner in all respects, and with the like effect, as in case of the election of such electors at a general election.

NOTIFICATION OF ELECTIONS.

Secretary of state to give notice of election to fill vacancy.

(103) § 3604. SEC. 10. When a vacancy shall occur in the office of judge of the supreme court, of judge of the circuit court, regent of the university, or member of the state board of education, thirty days or more before a general elec-

tion, the secretary of state shall, at least twenty days before such election, cause a written notice to be sent to the sheriff of each of the counties within the election district in which such vacancy may occur, which notice shall state in which office the vacancy occurred, and that such vacancy will be supplied at the next general election.

NOTICE: The authorities are uniform that the neglect of the secretary of state, or of the sheriff, or of both of them, to give these notices, would not invalidate an election of persons receiving the highest number of votes for any office for which the regular term was by law to be filled at a general election.—*Adsit v. Sec'y of State*, 84/425; *Att'y Gen. v. Canvassers*, 64/609; *Powell v. Com. Council*, 51/129; *People v. Witherell*, 14/48; *People v. Hartwell*, 12/508. The notice required by the statute in such case is deemed directory and not mandatory. The right and duty to hold the election is derived from the law and not from the notice.—*Adsit v. Sec'y of State*, 84/425; *Lindstrom v. Canvassers*, 94/470. But an election to fill a vacancy, of which no notice was given, and which was in fact known to but few of the voters, is void. But though the official notice was not given, or, if given, not in the prescribed form, yet, if the election has been held, and the great body of the voters had notice in fact of the vacancy, this, coupled with the fact that they are presumed to know that the law requires the vacancy to be filled at the next election, is sufficient, even though many refrained from voting because of a difference in the construction of the law.—*Adsit v. Sec'y of State*, 84/427. See *Secord v. Poutch*, 44/89. The question to be considered in these cases is whether the want of the statutory notice has resulted in depriving sufficient electors of the opportunity of voting to change the result of the election; and the election should not be set aside when it is apparent that the result would not have been different had all the electors voted.—*Adsit v. Sec'y of State*, 84/420.

(104) § 3605. SEC. 11. The secretary of state shall, between the first day of July and the first day of September preceding a general election, direct and cause to be delivered to the sheriff of each county in this State, a notice, in writing, that at the next general election there will be chosen as many of the following officers as are to be elected at such general election, viz.: A governor, lieutenant governor, secretary of state, state treasurer, auditor general, attorney general, superintendent of public instruction, commissioner of the state land office, members of the state board of education, electors of president and vice president of the United States, and a representative in congress for the district to which each of such counties shall belong.

Of general elections.

McPherson v. Sec'y of State, 92/392.

(105) § 3606. SEC. 12. He shall also, between the first day of July and first day of September preceding such election, direct and cause to be delivered to the sheriff of each county a notice in writing, stating the number of senators and representatives to be elected in such county, specifying the number of each district, and the limits of such district, when the county alone does not constitute a senatorial or representative district or districts.

Of elections of senators and representatives.

See note to section 103.

(106) § 3607. SEC. 13. Whenever a special election shall be ordered by the governor to fill any vacancy, the secretary of state shall immediately notify the sheriff of each of the counties embraced in said election district, of the

Of special elections.

time of holding such election, the cause of such vacancy, the name of the officer, and the time when his term of office will expire.

See note to section 103.

Duty of board
of supervisors.

(107) § 3608. SEC. 14. When the board of supervisors of a county shall order a special election to fill a vacancy in any office, such order shall be in writing and signed by the chairman and clerk of the board, and shall specify how the vacancy occurred; the name of the officer in whose office it occurred; the time when his term of office will expire, and the day on which such special election shall be held, not being more than forty nor less than thirty days from the making of such order; and such clerk shall, without delay, cause a copy of such order to be delivered to the township clerk of each township, and to one of the inspectors of election in each ward of any city in the county.

Secord v. Foutch, 44 / 89; People v. Palmer, 91 / 287.

Duty of sheriff
on receiving
notice.

(108) § 3609. SEC. 15. The sheriff, on receiving either of the notices directed in this act to be sent to him, shall forthwith cause a notice in writing to be delivered to the township clerk in each township, and to one of the inspectors of election in each ward in any city of his county, which notice shall contain in substance the notices so received by such sheriff; but if such county shall be divided into two or more senatorial or representative districts, then such notice, so far as it relates to the election of senators or representatives, shall be delivered to the proper officer in each township or ward in each respective district.

See note to section 103.

Idem.

(109) § 3610. SEC. 16. He shall also give at least twenty days' notice in writing, to be delivered to the township clerk of each township, and to one of the inspectors of election in each ward in any city in his county, of the holding of each general election, for the choice of county officers, designating the officers to be chosen at each and every such election.

Duty of town-
ship clerk or
inspector on
receiving
notice.

(110) § 3611. SEC. 17. The township clerk or inspector of elections, receiving either of the notices directed in this act to be delivered to him, shall, by notice in writing, under his hand, give at least ten days' notice of the time and place at which such election is to be held, and the officers to be chosen, which election shall be held at the place of holding the last preceding township meeting, or at such other place in the township as the township board of such township shall prescribe; and if the notice is of a general election, at which a vacancy is to be filled, it shall state the name of the person in whose office the vacancy shall have occurred, and that such vacancy will be supplied at such election; and such township

clerk or inspector shall cause such notices to be posted up in at least three of the most public places in the said township or ward.

Sections 18-41 of this act were superseded by the act of 1891 immediately following.

MANNER OF CONDUCTING GENERAL ELECTIONS.

An Act to prescribe the manner of conducting and to prevent fraud and [deception] deceptions at elections in this State.

[Act 190, P. A. 1891, as amended.]

The People of the State of Michigan enact:

(111) § 3612. SECTION 1. That at all elections at which any presidential elector, member of congress, member of the legislature, State or county officer or circuit judge is to be elected, or any amendments to the constitution, the supervisor, two justices of the peace, not holding the office of supervisor or township clerk, whose term of office will first expire and the township clerk of each township, and the assessor, if there be one, an alderman of each ward in a city shall be the inspectors of election: *Inspectors of election, who to constitute.* Provided, That in all voting precincts where by special enactment, provisions exist for designating inspectors of election said provisions are not to be superseded, but such officers shall be the inspectors of election under this act: *Proviso.* And provided further, That no person shall act as such inspector, who is a candidate for any office, to be elected by ballot, at said election. *Further proviso.*

DESIGN OF ACT: This act is designed to secure absolute secrecy to the elector and thus prevent all opportunity for corrupt practices.—Att'y Gen. v. McQuade, 94 / 443; Att'y Gen. v. May, 99 / 544. It was passed to preserve the purity of elections and, although it may result in some inconvenience to the voter, the restrictions placed upon the manner of voting and the regulations, under which votes may be received and placed in the ballot boxes, are within the province of the legislature.—Att'y Gen. v. May, 99 / 547. This statute supplanted a law which permitted a voter to vote openly any ballot that he might choose.—Att'y Gen. v. Stillson, 108 / 422.

COUNTY OFFICER: CIRCUIT JUDGE: Special elections for judges or county officers are apparently covered by this section and call for the action of the county commissioners provided for in section 119.—Peck v. Supervisors, 102 / 355.

CONSTITUTIONAL AMENDMENTS: Under Const. xx, I, such amendments may be submitted at spring elections. In such case the ballots must be prepared by the county commissioners and may be separate and be cast in a separate box, from those for township officers.—Peck v. Supervisors, 102 / 355.

(112) § 3613. SEC. 2. In case four inspectors shall not attend at the opening of the polls, or shall not remain in attendance during the election, the electors present may choose, viva voce, such number of said electors as, with the inspector or inspectors present, shall constitute a board of four in number; and such electors so chosen, shall be inspectors of that election, during the continuance thereof. *When inspectors to be chosen viva voce.*

Clerks of election.

(113) § 3614. SEC. 3. In townships, the township clerk, if present, shall act as clerk of the election, and before the opening of the polls, the inspectors in each township shall appoint an elector to be a second clerk of the election; and if the township clerk shall not be present, the board shall appoint two such clerks, and the inspectors in each ward or voting precinct in a city shall designate one of their number to act as clerk and shall appoint one other elector as second clerk; and each of the clerks so appointed, and each of the inspectors so chosen, shall take the constitutional oath of office, which oath either of the inspectors may administer.

Oath of office.

When voting precincts may be divided.

(114) § 3615. SEC. 4. When any election district or voting precinct shall contain over three hundred electors, according to the poll list of the last preceding general election, the township board in townships and the city council in cities may, in their discretion, divide such voting precincts into two or more election districts. In case of townships and incorporated villages so divided, the provisions of chapter eight of Howell's annotated statutes shall apply to and govern all proceedings hereunder, with reference to such division, boards of registration, election inspectors and all matters arising therefrom not provided for by this act. In cities where no special provisions exist relative thereto, such division and all matters arising therefrom, not covered by the provisions of this act, shall be provided for by ordinance of the common council of said city, and it is hereby made the duty of such common council to make all necessary rules and regulations in connection therewith to fully carry out the provisions of this section.

What to govern proceedings.

When common council to provide for by ordinance.

Conely v. Common Council, 93 / 446.

Opening and closing of polls.

(115) § 3616. SEC. 5. On the day of election the polls thereof shall be opened at seven o'clock in the forenoon, or as soon thereafter as may be, and shall be continued open until five o'clock in the afternoon of the same day, and no longer; but in townships the board may adjourn the polls at twelve o'clock, noon, for one hour, in their discretion. The inspectors shall cause proclamation to be made upon opening the polls, and shall also cause proclamation to be made of the closing of the polls, one hour, thirty minutes, and fifteen minutes respectively, before the closing thereof.

Proclamations thereof.

As to irregularities in opening and closing the polls, see *People v. Cicott*, 16 / 305, 324.

Of ballot boxes.

(116) § 3617. SEC. 6. There shall be provided and kept by the township clerk in each township at the expense of such township, and in each ward or voting precinct of any city by the city clerk or recorder at the expense of the city, one or more suitable ballot-boxes, with lock and key, which ballot-box shall have an opening through the lid of the proper size to admit a single closed ballot, through which each ballot re-

ceived shall be passed into the box. He shall also furnish a township or ward election seal, which shall contain the name of the township or ward and the words "election seal" around the margin thereof, and such other words or device thereon as the township board of the township or common council of the city may prescribe. Election seal.

BALLOT BOXES: The law contemplates that, where state or county measures, or state or county officers to be elected by reason of a vacancy, are to be voted upon, the county commissioners may act; and in such case the ballot may be separate from the ballot containing the tickets for township officers and separate ballot boxes may be used, for the furnishing of which this section provides.—Peck v. Supervisors, 102 / 356.

(117) § 3618. SEC. 7. Before opening the poll, the ballot box shall be examined, and the contents, if any, removed therefrom; it shall then be locked, and the key thereof delivered to one of the inspectors, to be designated by the board. The said box shall not be opened during the election, except as provided by law in case of adjournments. Care of box, key, etc.

(118) § 3619. SEC. 8. When the supervisor shall be one of the board, he shall be chairman thereof; but if he be absent, such one of their number as the inspectors shall designate, shall be chairman. Chairman of board.

(119) § 3620. SEC. 9. In each county of the State, the judge of probate, county clerk and county treasurer shall constitute a board of election commissioners, two of whom shall constitute a quorum, and of which board the judge of probate shall be chairman and the county clerk shall be secretary. It shall be the duty of said board to prepare a sufficient number of ballots, at least two to each elector, according to the vote at the last preceding general election, for election of all officers for whom the electors are entitled to vote, and for all proposed constitutional amendments or other questions to be submitted to the electors for popular vote in compliance with the provisions of law. Board of election commissioners for each county.

OTHER QUESTIONS: There may be occasion for the action of county boards of election commissioners in cases not covered by section one of this act. Such a case occurs upon the submission of the question of the removal of the county seat.—Peck v. Supervisors, 102 / 355.

CONSTITUTIONAL AMENDMENTS: Act to secure publicity of amendments to the constitution, see sections 536-7 infra. Duty relating to ballots.

(120) § 3621. SEC. 10. The said board of election commissioners shall cause to be printed on the ballot the names of the candidates nominated by the regularly called conventions of any party, and it shall be the duty of the State, district or county committee of each political party to forward to the chairman of the said board of election commissioners of each county in the State, not less than twenty days prior to any such election, a copy of the vignette adopted by them and the names of all candidates nominated at any regularly called convention at which candidates for any of the offices mentioned in section one of this act shall be nominated, and no other names, unless authorized and instructed Board of election commissioners, duty of.
State, district and county committees.

Wayne county committees. by said convention, except that in the county of Wayne such county and district committees shall perform such duty

Who to certify names. not less than ten days prior to any such election. All the names of parties so nominated shall be certified to by the chairman and secretary of the respective committees: Pro-

Proviso, as to printing of names. vided, That it shall be unlawful for said board of election commissioners to cause to be printed in more than one column on the ballot the name of any candidate who shall have received the nomination by two or more parties or political organizations for the same office, except persons running for the office of circuit judge in the tenth judicial circuit, the same comprising the county of Saginaw. Any person so receiving the nomination for the same office by two or more parties or political organizations, except persons running for the office of circuit judge in the tenth judicial circuit, the same comprising the county of Saginaw, shall, within five days after his name has been certified to said election commission as having been nominated by two or more political parties for the same office, give notice to the board of election commissioners of each county in the State, if said nomination be for a State office, and to the board of election commissioners of each county in the district, if said nomination be for a congressional, judicial or legislative office, and to the board of election commissioners of the county, if such nomination be for a county office, specifying in such notice the column of which party or political organization on the ballot he wishes his name to be printed, and said board of election commissioners shall print the name of such candidate in such column on the ballot so specified by him, and in no other column.

How notice given. Such notice shall be given to said election commissioners by delivering the same either in person or by depositing the same in the post office, in a sealed envelope, with postage prepaid, directed to the chairman of such board of election commissioners at the county seat of the respective counties, except that in the county of Wayne such notice shall be given by a nominee for a county, judicial or legislative office, within said county, within three days after his name has been so certified as having been nominated by two or more political parties: Provided further, That in case any such candidate so nominated by two or more parties or political organizations for the same office, and whose name shall have been certified by the chairman and secretary of the committees of such parties or political organizations to said board of election commissioners within the time and as above provided, except persons running for the office of circuit judge in the tenth judicial circuit, the same comprising the county of Saginaw, shall refuse or neglect to give notice to said board of election commissioners, as above provided, and within the time above named, specifying in which column on the ballot he wishes his name to be printed, then and in such case said board of election commissioners shall cause his name to

Nominee of two parties, to specify choice.

In Wayne county.

Further proviso, when candidate fails to give notice.

Column, where name printed.

be printed in the column of the party or political organization, from the chairman and secretary of whose committee said board of election commissioners shall have first received notice of such person's nomination for said office, and said board of election commissioners shall not cause the name of such person to be printed on the ballot as a candidate for the same office in any other column. All the provisions of this section shall apply to all city, village and township elections held in this State, except that the notice herein required to be given by a candidate shall be given by him to the proper board of election commissioners within two days after his name has been so certified as nominated by two or more political parties for the same office, but this section shall not be construed as conflicting with act number one hundred ninety-four of the public acts of eighteen hundred ninety-one.

Districts
affected.

Not to conflict
with certain
act.

Am. 1905, act 25.

Act 194 of 1891 is sections 200-202 of this compilation.

NOMINATED BY CONVENTION: A candidate ought to be placed in nomination by the electors and represent a respectable portion thereof, in order to entitle him to have his name printed upon the ballot. Any one has the right to announce himself as a candidate, but the ballot cannot be filled with the names of independent candidates. Every one has the right to be voted for upon the ballot; but, where he is not the nominee of a convention, a person can be voted for only in the blank left on the ballot for such purpose.—*Chateau v. Jacob*, 88/171. See also, *Bragdon v. Navarre*, 102/259; *Stephenson v. Election Com'rs*, 118/416.

VIGNETTE: But one vignette is provided for, but the placing of a separate vignette at the head of the county ticket, while an irregularity, is not fatal. A voter cannot be disfranchised, nor a candidate who is not shown to have participated in any fraud, be defeated of his election, by such an irregularity.—*Lindstrom v. Canvassers*, 94/467. Where the vignette adopted combines with it the name of the party or political organization represented by the committee forwarding it to the commissioners, it is unnecessary to put another heading below it.—*Shields v. Jacob*, 88/164.

See *Baker v. Election Com'rs*, 110/635.

(121) § 3622. SEC. 11. It shall hereafter be the duty of the State committee of any political party or organization in this State, before each election, to prepare and adopt, by engraving or otherwise, a vignette, to be printed at the top of the column of such ballot assigned to such party, as a distinctive and characteristic heading thereto; such vignette shall not be more than one inch and a half square, and in addition to the device adopted, shall set forth legibly the name of such party. A proof copy of the ballot shall be placed on file at the office of the county clerk of each county by the board of election commissioners and be open for inspection by the candidates named thereon and by the chairman of each committee furnishing the names of candidates thereon, but by no other person, at least ten days prior to each election, except in the county of Wayne, where such copy shall be on file at least six days prior to each election. And it shall be the duty of the board of election commissioners to correct such errors as may be found therein by such inspection.

Vignette pro-
vided for.

Size of.

Proof copy to
be filed.

VIGNETTE: See note to preceding section.

PROOF COPY: The failure to have the proof copy of the ballot on file for inspection, at least ten days, is an irregularity which will not disfranchise a voter or deprive a candidate of his election, if not shown to have participated in any fraud.—*Lindstrom v. Canvassers*, 94/467.

Impression of
vignette to
be filed.

(122) § 3623. SEC. 12. When such vignette and heading shall have been adopted and prepared, an impression of the same, followed by the names of the candidates nominated at, or by the direction of the regularly called convention, printed and sealed up in an envelope, shall be filed by the respective committees with the county clerk of the county where such election is to be held, and with the secretary of state, at least twenty days prior to such election, except in the county of Wayne, where such duties shall be performed by the respective committees at least ten days prior to such election. Such lists shall be kept by the secretary of state and said county clerk on deposit, and from the time of said filing it shall be unlawful for any person to imitate, copy or in any manner counterfeit the same, or change the name of the candidate of such regular convention, except as herein provided, or by authority of such convention. Such vignette and heading shall remain as the heading for the column of such party organization on the ballots of all elections until changed by the proper committee, and notice thereof shall have been given to such county clerks and secretary of state. It shall be the duty of the board of election commissioners to provide, at the expense of the county, a sufficient number of cuts of the several vignettes provided for in this act, from which to print the necessary number of ballots to be distributed by them.

Unlawful to
imitate copy,
or counter-
feit.

Board to pro-
vide cuts.

Secretary of
State to certify
amendments.

(123) § 3624. SEC. 13. Whenever a proposed constitutional amendment or other question is to be submitted to the electors of the State for popular vote the secretary of state shall duly and not less than fifteen days before election, certify the same to the clerk of each county in the State.

CONSTITUTIONAL AMENDMENTS: For an act to secure greater publicity for amendments to the constitution, see sections 536-7.

Printing of
names on
ballots, etc.

(124) § 3625. SEC. 14. The board of election commissioners in each county shall cause the names of all candidates for the various offices mentioned in section one of this act to be voted for at any election held pursuant to the provisions of this act, to be printed on one ballot, all nominations of any party to be placed in a separate column under the title and device of such party as designated in its certificate, with the name of each candidate opposite the name of the office for which he was certified to have been nominated. At the general election held in November the names of the several offices to be voted for shall be placed on the ballot in the following order: Electors of president and vice president of the United States, governor, lieutenant governor, secretary of state, state treasurer, auditor general, attorney general, superintendent of public instruction, commissioner of the state land office, member of the state board of education, representative in congress, senator and representatives in the State legislature, judge of probate, sheriff,

Name of
office.

Order of
placement
for November
election.

clerk, treasurer, register of deeds, prosecuting attorney, auditor in counties electing an auditor, circuit court commissioners, coroners, surveyor. At the general election held in April election. April the order shall be justice of the supreme court, regents of the university, circuit judge, county commissioner of schools. At any election to fill vacancy, the office to be voted for shall be placed in the appropriate place on the ballot, regard being had to its being a State, congressional, legislative, or county office. The tickets of the party having the greatest number of votes within the State at the last preceding presidential election as shown by the votes cast thereat for electors of president and vice president shall be placed first on the ballot, the position of other tickets to be governed relatively by the same rule. Party tickets. The ballots shall be of uniform size and of the same quality and color of white paper, and sufficiently thick that the printing cannot be distinguished from the back and the ballots in each election district shall be numbered consecutively on the upper right-hand corner of the front side thereof, and no two ballots of the same kind in the same township or election district shall have the same number; such corner containing said number shall be perforated diagonally across the corner of the ballots, so that it can be handily torn off as hereinafter provided, before such ballot is deposited in the ballot box. Ballots to be uniform size. The arrangement of the ballot shall conform as nearly as possible to the following plan, and shall contain the specific instructions therein set forth, and no others: Plan of ballot.

OFFICIAL BALLOT.

(Instructions.) In all cases make a cross (X) in the circle (O) under the name of your party at the head of the ballot. If you desire to vote a straight ticket, nothing further need be done. Where only one candidate is to be elected to any office, and you desire to vote for a candidate not on your party ticket, make a cross (X) in the square [] before the name of the candidate for whom you desire to vote on the other ticket. Where two or more candidates are to be elected to the same office, and you desire to vote for candidates on different tickets for such office, make a cross (X) in the square [] before the name of the candidates for whom you desire to vote on the other ticket; also erase an equal number of names of candidates on your party ticket for the same office for whom you do not desire to vote. If you wish to vote for a candidate not on any ticket, write or place the name of such candidate on your ticket opposite the name of the office. Before leaving the booth, fold the ballot so that the initials of the inspector may be seen on the outside.

<p>NAMES OF OFFICES VOTED FOR.</p>	<p>Vignette with name of party.</p> <p>O</p>	<p>Vignette with name of party.</p> <p>O</p>	<p>Vignette with name of party.</p> <p>O</p>
<p>PRESIDENTIAL. <i>Electors of President and Vice-President</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p>STATE. <i>Governor.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p><i>Lieutenant-Governor.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p><i>Secretary of State.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p><i>Representative in Congress,District.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p>LEGISLATIVE. <i>Senator.....District.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p><i>Representative.....District.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p>COUNTY. <i>Judge of Probate.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p><i>Sheriff.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.
<p><i>Clerk.....</i></p>	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.	<input type="checkbox"/> Name of candidate.

Am. 1901, act 214.

OFFICIAL BALLOT: As to printing names on ballots and the preparation of the tickets, see notes to section 120. The provisions of this section as to arranging the tickets on the ballots are not merely directory, but must be observed in making up the ballot.—Baker v. Elec. Com'rs, 110/635. A spring election held not a general election in determining the right to place a ticket in the first column of an official ballot.—Edgar v. Bd. of Elec. Com'rs, 118/418. See Stephenson v. Bd. Elec. Com'rs, 118/396.

INSTRUCTIONS: In a village election notices, in the nature of instructions to the voter, were posted, but followed the form originally prescribed in 1891, and were not in exact conformity with the amendatory law of 1893. This was held to be an irregularity, which was not fatal to the election.—People v. Avery, 102/573.

BALLOT: All votes must be given by ballot.—Const. vii, 2. Under the old law it was held that the designation of the person voted for by the initials of his name is not sufficient, for no other evidence than the ballot is receivable to show the voter's intention. A vote for J. A. Dyer does not show an intention to vote for James A. Dyer and cannot be counted for him.—People v. Tisdale, 1 Doug. 59; People v. Higgins, 3 / 233; People v. Cicott, 16 / 283; People v. McNeal, 63 / 294. An error in spelling a name, if it does not change the sound, will not prevent the ballot from being counted for the person evidently intended.—People v. Tisdale, 1 Doug. 65. "Finnegan" may be counted for "Finnegan."—People v. Mayworm, 5 / 149. Where a part of the surname has been omitted, it cannot be counted as if it were perfect, unless it is idem sonans.—People v. Cicott, 16 / 307. But a well known abbreviation, as Geo. for George, or Thos. for Thomas may be used and counted according to the evident intention of the voter.—People v. Tisdale, 1 Doug. 65. Poor handwriting may be fatal; a written ballot for Toley was not allowed to be counted for Tobey.—People v. McNeal, 63 / 294. But ballots for John Jochim were counted for John W. Jochim, it not appearing that there was any other John Jochim within the district.—People v. Kennedy, 37 / 67. The omission of the word "for" before the name of the office is immaterial, and the name of the office may be abbreviated, if it is unequivocal.—People v. Cicott, 16 / 307. When an act authorizes the submission of a question to the people without prescribing the form of the ballot, it is necessary that the voter's ballot should show that the specific question contemplated by the act was passed upon.—People v. Woodhull, 14 / 28.

(125) § 3626. SEC. 15. In case of the death, removal or withdrawal of any candidate after the printing of such ballot, and before such election, the chairman of the State, district or county committee of the political party to which such candidate belongs shall transmit to the chairman of the board of election commissioners the name of the person selected by such party to fill such vacancy, and said board shall provide the election board of each precinct, in which such candidate is to be voted for, with a number of pasters containing only the name of such new candidate, at least equal to the number of ballots provided for such precinct, but no pasters shall be given to, or received by any one, except such election board and such chairman, and it shall be the duty of the chairman of the board of inspectors of election to put one of such pasters in a careful and proper manner, in the proper place on each ballot before it shall be given to any elector for the purpose of voting, and in case the name of any candidate regularly certified to said board of election commissioners shall have been omitted from such ballots, said board of election commissioners shall furnish pasters containing the name of such candidate and the same shall be placed upon the ballots as herein provided in the case of a candidate selected to fill a vacancy. In case of such death, removal or resignation before the printing of such ballots, the name of the person selected in the place of such candidate shall be communicated by the proper committee to the political organization to which such candidate belonged, and the necessary change in such ballot shall be made by the board.

In case of death of candidate.

Pasters to be provided.

In case a name has been omitted

Change in ballots on death, removal or resignation of candidate.

(126) § 3627. SEC. 16. It shall not be lawful for the printer of such ballots or any other person to give, or deliver to, or knowingly permit to be taken, any of said ballots, by any person other than the board of election commissioners, for which such ballots are being printed, or to print, or cause or permit to be printed, any ballot in any other form than the one prescribed by this act, or with any other name thereon, or with the names misspelled, or the names or devices thereon

Unlawful to use other than official ballot.

Proviso.

arranged in any other way than that authorized and directed by the said board of election commissioners: Provided, That it shall and may be lawful for the chairman of committees and candidates named on the official ballot to procure any number of fac similes of the ticket to be printed on red, yellow or blue paper and to circulate the same for the purpose of the instructions of voters; and said colored ballot to have printed at the head the words "Instruction Ballot."

Board of election commissioners to furnish pencils.

(127) § 3628. SEC. 17. It shall be the duty of the board of election commissioners of each county to provide and enclose in each package of official ballots to be delivered to some member of the board of election inspectors of each voting precinct as hereinafter provided, as many black or blue lead pencils, to be attached with strings or in other suitable manner to the booth, as may be necessary, at least three black or blue lead pencils being furnished for every booth erected as hereinafter provided. And the board of election commissioners of each county shall audit and issue their warrants for the same, which shall be paid by the county treasurer out of the general fund of the county.

Section 18 is repealed by act 266 of 1897.

Duty of chairman to procure ballots.

(128) § 3629. SEC. 19. It shall be the duty of the chairman of the board of election inspectors of each voting precinct in each county, or in case he cannot attend, some other member of such board, authorized in writing by the said chairman, to appear at the office of the county clerk of his county, not more than four nor less than two days before each election, and the board of election commissioners shall deliver to him, in a sealed package, the ballots and the stamps or other apparatus provided for his precinct: Provided, That in cities

Proviso, where date is fixed in cities.

where a later date is fixed for the delivery of city ballots to said [chairmen] chairman, the ballots may be delivered by the board of election commissioners at the same time that the city ballots are so delivered, and in election precincts where the ballot boxes are delivered locked to election inspectors by officials, such stamps and pads or other apparatus may be enclosed in such ballot boxes instead of with the ballots. The necessary number of ballots shall be wrapped and tied in packages, and securely sealed with wax, and the chairman of said board of election commissioners or some other member thereof, duly authorized therefor by said board, shall make and sign a certificate setting forth the number of ballots in such package, and that such ballots were packed and sealed by himself personally, and upon delivery of such package and said certificate to said inspector of elections he shall receipt for the same; and for the safe sealing of such ballots, the county board of election commissioners shall provide themselves with a seal of such design as they may deem proper. Said packages shall not be opened until delivered to the election board of the respective voting precincts, to which

How ballots put up.

When to be opened.

they were directed when said boards shall be fully organized and ready for the reception of votes as in this act provided.

(129) § 3630. SEC. 20. In case none of the board of election inspectors of any precinct shall appear at the office of the county clerk within the time above specified, the board of election commissioners shall forthwith dispatch a special messenger to such precinct, with the ballots and stamps for such precinct, wrapped, tied and sealed as aforesaid, who shall deliver the same to one of the election inspectors or some responsible elector of such precinct, to be designated by the board of election commissioners, who may receipt therefor and whose duty it shall be to deliver the same to the inspectors at the polling place before seven o'clock in the forenoon of the day of election. Such messenger shall promptly report to such clerk and file with him the receipt of the person to whom he delivered such ballots and stamps, and his affidavit stating where, when and to whom he delivered the same.

When board to send ballots.

To file receipt for ballots.

(130) § 3631. SEC. 21. In all townships, and all voting precincts in cities, the township board of each township, and the various officers whose duty it may be to designate and prescribe the place or places of holding general elections in the several cities, wards, election districts and voting precincts, throughout the State, shall provide for, and cause to be erected in the room where elections are to be held, a railing or fence four feet in height, which railing or fence shall be placed through and across the room, and shall cause gates to be erected in said railing. The entrance gate shall be in charge of a gate keeper appointed at the opening of the polls by the board of election inspectors, and duly sworn to allow no person to pass through said gate and enter said railing except as otherwise provided in this act, except to vote or to assist some elector in the preparation of his ballot, as provided in this act, and no person shall be allowed to be inside of said railing, except to vote, or to assist an elector in the preparation of his ballot as hereinafter provided, and as soon as the elector has voted he shall retire without and shall not again be admitted within the railing, and only as many electors as there are booths shall be allowed within the railing at one and the same time, and the electors shall be admitted in the order in which they shall apply. The entrance gate shall be placed at one side of the room, and on the inside of said gate a booth or temporary room shall be erected. At least one such booth shall be provided at each polling place, and not less than one for each hundred persons entitled to vote thereat, as shown by the last preceding registration of electors, and built with walls not less than six feet high, and in [a] such manner that the person preparing the ballot shall be concealed from all other persons. Said railing shall also contain an exit gate, which shall be under the care of an officer appointed by the board and duly sworn, as above.

Railing or fence to be erected in voting room.

Entrance to be in charge of gate keeper.

Who allowed inside railing.

Booths to be erected.

Exit gate and keeper.

The booths must be so constructed as to secure secrecy to the voter in the preparation of his vote, but so as not to obstruct the view between the public and the voter when he deposits his vote. The gate-keeper must admit within the railing at one time as many voters as there are booths, and no more, and as fast as one booth becomes vacant he must admit another voter.—Common Council v. Rush, 82/533.

MISCONDUCT OF INSPECTORS. In determining the title to a county office, the vote of a township should be excluded, where it appears that in such township the mandatory provision of the election law requiring the official ballots to be kept in the custody of an inspector was violated by the appointment of an unofficial person as "instructor" to distribute the ballots, and allowing him access to the voters even after they had entered the booths, although the parties acted in good faith and it is not shown that voters were unduly influenced.—Att'y Gen. v. Kirby, 120/392.

How package opened.

Number of ballots delivered to inspector.

How ballots initialed.

How ballots given voters.

(131) § 3632. SEC. 22. At the opening of the polls, after the organization of, and in the presence of the board of inspectors, one of the inspectors shall open the packages of ballots in such a manner as to preserve the seal intact. He shall then deliver to one of the inspectors, to be designated by the board, fifty of the ballots, and shall place the pencils for marking the ballots in the booths. The inspector so designated shall at once proceed to write his initials in ink on the lower left hand corner of the back of each of said ballots, but not upon the perforated corner, in his ordinary handwriting, and without any distinguishing mark of any kind. As each successive voter calls for a ballot, another one of the inspectors shall deliver to him the first signed of the fifty ballots, and as the supply of ballots in the hands of the inspectors shall decrease, additional ballots shall be signed by the same inspector, so that at least twenty-five ballots so signed shall be at all times in the hands of the inspector delivering the ballots to the elector.

Am. 1901, act 214; 1905, act 55.

INITIALING BALLOTS: The provisions of this law, do not authorize the rejection by the canvassers of ballots, inadvertently indorsed by the inspector in the lower right-hand corner; so much of the statute as designates the particular place for the indorsement being directory only.—*Horning v. Board of Canvassers of Saginaw Co.*, 119/51. The law requires that ballots shall be initialed by an inspector, and with his own initials, in ink, and be handed to the voters by an inspector. Held that the law is mandatory as to all of these requirements, or directory as to all. Quo warranto, to try the title to the office of justice of the peace.—*DeGaw v. Fitzsimmons*, 124/511.

The indorsement of the initials was made in all respects as required by law, except that, instead of being in the upper left-hand corner, they were in the lower right-hand corner. The inspectors of election did not intend to do any wrong. The electors were all qualified voters. They accepted the ballots as given them by the inspector, supposing them to conform fully with the law. As voted, they were secret ballots. The electors voted them in the utmost good faith, without objection or challenge from anyone. The inspectors counted them without protest from any one. The electors were in no sense responsible for the mistake of the inspector. To disfranchise hundreds of legal voters, for an unintentional mistake of this character by a public officer, is a gross injustice, and is calculated to bring a very commendable law into disrepute. It would enable a corrupt inspector to disfranchise the electors when they were not parties to the fraud.—*Horning v. Bd. of Canvassers*, 119/60.

See note to previous section.

Challengers.

(132) § 3633. SEC. 23. At every election each of the political parties shall have the right to designate and keep not exceeding two challengers at each place of voting, who shall be assigned such positions immediately adjoining the inspectors inside the polling place as will enable them to see each person as he offers to vote and a seat and table or desk on which he may write within the railing shall be furnished

for the accommodation of one of such challengers of each political party, and he shall have the right to inspect the poll lists as kept by the clerks, and who shall be protected in the discharge of their duty by the inspectors and the police. Authority signed by the recognized chairman or presiding officer of the chief managing committee of a party in such county or township, city, ward or voting precinct, shall be sufficient evidence of the right of such challengers to be present inside the room where the ballot box is kept. The chairman appointing any challenger may, at his discretion, remove him and appoint another. Any challenger shall have the right and privilege of remaining during the canvass of the votes and until the returns are duly signed and made.

Powers.

Evidence.

May remain during canvass.

People v. Hanna, 98 / 516; Att'y Gen. v. May, 99 / 566.
See note to section 130.

(133) § 3634. SEC. 24. If any person offering to vote shall be challenged as unqualified by any inspector, challenger, or any elector qualified to vote at that poll, the chairman of the board of inspectors shall declare to the person challenged the constitutional qualifications of an elector, and if such person shall state that he is a qualified elector, and the challenge shall not be withdrawn, one of the inspectors shall tender to him such of the following oaths as he may claim to contain the grounds of his qualifications to vote:

Proceedings when elector is challenged

1. You do solemnly swear (or affirm) that you are twenty-one years of age, that you are a citizen of the United States, that you have resided in this State six months, and in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election; or,

Form of oath when elector is challenged.

2. You do solemnly swear (or affirm) that you are twenty-one years of age, that you resided in this State on the twenty-fourth day of June, one thousand eight hundred and thirty-five, that you have resided in this State six months, and in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election; or,

3. You do solemnly swear (or affirm) that you are twenty-one years of age, that you resided in this State on the first day of January, one thousand eight hundred and fifty, that you have declared your intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding this election, that you have resided in this State six months, and in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election; or,

4. You do solemnly swear (or affirm) that you are twenty-one years of age, that you resided in this State two years and six months prior to the eighth day of November in the year one thousand eight hundred and ninety-four, that you de-

clared your intention to become a citizen of the United States, pursuant to the laws thereof, two years and six months prior to said eighth day of November, that you have resided in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election and that you have not voted at this election; or,

5. You do solemnly swear (or affirm) that you are twenty-one years of age, that you are a native of the United States, that you are of Indian descent and do not belong to any tribe, that you have resided in this State six months, and in this township (ward, or voting precinct, as the case may be) twenty days next preceding this election, and that you have not voted at this election.

Penalty for
swearing
falsely.

If such person so challenged will take either of the above oaths, his vote shall be received; but if such person shall therein swear falsely, upon conviction thereof he shall be liable to the pains and penalties of perjury.

RESIDENCE: The temporary absence of a person or his family, though extending over a series of years, does not necessarily, without regard to his intentions, make him lose his residence, or deprive him of his rights as an elector.—*Harbaugh v. Cicott*, 33/242. See also notes to section 69.

VOTING TWICE: One who has, first by mistake, voted in the wrong precinct, and upon discovering his mistake has requested and procured the inspectors to withdraw and cancel a ballot such as he asserted he had voted, has no right afterwards to vote again in his proper precinct; and his second vote is illegal.—*Id.*

ELECTIVE FRANCHISE: It must be remembered that the right of voting is one which cannot be taken away by direct law or impossible conditions.—*Warren v. Board of Registration*, 72/399.

OATHS: Where, by the law under which an election is held, the inspectors are to receive the voter's ballot if he takes the oath that he possesses the constitutional qualifications, the oath is the conclusive evidence on which the inspectors are to act, and they are not at liberty to refuse to administer it, or to refuse the vote after the oath has been taken.—*Wolcott v. Holcomb*, 97/361; *People v. Cicott*, 16/302.

Duty of in-
spectors to
challenge.

(134) § 3635. SEC. 25. It shall be the duty of each inspector to challenge every person offering a ballot whom he shall know or suspect to be disqualified as an elector; and the board of inspectors shall possess full authority to maintain regularity and order, and to enforce obedience to their lawful commands during an election, and during the canvass of the votes after the poll is closed.

Manner of
voting, etc.

(135) § 3636. SEC. 26. When an elector shall not be challenged or shall have taken the necessary oath or affirmation he shall be permitted to vote. On entering the room the inspector having charge of the ballots shall deliver to him one of them, and the clerk shall enter his name upon the poll list, together with the number of the ballot given him and on request such inspector shall give explanation of the manner of voting, if deemed necessary by the board an interpreter may be called. The elector shall then and without leaving the room, go alone into the booth, which is unoccupied, and indicate the candidate or candidates for whom he desires to vote, as follows: If he desires to vote a straight ticket he must make a cross (X) in the circle under the name of his party at the head of the ballot. Nothing further need be done. Where only one candidate is to be elected to an office

How ballot
marked by
voter, etc.

and the elector desires to vote for a candidate not on his party ticket he should make a cross in the circle under the name of his party, and also make a cross in the square before the name of the candidates for whom he desires to vote on the other ticket. In such case it shall not be necessary to strike off the name of the candidate on the party ticket and where two or more candidates are to be elected to the same office, like circuit court commissioners, presidential electors, etc., and the voter desires to vote for candidates on different tickets for such office, he must mark a cross in the circle under his party name, and mark a cross in the square before the name or names of the candidates for whom he desires to vote on the other ticket or tickets, and also erase an equal number of names of the candidates for such office on his party ticket: Provided, That if such elector shall not cross

Proviso.

off the names of an equal number of candidates for such office on his party ticket he shall be deemed to have crossed off the name of each candidate for such office which is printed on his party ballot opposite of a candidate on some other party ticket in front of whose name he has made a cross (X). If the elector wishes to vote for a candidate not on any ticket, he must write or place the name of such candidate on his ticket, opposite the name of the office, and make a cross in the circle under the party name. A ticket marked with a cross in a circle under a party name will be deemed a vote for each of the candidates named in such party column whose name is not erased, except those candidates where a cross is placed in the square before the name of some opposing candidate on the opposing ticket, or where a name is written or pasted on the party ticket of some candidate whose name is not printed as a candidate on any party ticket. In case there is only one candidate to be elected to any office, the cross in the square before the name of the candidate on the opposing ticket shall be deemed one vote for such candidate. Where there are two or more candidates to be elected to the same or like office, the cross before the name of the opposing candidate or candidates, shall be deemed one vote for such candidate or candidates, provided an equal number of names of candidates for the same office are erased or can, under the provisions of this section be deemed to have been erased, from the party ticket. If the name of any person who is not a candidate on any ticket is written or placed on the party ticket opposite the name of the office, and there is a cross in the circle under the party name, the name so written or placed shall be counted one vote for the person so mentioned, whether the original name on the party ticket is erased or not, excepting cases where there is a cross in the square before the name of some opposing candidate on some other party ticket. If no cross is placed in the circle under the party name, a cross in the square before the name of any candidate shall be deemed a vote for such candidate except

To vote for candidates not on any ticket.

What deemed a vote for each candidate.

Elector to
fold ballot.

Proviso.

in cases where the elector votes for more candidates for the same office than are to be elected. Such elector shall also indicate his preference on any constitutional amendment or other questions if he desires to vote thereon, by making a cross (X) in the square in front of the words "Yes" or "No" opposite such question. Before leaving the booth the elector shall fold his ballot so that no part of the face thereof shall be exposed, and so that the initials of the inspector shall be on the outside thereof, and on leaving the booth shall at once deliver in public view such ballot to the inspector designated to receive the same, who shall thereupon announce audibly the name of the elector offering the same, and the number of the ballot, and shall ascertain by comparison of the number of the ballot with the number of the ballot given such elector as shown by the poll list whether the ballot presented is the same one given such elector, and if it is the same the inspector shall tear off the corner of the ballot, where perforated, containing the number and shall then, in the presence of the elector and the board of inspectors, deposit the same in the ballot box without opening, and if it is not the same ballot given said elector it shall be rejected: Provided, however, If any elector shall show his ballot or any part thereof to any person other than one lawfully assisting him in the preparation thereof, after the same shall have been marked so as to disclose any part of the face thereof, such ballot shall not be received or deposited in the ballot box. In case such elector shall so expose his ballot his name shall be entered on the poll list with a minute of such occurrence, and such elector shall not be allowed to vote thereafter at such election. The elector shall then leave the room, but no elector to whom the ballot has been delivered shall be permitted to leave the room without voting such ballot, or returning it to the inspector from whom he received it. Any elector who shall attempt to leave the room with a ballot or pencil in his possession shall be at once arrested on demand of any member of the board of inspectors if he shall refuse to deliver the same upon request.

Am. 1901, act 214.

SECRECY OF THE BALLOT: The inspectors are not permitted to examine the ballots as handed to them, so that where they are folded they have no means of ascertaining how a person votes, and after the ballot is once deposited they have neither the opportunity nor authority to investigate the matter.—*Harbaugh v. Cicott*, 33 / 251. It is only the legally qualified voter who is protected in the secrecy of his ballot, and no one has the right to inquire or make known the contents of his ballot, or give evidence of it without his consent. Even if his qualifications are questioned, his privilege remains until the lack of qualifications is established, either by his own admission or otherwise.—*People v. Cicott*, 16 / 283; *Harbaugh v. Cicott*, 33 / 251. The action of the chairman of the board of inspectors, in receiving and depositing in the ballot box the ballots of 13 unregistered persons, and the ballots of a large number of persons who had shown them after they had been marked, and in allowing and instructing third persons to enter the voting booths with a large number of electors, and, after their ballots had been marked by such third persons, depositing them in the ballot box, is held to have vitiated the vote of the election precinct.—*Att'y Gen. v. McQuade*, 94 / 439; *Att'y Gen. v. May*, 99 / 544.

ENTERING BOOTH ALONE: The provisions of this section requiring the elector to enter the booth alone and prepare his ticket are mandatory.—*Att'y Gen. v. McQuade*, 94 / 439. See sections 130, 141 and notes.

ERASING NAMES: Under this section as originally enacted it was neces-

sary for the elector, when voting for a candidate on the opposing ticket, not only to mark the name of such candidate with a cross, but also to erase the name of the candidate on the voter's own ticket. But by the amendment of 1893 [see Am. of 1901] the legislature dispensed with the necessity of the erasure of the name.—Att'y Gen. v. Glaser, 102/402. And such erasure is permissible, though not necessary.—Id. 405.

SLIPS PASTED: Slips over names on ballot, when void. Where a slip is so placed on a ticket as to leave on it two distinct names as candidates for the same office, the ballot is rendered bad as to that office for duplicity. But where an attempt is made to cover one name by another for the same office, so that the under one is partially obliterated, the slip will be counted although the name beneath it is not entirely covered.—The People v. Cicott, 16/283. Where a slip is pasted over a name so as to partially obliterate it, the slip should be counted.—Keeler v. Robertson, 27/117. This section provides that, if an elector wishes to vote for a candidate not on any ticket, he must write or paste the name of such candidate on his ballot, opposite the name of the office, and make a cross in the circle under the party name, and, if no cross is placed in such circle, a cross in the square before any candidate's name shall be deemed a vote for such candidate, except where the elector votes for more candidates for the same office than are to be elected. Held, that the pasting of respondent's name over the name of relator without putting a cross under any party name or opposite the name of respondent, or erasing the name of a third candidate on the ballot, was not a compliance with the law.—People v. Fox, 114/652.

MARKING BALLOTS: Ballots were all marked with a blue pencil in the circle at the head of the ticket. In one instance, it looks as though the voter first made a cross, and, thinking he had not marked it plainly enough, repeated the marking substantially over the first marking. Two other tickets look as though they might have been made with a blue pencil the lead of which was so broken that two points projected so as to make marks upon the ballot; or the voter may have made the cross with a down and up stroke in making each mark. There is nothing in the marking to distinguish the ballot from other ballots. If these ballots are to be rejected, the ballots of a large number of voters who do not have occasion to use pen and pencil very often would have to be rejected.—People v. Kamps, 129/217. A ballot marked with two parallel horizontal lines across the circle at the head of one of the party tickets cannot be counted, the statute requiring a cross as the designation of the voter's intent.—Christopherson v. Com. Council, 117/125.

SHOWING BALLOT: The provision that, if the elector shows his ballot after preparing it, such ballot shall not be received or deposited in the box, is mandatory.—Att'y Gen. v. May, 99/545. And receiving and depositing in the ballot box a large number of ballots so shown will vitiate the election of the precinct.—Att'y Gen. v. McQuade, 94/439.

SEPARATE BALLOT BOXES: Where state or county measures are to be voted on, or state or county officers to be elected to fill vacancies, at the spring election, the county commissioners must prepare the ballot, and in such cases the ballot may be separate from that of the township and may be cast in a separate box.—Peck v. Supervisors, 102/356. The elector is not to be deprived of his vote by either the mistake or the fraud of the inspector in depositing it in the wrong box, if the intention of the voter can be ascertained with reasonable certainty. Nor should ballots be rejected, though they may have got into the wrong box by the honest mistake of the voters themselves.—People v. Bates, 11/364. When a voter has voted by mistake, he cannot withdraw his ballot and vote again.—Harbaugh v. Cicott, 33/241.

(136) § 3637. SEC. 27. At each adjournment of the poll, the clerks shall, in the presence of the inspectors, compare their respective poll lists, compute and set down the number of votes, and in case the same do not agree shall, under the direction of the board, correct all mistakes that may be discovered, until such poll lists shall be made in all respects to correspond.

(137) § 3638. SEC. 28. The ballot box shall then be opened and the poll list placed therein, the box locked, and at least five minutes before the removal of the same a piece of leather (or canvas) so placed as to extend from the opening in the lid of said ballot box to the key hole in such a manner as to completely cover both such holes, shall be placed thereon, and the same securely fastened thereon with sealing wax stamped with the official election seal of such township or ward, such piece of leather (or canvas) and the sealing wax to be so arranged as to render it impossible to

Clerks to compare poll lists.

Care of ballot box, key, etc.

open either of said holes without breaking said seal. The key shall then be delivered to one of the inspectors, the box to another, and the seal to another. Such box shall not be opened nor the seal broken until the box has been publicly exposed at least five minutes before the reopening of the poll.

Return and
opening of
box.

(138) § 3639. SEC. 29. The inspector having the key shall keep it in his possession, and deliver it again to the board at the next opening of the poll, and the inspector having the box shall carefully keep it without opening or suffering it to be opened, or the seal thereof to be broken or removed, and shall publicly deliver it in that state to the board of inspectors at the next opening of the poll, when the seal shall be broken and the box opened, the poll lists taken out, and the box again locked.

Distribution
of ballots

(139) § 3640. SEC. 30. No ballot shall be distributed by any person other than one of the inspectors of election, nor in any place except within the railing of the voting room, to electors about to vote and no ballot which has not the initials of a member of the board of election written by such member on the back thereof shall be placed in the ballot box.

Printed in-
structions to
voters to be
furnished.

(140) § 3641. SEC. 31. Uniform printed instructions to voters, printed in large type upon cards, shall be furnished by the secretary of state to the county clerk of each county, containing any information that will enable voters to quickly make and correctly designate their choice, and the county clerks shall furnish such cards to the city and township clerks in the county. Such clerks shall furnish such cards to each polling place, one of which shall be hung in each compartment, two in the polling room, and three on the outside of the building in which the voting takes place. Whenever the clerk of any county notifies the secretary of state that the printed instructions are also needed in a foreign language, and such language is stated, then it shall be the duty of the secretary of state to furnish such printed instructions in such foreign language. In case of necessity the chairman may employ an interpreter.

Instructions
in foreign
language.

See note to section 124.

INTERPRETER: The interpreter cannot be allowed to remain within the railing to converse with the voters who do not understand English.—Att'y Gen. v. Stillson, 108 / 419.

Voting by in-
capable per-
sons.

(141) § 3642. SEC. 32. When an elector shall make oath that he cannot read English or that because of physical disability he cannot mark his ballot, or when such disability shall be made manifest to said inspectors, his ballot shall be marked for him in the presence of the challenger of each political party having a challenger at such voting place by an inspector designated by the board for that purpose, which marking shall be done in one of the booths.

See notes to sections 130 and 135.

DISABLED VOTERS: The provisions of this section relative to the marking of the ballots of illiterate or disabled voters are mandatory.—Att'y Gen. v. McQuade, 94 / 442; McQuade v. Furgason, 91 / 438; Att'y Gen. v. May, 99 / 545. The provisions of this section, with those of section 153, are in-

tended to secure the entire secrecy of the ballot, except so far as is absolutely necessary to enable such electors as cannot read English to have assistance in marking it. The only test of the ability of the voter to read English is his oath. No other test is permissible, and it is unlawful for any inspector to assist in marking a ballot for any elector, until such elector shall have first taken the oath.—Att'y Gen. v. May, 99/544. At the expense of the secrecy of the ballot, the law provides a method of aiding electors who are physically incapacitated or unable to read English. It does not deprive those voters of any right, but rather secures to them aid in voting intelligently.—Id. 547.

(142) § 3643. SEC. 33. It shall be unlawful for the board, or any of them, or any person in the polling room or any compartment therewith connected, to persuade or to endeavor to persuade any person to vote for or against any particular candidate or party ticket. Unlawful to influence voter.

(143) § 3644. SEC. 34. If the elector votes for more than one candidate for the same office, said ballot shall not be counted for those persons, but shall be as to them null and void. If any elector inadvertently spoils a ballot he may obtain another from the board by returning such spoiled ballot to the board, who shall preserve the same for return to the city or township clerk. Voting for more than one person.
Spoiled ballot.

The only instance in which an unnecessary mark is recognized as possible is in above section, where it is provided that, if the elector votes for more than one person for the same office, such ballot shall not be counted for those persons, but shall be, as to them, null and void.—Att'y Gen. v. Glaser, 102/401. Distinguishing marks fraudulently placed on the ballots after they were cast do not vitiate them.—Att'y Gen. v. Blanck, 107/85.

(144) § 3645. SEC. 35. The board of inspectors of election, shall preserve the unused ballots together with the ballots which have been spoiled, and return the same to the city or township clerk, with a statement of the number of ballots used, and there shall be given by the clerk to the inspectors of election a receipt therefor, which shall be filed with the chairman of the board. Board to preserve unused ballots.

(145) § 3646. SEC. 36. Immediately on closing the polls, the board shall proceed to canvass the votes. Such canvass shall be public and shall commence by a comparison of the poll lists and a correction of any mistakes that may be found therein until they shall be found or made to agree. The box shall then be opened and the whole number of ballots counted. If the ballots shall be in excess of the number of the electors voting according to the poll lists they shall be replaced in the box and one of the inspectors shall publicly draw out and destroy so many ballots therefrom unopened as shall be equal to such excess. They shall first select and count the straight tickets, and give the number to each candidate voted for on the straight ticket. All other tickets shall be laid on the table and counted in regular order in such subdivisions thereof as may be convenient for a prompt and careful determination of the result of such election. In the canvass of the votes, any ballot which is not indorsed with the initials of the inspector as provided in this act, and any ballot which shall bear an distinguishing mark or mutilation shall be void, and shall not be counted, and any ballot, or part Canvass of votes, how conducted.
Counting of votes.
What ballots void.

Proviso.

of a ballot, from which it is impossible to determine the elector's choice of candidates shall be void as to the candidate or candidates thereby affected: Provided, however, That all such ballots shall be preserved, marked by the inspectors "not counted" and kept separate from the others by being tied or held in one package by a rubber band or otherwise.

See notes to sections 124, 131 and 135.

IMMEDIATE CANVASS: The provisions for an immediate canvass of the ballots were expressly designed to guard against fraudulent tampering with votes before counting.—*People v. Sackett*, 14/325. The election law is positive that the official count of the ballots shall be made immediately, in public, and the result ascertained and declared publicly, and an official statement made of the result.—*Keeler v. Robertson*, 27/128-9. But the neglect of the board to complete the canvass on the night of the election and the dating of their report on the next day ought not to result in the disfranchisement of the voters and should not be so held, except where the plain provisions of the statute require it.—*Att'y Gen. v. Glaser*, 102/397.

EXCESS OF BALLOTS: *Att'y Gen. v. May*, 99/556; *People v. Cicott*, 16/283.

DISTINGUISHING MARKS: *Att'y Gen. v. May*, 99/566; *Att'y Gen. v. Glaser*, 102/396; *Att'y Gen. v. Howcroft*, 107/85. The evident intent of this provision was to provide against voters marking the individual ballot which they cast in such manner as to distinguish it.—*Lindstrom v. Canvassers*, 94/471.

BALLOTS FOLDED TOGETHER: Under the old law, if two or more ballots were found so folded together as to present the appearance of a single ballot, both were to be destroyed, thus depriving the person casting them of his vote, whether the folding was intentional or done by mistake.—*Harbaugh v. Cicott*, 33/241.

DUTIES MINISTERIAL: The duties of canvassing boards are simply ministerial; their whole duty consists in ascertaining who are elected and in authenticating and preserving the evidence of such election.—*People v. Van Cleve*, 1/366. The result of an election is determined by the ballots. The evidence contained therein is the foundation of the statement to be prepared by the inspectors. They cannot go behind the ballot to ascertain the voter's qualifications or intention.—*People v. Tisdale*, 1 Doug. 59; *People v. Woodhull*, 14/28; *Keeler v. Robertson*, 27/116. The evidence of the voter himself as to his intention is not admissible.—*People v. Higgins*, 3/233. See also *People v. Cicott*, 16/320; *People v. Board*, 11/111.

CANVASS FINAL: The action of the inspectors is final, when they have finished their count and sealed up the ballots. Every opening of the ballots thereafter, except upon an election contest, when they will be needed in court, is an unlawful act and cannot be made the basis of official action.—*Keeler v. Robertson*, 27/129. When inspectors of election have completed their count and executed and delivered their returns to the proper officer, their legal powers end, and any attempt on their part to change or modify such returns in any particular involving other than a mere clerical duty is clearly beyond their powers.—*Roemer v. Canvassers*, 90/30.

Disposition of
ballots, box,
etc.

(146) § 3647. SEC. 37. After the ballots are counted they shall, together with one tally-sheet, be placed in the ballot box which shall be securely sealed in such a manner that it cannot be opened without breaking such seal. The ballot box shall then be placed in charge of the township or city clerk, but the keys of said ballot box shall be held by the chairman of the board and the election seal in the hands of one of the other inspectors of election.

How result
declared.

(147) § 3648. SEC. 38. Immediately after the count of the tickets or ballots has been completed, the result and the number of votes received by each candidate or person on the ticket shall be publicly declared by one of the inspectors.

Statement of
result.

The inspectors shall then prepare a statement of the result in duplicate showing the whole number of votes cast for each office, the names of the persons for whom such votes were given and the number each person received, in which statements the whole number of votes given for each office and the number given for each person shall be written out in words

at length. Such duplicate statements, when certified by the inspectors and duly signed shall be delivered to the township or city clerk, and shall by said clerk be, within twenty-four hours after the result is declared, delivered in person or immediately forwarded by registered mail, one copy to the board of county canvassers in care of the judge or register of probate, and the other, together with one of the original tally sheets, to the county clerk, which said statements and tally sheets shall be placed in separate envelopes and sealed by said inspectors before their delivery to the township or city clerk.

Am. 1901, act 214.

See Curran v. Norris, 58 / 512; Belknap v. State Canvassers, 95 / 155; Att'y Gen. v. Glaser, 102 / 397.

(148) § 3649. SEC. 39. The gate keepers of elections shall be peace officers at polling places, and are hereby delegated power equal to constables for the purpose of maintaining peace and quiet at the polls on election day. They shall have charge of and keep the gates at polling places and shall not allow any person to approach within the railing provided for in section sixteen, except those authorized by law, and qualified electors, whom they shall allow to pass through the gates and approach the ballot box or boxes for the purpose of voting; and they shall admit one elector at a time only to vote, and shall cause said elector to retire without the gate and railing as soon as he has voted; and no person shall in any manner interfere with a gate keeper of election in the discharge of his duty, and it shall be unlawful for the gate keepers to aid, assist, suggest, advise or entreat an elector to prepare his ballot in a particular manner, or to coerce or attempt to coerce an elector in any way to vote or to refrain from voting for any particular person or party. No person shall be eligible to fill the office of gate keeper of election on any election day when his name shall be on any ticket at said election. Gate keepers of [elections] election shall be at the polling place at the opening of the polls, and shall remain there until the closing of the polls, and shall receive as compensation two dollars per day for each day's work while actually engaged.

Powers and duties of gate keepers.

Penalty for interference with.

Eligibility of gate keepers.

Compensation.

(149) § 3650. SEC. 40. No election shall be held, nor shall any election be appointed to be held in any saloon or bar room, or in any room or place contiguous with or adjoining thereto. Should any place be designated or appointed for holding an election in violation hereof, or become subject to such objection after having been so designated, the inspectors of election shall have power, and it shall be their duty, on or before the day of such election, and before the opening of the polls on such day, to procure a suitable place as near thereto as may be, not subject to like objection. Said inspectors shall meet at the place first designated at the time for opening the poll, and after any vacancies in their num-

Elections shall not be held in saloons.

When inspectors to change polling place.

Inspectors to meet, etc.

Notice of
change.

ber shall have been filled, adjourn to the place chosen by them, and at the time of said adjournment, give public notice to the electors present by proclamation of such change, and post in a conspicuous manner notice of the place where such election shall be held, and all expenses attending such change shall be certified by said inspectors to the proper authorities and shall be allowed and paid accordingly.

The adjournment of an election in good faith from one polling place to another is at most an irregularity, unless it prevents persons from voting or prejudices the rights of candidates; and such an irregularity will not sustain proceedings in the nature of quo warranto against the successful candidate, in the absence of any showing that if the change had not been made the result would have been different.—*Farrington v. Turner*, 53 / 27.

Liquors, bring-
ing in, etc., a
misdemeanor.

(150) § 3651. SEC. 41. Any person or persons introducing in any way, upon election day, into the building where an election is being held, any spirituous or malt liquors, and any inspector or clerk of election drinking any such liquors in such place, or being intoxicated therein upon election day, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding sixty days, or by both such fine and imprisonment, in the discretion of the court.

Time voter
may remain
in booth.

(151) § 3652. SEC. 42. The board of election may make such regulations as they deem proper, limiting the time in which an elector may remain in the room or booth while preparing and voting his ballot; such limitation, however, shall not be less than one nor more than five minutes.

See section 521.

The provisions of this section authorizing the board of elections to limit the time which a voter may remain in the room or booth while preparing and voting his ballot is applicable to elections in cities as well as towns, and it is the imperative duty of such boards to limit the time as provided in said section.—*Common Council v. Rush*, 82 / 533.

Unlawful for
candidate to
aid his elec-
tion in certain
manner.

(152) § 3653. SEC. 43. It shall not be lawful for any candidate for any elective office with intent to promote his election, or for any other person with intent to promote the election of any such candidate either:

First, To provide or furnish entertainment at his expense to any meeting of electors previous to or during the election at which he (shall) may be a candidate; or

Second, To pay for, procure, or engage to pay for any such entertainment; or,

Third, To contribute money for any other purpose intended to promote an election of any particular person or ticket, except for the defraying the expenses of office room or hall rent, postage, stationery and clerk hire, music at public meetings, the pay and expense of public speakers, transportation of committeemen, the pay of challengers at the polls and of persons to inspect the registration of voters and of persons employed to make lists of the votes in election precincts, and of printing, and the circulation of handbills and other papers

previous to any such election, or for conveying electors to the polls.

Section 44 is repealed by act 61 of 1901.

(153) § 3655. SEC. 45. Any person who shall knowingly violate any of the provisions of this act, or shall willfully neglect or refuse to perform any duty enjoined upon him hereby, or shall disclose to any other person the name of any candidate voted for by any elector, the contents of whose ballot shall have been seen by such person, or shall in any manner obstruct or attempt to obstruct any elector in his exercise of his duties as such elector under this act, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the State prison not exceeding two years, or by both such fine and imprisonment, in the discretion of the court. Violation of act to be felony.
Penalty.

McLaughlin v. Burroughs, 90 / 314; Att'y Gen. v. McQuade, 94 / 442 : Att'y Gen. v. May, 99 / 544.
Section 46 repeals all acts or parts of acts contravening the provisions of this act.

(154) § 3656. SEC. 47. At the general election to be held in this State on the first Monday of April, eighteen hundred and ninety-three, or in any second year thereafter, the polls of such election in townships and cities, shall, for all purposes, open and close at the times herein prescribed for the opening and closing of polls, anything in act number one hundred and ninety-four of the public acts of eighteen hundred and ninety-one, or in any other statute, local or general, to the contrary notwithstanding: Provided, That this section shall not be construed as forbidding a noon adjournment in townships. Opening and closing of polls.
Proviso.

For act 194 of 1891, see sections 200-202.

(155) § 3657. SEC. 48. Whenever any constitutional amendments or other questions are proposed to be submitted to the electors, the board of election commissioners of each county shall cause them all to be printed on one ballot, separate and distinct from the ballot containing the names of nominees for public office, the substance of each amendment or other question to be clearly indicated upon said ballot by a suitable designation in distinct and easily legible type, with the words "yes" and "no" printed below it in separate lines. The elector shall designate his vote on each separate question submitted by a cross mark (x) placed opposite the word "yes" or the word "no" under such question in a suitable place provided therefor. The said ballots shall be of uniform size and of the same quality of white paper, and sufficiently thick that the printing cannot be distinguished from the back. They shall be delivered to the inspectors and electors, and voted and canvassed in all respects in the same Constitutional amendments on separate ballot.
How vote designated.

How ballot
boxes marked.

manner and subject to the same regulations, restrictions and penalties heretofore provided in this chapter for the ballots containing the names of the nominees for public offices, except that separate ballot boxes shall be kept and used, the box for the deposit of the ballots for nominees being designated by the words "Public officers," plainly printed or painted thereon, so as to be readily seen by each elector, and the box for the deposit of ballots for constitutional amendments and other questions to be designated by the words "Propositions submitted" in the same manner.

See sections 536-7 *infra*.

AN ACT TO PROVIDE FOR HOLDING GENERAL AND SPECIAL ELECTIONS.

(CONTINUED.)

[Act 175 of 1851.]

POLL LISTS.

Poll lists to be
filed, etc.

(156) § 3661. SEC. 42. One of the poll lists shall be delivered to the township clerk, and the other to the county clerk, which lists shall be filed and preserved by them in their respective offices. In a city, the ballots, and one of such poll lists and statements, shall be delivered to the city clerk, and shall be kept and preserved by him.

Disposition of tally sheets and inspectors statements, see section 147. Sections 43 to 48 relate to the board of county canvassers, its organization and meeting, and are deemed to have been superseded by act 149 of 1895. For this act of 1895, see sections 209 to 221.

Separate
statement of
votes for cer-
tain offices.

(157) § 3675. SEC. 49. They shall make a separate statement, containing the whole number of votes given in such county, for the offices of governor, lieutenant governor, secretary of state, state treasurer, auditor general, attorney general, superintendent of public instruction, commissioner of the state land office, and members of the state board of education, the names of the persons to whom such votes were given, and the number of votes given to each; another similar statement of the votes given for electors of president and vice president of the United States, each year in which such electors are to be chosen; another similar statement of the votes given for representative in congress; another of the votes given for senator, when the county alone does not constitute a senatorial district; another of the votes given for representative in the State legislature, when the county alone does not constitute a representative district; another of the votes given for senator or representative, when the county alone constitutes but one senatorial or representative district; and another of the votes given for county officers.

(158) § 3676. SEC. 50. The several senatorial and representative district canvassers shall, where a county is divided for such purposes, also make a statement of the whole number of votes given in each respective district for the office of senator or representative, or both, as the case may be, which several statements shall set forth the number of each of such districts, the number of votes given to each of the persons voted for in each of such districts, respectively. Idem.

(159) § 3677. SEC. 51. In each of said statements, the whole number of votes given, the names of the candidates, and the number of votes given to each, shall be written out in words at length; and each statement shall be certified as correct, and attested by the signatures of the chairman and secretary of the respective boards, and a copy of each, thus certified and attested, shall be delivered to the county clerk, and recorded by him in a suitable book, to be provided by him for that purpose, at the expense of the county, and kept in his office. What statement to contain.
Statement to be recorded, etc.

Rich v. State Canvassers, 100 / 461.

(160) § 3678. SEC. 52. The county and district boards shall then determine the persons who have been, by the greatest number of votes, elected to the county offices, and members of the legislature, when the county alone constitutes one or more senatorial or representative districts, and such determinations shall be certified and attested by the chairman and secretary of the respective boards, and be annexed to the statement of votes given for such officers respectively, and shall be recorded with such statements by the county clerk in his office: Provided, That in elections for members of the legislature, or county officers, if it shall appear on the legal canvass of the votes polled at such election, that two or more persons have received an equal number of votes for the same office, and that a failure to elect to any office is caused thereby, such persons shall proceed to draw lots for the election to said office in the following manner: The board of canvassers for the county or district in which such election was held shall appoint a day for the appearance of all such persons before the proper officer hereinafter provided, for the purpose of determining by lot among such persons the right to such office, and shall cause notice thereof to be given to all such persons interested. The officer before whom such drawing is to take place shall prepare as many slips of paper as there are such persons, and write the word "Elected" on as many slips of paper as there are offices to be filled, and the words "Not elected" on the remaining slips, and fold the same so as to conceal the writing, and so that they may appear as nearly alike as possible. Said slips shall be placed in a box, and at the time and place appointed for the drawing of said lots, each of such persons aforesaid may draw one of said slips from the box; and any such person drawing Determination by board of persons elected.
Proviso.
Proceedings when two or more persons have equal number of votes.

Proviso.

a slip on which is written the word "Elected," shall be deemed legally elected to the office in question; and the officer conducting such drawing shall forthwith give him a certificate of such election. If the drawings under the provisions of this section are for the office of senator or representative in the State legislature, and the district exceeds the limits of a single county, then the drawing shall take place before the county clerk of the county where the district canvass is held; in all other cases before the county clerk of the county where each case shall arise: Provided further, That in cases where the office of county clerk is in question, the drawing shall take place before the sheriff of the county.

DUTIES MINISTERIAL: As to the ministerial nature of the duties of canvassing boards, see note to section 145.

DETERMINATION OF ELECTION: No one is elected to an office unless he receives more votes than any other person, whether there is in fact any such other person in existence who can take the office. A minority candidate can never be deemed elected.—*People v. Molitor*, 23 / 342. The determination and statement of the board of canvassers are not a judgment, nor are they conclusive. The statement is but *prima facie* evidence and in a contested election a party may go behind it. The county canvass may be corrected by the township canvasses and those by the ballots themselves.—*People v. Van Cleve*, 1 / 364; *People v. Cicott*, 16 / 283; *Keeler v. Robertson*, 27 / 116; *Harbaugh v. Cicott*, 33 / 251. It is true that the certificate of the canvassers is the authority upon which the person who receives it enters upon his office and it is to him *prima facie* evidence of his title thereto. Whether rightfully or wrongfully given by the canvassers, it confers the right to hold the office until that right is voluntarily surrendered or defeated by a judicial determination against it.—*People v. Van Cleve*, 1 / 366; *People v. Mayworm*, 5 / 146; *People v. Miller*, 16 / 59. See *Wayne Auditors v. Benolt*, 20 / 176; *People v. Marion*, 29 / 38.

DRAWING LOTS: This provision of law cannot be construed as a regulation under the power of the legislature to declare and fill vacancies; it applies to cases where no vacancy in fact exists. The result reached, when followed by a formal drawing, is not conclusive upon the candidates and the public; and the effect to be given to a certificate granted under these provisions is no greater than to one granted under other provisions.—*Keeler v. Robertson*, 27 / 116. In case of the inability of the sheriff to conduct a drawing it may be conducted by his deputy.—*Evans v. Sutherland*, 41 / 177.

Duplicate statement of votes for senator, etc

(161) § 3679. SEC. 53. The said board shall, without delay, make a duplicate statement of the votes given for senator, when the county alone does not constitute a senatorial district, and deliver the same to the clerk of the county, to be delivered by him to the senatorial district canvassers. Said board shall also make a duplicate statement of votes given for representative in the State legislature, when the county alone does not constitute a representative district, and deliver the same to the said clerk, to be by him delivered to the representative district canvassers.

Section 54 is superseded by section 6, act 149 of 1895, see section 214 of this compilation.

Rich v. Bd. of Canvassers, 100 / 461.

Certificate of determination to be delivered to persons elected.

(162) § 3680. SEC. 55. He shall also prepare as many certified copies of each certificate of the determination of the board of county canvassers, as well as of the several district canvassers, if such county shall be divided for representative purposes, as there are persons declared in such certificates to be elected, and shall, without delay, deliver one of such copies to each person so declared to be elected.

"He" refers to the county clerk.

Hilton v. Common Council, 112 / 500.

(163) § 3681. SEC. 56. The county clerk shall, within thirty days after a general election, transmit to the secretary of state at Lansing, a list of the members of the legislature, elected in the county, designating both the senators and representatives by their respective districts, and also a list of all the county officers elected in such county at such election together with the respective post office addresses of all such senators, representatives and county officers.

Clerk to transmit list of representatives and county officers to secretary of state.

(164) § 3682. SEC. 57. Whenever any amendment shall have been proposed to the constitution, and agreed to, and submitted to the people, pursuant to the provisions of the constitution, the votes of the electors for and against such amendments shall be taken, canvassed, certified, and recorded, and certified copies of the statement thereof shall be made and transmitted by the several county clerks to the governor, secretary of state, and state treasurer, within the same time and in the same manner as the votes for State officers are by law required to be taken and canvassed, and the statements thereof to be certified, recorded, and transmitted. But when any proposed amendment shall be submitted to the people at a spring election, the county canvass thereof shall be on the second Tuesday succeeding such election.

Votes for and against amendment to constitution, how taken and canvassed.

Const. art. 20.

Att'y Gen. v. Jochim, 99 / 358; Rich v. State Canvassers, 100 / 461.

(165) § 3683. SEC. 58. Whenever any banking law for banking purposes, or amendments thereof, shall have been passed by the legislature, approved by the governor, and submitted to the people, pursuant to the provisions of the constitution, if the vote thereon shall be required to be taken at a general election, the votes of the electors for and against such banking law, or amendment thereof, shall be taken, canvassed, certified, and recorded, and certified copies of the statements thereof shall be made and transmitted by the several county clerks to the governor, secretary of state, and state treasurer, at the same time and in the same manner as the votes for State officers are by law required to be taken and canvassed, and statements thereof to be certified, recorded, and transmitted.

Of banking law, or amendments thereto.

The constitution does not now require amendments to the general banking law to be submitted to the people. Const. Art. 15, sec. 2.

DISTRICT CANVASS.

(166) § 3684. SEC. 59. In each election district for the election of a senator or representative in the State legislature, the limits of which shall be greater than those of a county, there shall be a board of district canvassers, and the clerks of the several counties within the district, the judge of probate, and the sheriff of the county in which the meetings of the board are to be held, shall constitute such board.

District canvassers.

Quorum of
board.

(167) § 3685. SEC. 60. Any three of said canvassers shall be a quorum for the transaction of the business of said board; and in case there shall not be three of the members of such board present at any such meeting, the register of deeds or the county treasurer of the county where any such meeting is appointed to be held, or both of them, may act as members of such board; and, with the other members in attendance, shall constitute a board of not less than three in number.

Times and
places of meet-
ing.

(168) § 3686. SEC. 61. The board shall meet in the district for the election of a representative in the State legislature, on the Tuesday next after the day on which the county canvass is appointed to be made, and in districts for the election of senators, on the third Tuesday after the county canvass, at the office of the clerk of the county in such district having the greatest number of inhabitants, according to the last preceding census, unless otherwise provided by law.

Original state-
ments to be
laid before
board.

(169) § 3687. SEC. 62. If either of the county clerks shall be unable to attend such canvass on the day appointed therefor, he shall, on or before that day, cause to be delivered at the office of the clerk of the county in which such meeting is to be held, the original statement of votes given in his county for the officer to be elected in such district, which statement shall be laid before said board.

Proceedings of
canvassers.

(170) § 3688. SEC. 63. The canvassers shall then proceed to examine the statement of the votes given in the several counties in the district, and ascertain and determine what persons have been elected, and to what offices, and shall draw up a statement thereof in words at length, which statement shall contain the whole number of votes given in the district for each office, and the names of the persons to whom such votes were given; and such statement shall be certified to be correct, and to be subscribed by the said canvassers, or a majority of them.

Board to de-
termine per-
sons elected,
and deliver
certificate to
county clerk.

(171) § 3689. SEC. 64. The canvassers shall then determine the persons elected to the several offices within the district, as shall appear by such statement, and shall certify such determination under their hands, and annex the same to their said statement, and deliver the same to the clerk of the county in which their meeting shall be held, who shall file the same in his office; and said board shall cause a copy of such statement and certificate to be forthwith published in some newspaper printed in the district.

Duty of county
clerk in rela-
tion to state-
ment, etc.

(172) § 3690. SEC. 65. The county clerk, by whom the said statement and certificate thereto annexed shall be filed, shall, without delay, transmit by mail to the secretary of state, a copy of such statement and certificate of determination, certified by him under his hand and seal of office; and he shall also, without delay, prepare and certify as many copies of such certificate of determination as there are persons stated therein to have been elected, and cause one of said

copies to be delivered to each person so determined to be elected.

See section 222 which provides a special canvass of votes cast, to fill vacancies in office of State Senator and Representative, during a session of the legislature.

STATE CANVASS.

(173) § 3692. SEC. 66. The secretary of state, the state treasurer, and the commissioner of the state land office shall constitute the board of state canvassers, any two of whom shall be a quorum for the transaction of business; and if only one of said officers shall attend on the day appointed for a meeting of the board, the auditor general, on being notified by the officer so attending, shall, without delay, attend with such officer, and with him shall form the board.

STATE CANVASSERS: See sections 41 and 42 and notes thereto. The only duties of the board of state canvassers are to canvass the returns and determine and certify the result of elections. Theirs is the culminating act of the army of persons who have had to do with the receiving and counting, recording and transmitting, of the votes which signify the will of the people. Their duties are specifically pointed out. The times when they are to meet are provided by law. No provision is made for deputies or clerks, but all goes to show that this important duty is to be performed by them in person, as the certificates signed by them asserts. It is not confided to inferior officials, but to three of the state officers of greatest dignity and importance.—Att'y Gen v. Jochim, 99 / 376.

(174) § 3693. SEC. 67. The secretary of state, on the receipt of the certified copies of the statement of votes given in the several counties, directed by law to be sent to him by the county clerks, shall record the same in a suitable book to be kept by him for that purpose; and if from any county clerk no such statement shall have been received by the secretary of state, on or before the second Monday of December next after a general election, and on or before the thirtieth day after a special election, he shall call upon the governor and state treasurer, and receive from them, or either of them, the statement from such county [clerk], if the governor or state treasurer shall have received such statement.

The word "clerk" in the next to the last line does not appear in the original print of this act; but, since the context requires the word and it has been inserted in the former compilations, it has been allowed to remain in this.

Newton v. Board of Canvassers, 94 / 455.

(175) § 3694. SEC. 2. The secretary of state, on the receipt of the certified copies of the statement of votes given in the several counties, directed by law to be sent to him by the county clerks, shall make a record of the aggregate number of votes given for each person in the several counties, in a suitable book to be kept by him for that purpose, and shall place on file and preserve such certified copies in his office.

NOTE.—The above section is the amended sec. 2, act 17 of 1853, entitled "An act to amend section 2 of chapter 9 of the revised statutes of 1846." The general election act of 1851 is believed to have superseded chap. 9, together with other chapters of the revision of 1846. But this amendatory section 2 of said chap. 9, was retained by Judges Cooley, Dewey and Howell and is here inserted, as it contains some requirements not in the act of 1851.

When to call
on county
clerk for
statement.

(176) § 3695. SEC. 68. If, from any county clerk, no such statement shall have been received by the secretary of state, the governor, nor the state treasurer, within the times limited, the secretary of state shall forthwith send a special messenger to obtain such statements and certificates from such county clerk; and such clerk shall immediately, on demand being made by such messenger at his office, make out and deliver to him the statements and certificates required.

Rich v. State Canvassers, 100 / 461.

Secretary to
appoint meet-
ing of board,
etc.

(177) § 3696. SEC. 69. For the purpose of canvassing and ascertaining the result of elections, other than for electors of president and vice president, the secretary of state shall appoint a meeting of the state canvassers, to be held at his office, on or before the fifteenth day of December next after a general election, and within forty days after a special election, and shall notify the other members of the board of the same.

Newton v. Canvassers, 94 / 457.

Duty of board
of state can-
vassers.

(178) § 3697. SEC. 70. The said board of canvassers, when formed as aforesaid, shall examine the statements received by the secretary of state, of the votes given in the several counties, and make a statement of the whole number of votes given for the offices of governor, lieutenant governor, secretary of state, state treasurer, auditor general, attorney general, superintendent of public instruction, commissioner of the state land office, and members of the state board of education, which statement shall show the names of the persons to whom such votes shall have been given for either of the said offices, and the whole number of votes given to each of such persons.

Att'y Gen. v. Jochim, 99 / 377; Rich v. State Canvassers, 100 / 458.

Idem.

(179) § 3698. SEC. 71. The said board shall also proceed to examine the statements received by the secretary of state, of the votes given in the several counties, and make a statement of the whole number of votes given for the office of representative in congress in each congressional district; which statement shall show the names of the persons to whom such votes shall have been given for said office, and the whole number of votes given to each person in each respective district.

Where the board of state canvassers canvassed the votes for an office, from the returns before them, some of which are afterwards declared invalid, and valid ones made and returned after their successors have entered upon their duties, it is the duty of the new board of state canvassers to canvass the new returns.—Belknap v. Board of Canvassers, 95 / 155.

Rich v. State Canvassers, 100 / 458.

Certificate of
determination.

(180) § 3699. SEC. 72. The said canvassers shall certify each statement made by them to be correct, and subscribe their names thereto; and they shall thereupon determine what

persons have been, by the greatest number of votes, duly elected to each respective office, and make and subscribe on each statement a certificate of such determination, and deliver the same to the secretary of state.

Att'y Gen. v. Jochim, 99 / 377; Rich v. State Canvassers, 100 / 458. The determination of the board is final. In case their determination is contested, the legislature only can decide.—Royce v. Goodwin, 22 / 501. As to when a new board can be compelled by mandamus to convene after the old board has gone out of office and canvass the returns anew, see Belknap v. State Canvassers, 95 / 155; Rich v. State Canvassers, 100 / 453.

(181) § 3700. SEC. 73. The secretary of state shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination, so made and delivered to him by the board of state canvassers; and shall, without delay, make out and cause to be delivered to each of the persons thereby declared to be elected, a copy of such determination, certified by him under his seal of office.

Secretary of state to record certificate of determination and deliver copy to persons elected.

(182) § 3701. SEC. 74. For the purpose of canvassing and ascertaining the votes given for electors of president and vice president of the United States, the board of state canvassers shall meet on the Wednesday next after the third Monday of November, or on such other day before that time as the secretary of state shall appoint; and the powers, duties and proceedings of said board, and of the secretary of state, in sending for, examining, ascertaining, determining, certifying and recording the votes and results of the election of such electors, shall be in all respects, as near as may be, as hereinbefore provided in relation to sending for, examining, ascertaining, determining, certifying and recording the votes and results of the election of State officers.

Votes for electors of president, etc., when and how canvassed.

(183) § 3702. SEC. 75. The secretary of state shall, without delay, cause a copy of the certified determination of the board of state canvassers, declaring the persons elected as such electors, to be transmitted and delivered by special message or otherwise, to each of the persons so declared to be elected, which copies shall be certified under his hand and seal of office.

Copy of certificate of determination to be delivered to persons elected.

(184) § 3703. SEC. 76. For the purpose of canvassing and ascertaining the result of the vote upon any proposed amendment to the constitution, or approval of any banking law, or amendment thereof, the secretary of state shall appoint a meeting of the state board of state canvassers, to be held at his office, on or before the twentieth day of the month next after such election; at which meeting the said secretary shall lay before the board the statement received by him of the votes given in the several counties for or against such amendment to the constitution, or for and against the approval of such banking law, or amendment thereof, as the case may be.

Canvass of votes on amendment to constitution and banking law.

(185) § 3704. SEC. 77. The board shall then proceed to examine such statements, and to ascertain and determine the result, and shall make and certify, under their hands, a statement of the whole number of votes given for, and the whole

Board to ascertain and determine the result.

number of votes given against, such amendment of the constitution, or for or against the approval of such banking law, or amendment thereof, as the case may be; and they shall thereupon determine whether such amendment to the constitution, or such banking law, or amendment thereof, as the case may be, has been approved and ratified by a majority of the electors voting thereon, and shall make and subscribe on such statement a certificate of such determination, and deliver the same to the secretary of state.

Determination to be recorded by secretary of state and published with laws.

(186) § 3705. SEC. 78. The secretary of state shall record in his office, in a book to be kept by him for that purpose, such certified statement and determination; and if it shall appear that such amendment to the constitution, or such banking law, or amendment thereof, has been approved and ratified, as aforesaid, he shall also record such determination in the book in which the original act of the legislature is recorded, and shall cause any amendment to the constitution to be published with the laws enacted by the legislature at the next succeeding session thereof.

Publication of determination of state canvassers.

(187) § 3706. SEC. 79. The secretary of state shall cause a copy of such determination and certificate of election to be published for two successive weeks in a newspaper published at the seat of government, immediately after receiving the same from the board of state canvassers.

Adjournment of state canvassers.

(188) § 3707. SEC. 80. The said board of state canvassers shall have power to adjourn from day to day, for a term not exceeding five days.

Newton v. Canvassers, 94 / 457.

STATE BOARD OF EDUCATION.

Election of members of board of education.

(189) § 3708. SEC. 81. At the general election to be held in the year eighteen hundred and fifty-two, there shall be elected three members of the state board of education—one for two years, one for four years, and one for six years; and at each succeeding general election there shall be elected one member of said board, who shall hold his office for six years, and until his successor is elected and qualified; and the ballots for the members of the state board of education shall designate which of the persons so balloted for, for member of said board, is to hold the office for two years, which for four years, and which for six years; and the person receiving the greatest number of votes for the term so designated, shall be by the state canvassers declared to be elected for such term.

REPRESENTATIVE IN CONGRESS.

Representative in congress.

(190) § 3709. SEC. 82. A representative in the congress of the United States shall be chosen in each of the congressional districts into which the State is or shall be divided,

at each general election; and if a representative in congress shall resign, he shall forthwith transmit a notice of his resignation to the secretary of state; and if a vacancy shall occur, by death, or otherwise, in the office of representative in congress, the clerk of the county in which such representative shall have resided at the time of his election shall, without delay, transmit a notice of such vacancy to the secretary of state.

PRESIDENTIAL ELECTORS.

(191) § 3710. SEC. 83. At the general election next preceding the choice of president and vice president of the United States there shall be elected by general ticket as many electors of president and vice president as this State may be entitled to elect of senators and representatives in congress.

Number of
electors.

(192) § 3711. SEC. 84. The electors of president and vice president shall convene in the senate chamber, at the capital of the State, at the hour of twelve o'clock noon, on the second Monday of January. If there shall be any vacancy in the office of an elector, occasioned by death, refusal to act, neglect to attend by the hour of twelve o'clock at noon of said day, or on account of any two of the persons voted for as electors having received an equal and the same number of votes, or on account of the ineligibility of any person elected, or for any other cause, the qualified electors present shall proceed to fill such vacancy by ballot and plurality of votes. When all the electors shall appear or vacancies shall be filled as above provided, they shall proceed to perform the duties of such electors, as required by the constitution and laws of the United States.

Place and time
of meeting

Vacancies,
how filled.

Duties.

(193) § 3712. SEC. 85. It shall be the duty of the executive of the State, as soon as practicable after the election of the electors by the final ascertainment under and in pursuance of the laws of the State providing for such election, to communicate under the seal of the State to the secretary of state of the United States his certificate of such ascertainment of the electors elected, setting forth the names of such electors and the canvass or other ascertainment under the laws of the State of the number of votes given or cast for each person for whose election any and all votes have been given or cast, and it shall also thereupon be the duty of the executive of the State to deliver to the electors of the State, on or before the day on which they are required by the preceding section to meet, the same certificate, in triplicate, under the seal of the State. Such certificate shall be enclosed and transmitted by the electors at the same time and in the same manner as is provided by law for transmitting by such electors to the seat of government the lists of all persons voted for as president and of all persons voted for as vice president.

Executive,
duty of, etc.

Certificate
transmitted
to

Sections 86-89 are superseded by act 1 of 1869, for the election of U. S. Senators. See sections 433-435.

MISCELLANEOUS PROVISIONS.

Unorganized
counties.

(194) § 3713. SEC. 90. Unorganized counties, with other parts of the State which may be attached to any organized county for judicial purposes, unless otherwise provided, shall be considered as a part of such organized county for all purposes concerning the election of officers who may be elected at a general or special election.

Johnston v. Cathro, 51 / 83.

Oath of in-
spectors and
clerks of elec-
tions.

(195) § 3714. SEC. 91. The oath directed in this act to be taken by persons chosen to be inspectors, or appointed clerks of elections shall be in the form prescribed in the first section of the eighteenth article of the revised constitution of this State.

Compensation
of certain
officers.

(196) § 3715. SEC. 92. Each county canvasser and sheriff shall receive such reasonable compensation for their services while employed in the business of elections for county officers as shall be allowed by the board of supervisors or county auditors, to be paid by the county.

Compensation
of district can-
vassers, etc.

(197) § 3716. SEC. 93. Each district canvasser or other person except county clerks, employed in canvassing and returning the result of the elections required by law to be certified by district canvassers to the board of state canvassers, shall receive such compensation therefor as the board of supervisors of their several counties shall deem reasonable, to be paid out of the treasury of such counties.

No civil pro-
cess to be
served on
electors on day
of election.

(198) § 3717. SEC. 94. During the day on which any election shall be held, pursuant to the provisions of law, no civil process shall be served on any elector entitled to vote at such election.

Term of office.

(199) § 3718. SEC. 95. The person holding any office, at the expiration of the term thereof, shall continue to hold the same until his successor shall be elected or appointed and qualified; and when any person shall be elected to fill a vacancy in any elective office, he shall hold the same only during the unexpired portion of the regular term limited to such office, and until his successor shall be elected and qualified.

Term, when
elected to fill
vacancy.

MUNICIPAL AND TOWNSHIP ELECTIONS.

An Act to prescribe the manner of conducting municipal and township elections and to prevent fraud and deception thereat.

[Act 194 of 1891.]

The People of the State of Michigan enact:

To be governed
by general law,
etc.

(200) § 3658. SECTION 1. That all elections hereafter held in the various cities, villages and [townships] township

in this State, shall be in conformity with the provisions of the laws governing general elections so far as the same shall be applicable thereto, and all the provisions of such laws relative to the boards of election inspectors, the arrangement of polling places, the manner of voting and receiving votes, and the canvass and declaration of the result of such election, are hereby made applicable to such municipal and township elections, but the time for the opening and closing of the polls shall not be affected thereby.

(201) § 3659. SEC. 2. The township board of each township, and such persons as shall be elected therefor by the common councils of the various cities and villages in this State, shall be the board of election commissioners for such township, city, or village respectively, and shall perform such duties relative to the preparation and printing of ballots as are required by law of the boards of election commissioners of counties, and like duties and privileges as are enjoined and granted by the laws governing general elections upon the various committees of the different political organizations are hereby prescribed for the city, village, or township committees in elections held pursuant hereto; except that it shall not be necessary for the committees of the different political organizations to furnish a vignette or heading for the ballots other than to designate the name of the party or political organization which they represent.

Who to be election commissioners, etc.

Vignette not necessary, etc.

ELECTION COMMISSIONERS: Peck v. Supervisors, 102 / 355. The board cannot print upon the ballot the name of a candidate not nominated by an assemblage or meeting of electors.—Chateau v. Jacob, 88 / 171.

(202) § 3660. SEC. 3. In municipalities governed by this law, the names of candidates shall be given by the committees of the various political organizations to the board of election commissioners of such municipality not less than five days before each election, and the proof copy of the ballot shall be open to the inspection of the chairman of each committee at the office of the township clerk, and city or village clerk or recorder, not less than two clear secular days before such election.

Committees to furnish names, etc.

IDENTIFYING BALLOTS OF UNQUALIFIED VOTERS.

An Act further to preserve the purity of elections, and guard against abuses of the elective franchise, by providing for the identification of the ballots of unqualified voters, in cases of contested elections.

[Act 180 of 1877.]

The People of the State of Michigan enact:

(203) § 3719. SECTION 1. That at every general, special, township and charter election in this State, it shall be the duty of the inspectors of election of each voting precinct, to cause to be numbered in figures, and in numerical order,

Names on poll lists to be numbered in figures.

the name of every person entered upon the poll lists required by law to be kept at such election; which figures shall be placed against the names on such poll lists at the time of the entry of said names thereon.

Endorsement
of number on
ballot in case
of challenge.

(204) § 3720. SEC. 2. Whenever, at any general, special, township or charter election, in this State, the ballot of any person who has been challenged as an unqualified voter, and who has taken the oath provided by law in such case to be taken, shall be received by the inspectors of election, it shall be the duty of said inspectors to cause to be plainly endorsed on said ballot, with pencil, and in the manner herein-after provided, before depositing the same in the ballot box, the number corresponding to the number placed against such voter's name on the poll lists; and it shall further be the duty of such inspectors to cancel all other figures appearing on the back of said ballot, without opening the same: Provided, That in case a ballot shall be so folded, defaced, printed or prepared that such number cannot be legibly and permanently written on the back thereof, it shall be the duty of said inspectors to refuse to accept such ballot.

Other figures
to be canceled.

Proviso—bal-
lots defaced,
etc., to be
refused.

Endorsement
to be concealed
with blank
paper.

(205) § 3721. SEC. 3. To prevent the identification of said ballot, except as hereinafter provided, it shall be the duty of the inspectors of election to cause to be securely attached to said ballot, with mucilage or other adhesive substance, a slip or piece of blank paper, of the same color and appearance, as near as may be, as the paper of the ballot, in such manner as to cover and wholly conceal said endorsement, but not to injure or deface the same; and if any inspector, clerk, or other officer of an election shall afterward expose said endorsement, or remove the said slip of paper covering the same, or attempt to identify the ballot of any voter, or suffer the same to be done by any other person, he shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be amenable to the provisions of compiler's section seven thousand seven hundred and sixty-nine of the compiled laws of eighteen hundred and seventy-one.

Penalty for
exposing
endorsement.

The section above referred to is section 336 infra.

Proceedings
in case of
contested
election.

(206) § 3722. SEC. 4. In case of a contested election, on the trial thereof before any court of competent jurisdiction in this State, it shall be competent for either party to the cause, to have produced in court the ballot boxes, ballots and poll lists used at the election out of which the cause has arisen, and to introduce evidence proving or tending to prove that any person named on such poll lists, was an unqualified voter at the election aforesaid, and that the ballot of such person was received as provided in section two of this act; and on such trial, the correspondence of the number endorsed on a ballot as herein provided, with the number against the name of any person on the poll lists, shall be received as prima facie proof that such ballot was cast by

such person: Provided, That the ballot of no person shall be inspected or identified, under the provisions of this act, unless such person shall consent thereto in writing, or unless such person has been convicted of falsely swearing in such ballot, or unless the fact that such person was an unqualified voter, at the time of casting such ballot, has been determined as provided in section five of this act.

Proviso—in-
spection of
ballot.

People v. Kamps, 129 / 217.

(207) § 3723. SEC. 5. After issue joined in any case of contested election, either party to the cause may present a petition to the court before which the said cause is to be tried, setting forth among other things, that the petitioner has good reason to believe and does believe that one or more voters at the election out of which the cause has arisen, naming him or them, and stating his or their place of residence, were unqualified to vote at such election; that he believes the same can be established by competent testimony; that the ballot or ballots of such voter or voters were received after being challenged, as provided by law, and praying that the court may try and determine the question of the qualification of such voter or voters to vote at said election, which petition shall be verified by the oath of the petitioner or some other person acquainted with the facts; and thereupon the court shall direct an issue to be formed, within a time to be fixed therefor, for the purpose of determining the question of the qualification of the voter or voters named in said petition, to vote at said election; and such issue shall stand for trial as in other cases, and the verdict of the jury or judgment of the court upon such issue so made shall be received upon the trial of the principal issue in said cause, as conclusive evidence to establish or to disprove the said qualifications of said voter or voters.

Proceedings
after issue
joined.

Issue to deter-
mine qualifica-
tion of voter.

See notes to section 135.

(208) § 3724. SEC. 6. On said trial, it shall be the duty of the judge presiding thereat, and of no other person, to remove from all ballots the slips of paper concealing the said endorsements until all ballots are found having thereon the numbers agreeing with the numbers against the names of such persons on the poll lists as have been proved unqualified voters as aforesaid, and immediately thereafter to replace slips of paper upon all other ballots from which he has taken the same, in the same manner as is provided in section three of this act, for the inspectors of election.

Judge to re-
move slips over
endorsement.

To replace
slips.

CHAPTER IV.—CANVASS AND RETURN OF VOTES.

COUNTY CANVASSERS.

An Act to provide for the election of a board of county canvassers, to prescribe the term of office and the powers and duties, thereof and to repeal all acts and parts of acts contravening the provisions of this act.

[Act 149 of 1895, as amended.]

The People of the State of Michigan enact:

When supervisors to elect canvassers by ballot.

County clerk to be a member of board.
Proviso.

Supervisors to fix compensation.

Proviso as to Wayne county.

(209) § 3662. SECTION 1. That at the regular annual meeting of the board of supervisors of each organized county in the State of Michigan, for the year eighteen hundred ninety-six and each second year thereafter, there shall be elected by ballot three electors, neither of whom shall be a candidate for office at the general election ensuing, who together with the county clerk, who shall not be entitled to a vote on said board, shall be and are hereby constituted a board of county canvassers: Provided, That no person shall be eligible to membership on said board of canvassers who is a member of said board of supervisors. And it shall be the duty of the clerk of said board of supervisors to notify said electors of their election within five days thereafter. Said board of supervisors shall, at the time of electing such board of county canvassers, fix the amount of their compensation, which shall not exceed four dollars per day for each member of said board, which shall be paid by the county treasurer upon the warrant of the county clerk: Provided, That in Wayne county said board of county canvassers shall consist of five members, as follows: The probate judge, who shall be the presiding officer of such board; the county treasurer, with the two members of the board of Wayne county auditors having the longer term to serve, and one other citizen elector to be chosen by a plurality viva voce vote of the board of supervisors of said county at their regular annual meeting. Said board of supervisors shall, at the same time and in the same manner, elect an alternate member of said board, who will be entitled to serve as a member of said board in case of a vacancy on said board on account of disability, absence or other cause.

Am. 1899, act 224.

See section 222 for an act to provide special canvass for votes for State senators and representatives.

The above act supersedes sections 43-48 of the act of 1851.

Oath required of canvassers.

Term of office.

When board to convene.

(210) § 3663. SEC. 2. Each member of said board of county canvassers shall qualify by taking the oath of office required of inspectors of election, to be administered by the county clerk, and shall hold office for a term of two years, or until his successor is appointed and shall have qualified.

(211) § 3664. SEC. 3. It shall be the duty of said board of county canvassers to convene at the office of the county

clerk on the first Tuesday after the first Monday following each election in said county, before the hour of one o'clock p. m., and to elect one of their number to act as chairman, except as is especially provided in section one of this act. The county clerk shall act as clerk of said board, but, in the event of his unavoidable absence, the board may select one of his deputies to act in his stead. In case of any vacancy on said board, by reason of absence or disability under the provisions of this act, it shall be filled by the members of the board present, who shall select some person or persons eligible to have been elected in the first instance, as set forth in section one of this act.

County clerk
to be clerk of
board.

Vacancy, how
filled.

Am. 1899, act 224.

(212) § 3665. SEC. 4. The said board shall then proceed without delay to canvass the return of votes cast for all candidates for office voted for and all other questions voted on at said election, according to the returns filed in the office of the county clerk by the several boards of election inspectors of the various voting precincts in the county, and the returns or tally sheets filed with the board of canvassers by the central counting board in counties where a central counting board is provided for counting the ballots cast in said county or any part thereof in lieu of their being counted by the election inspectors of the voting districts. If it shall be found, upon the convening of said board of canvassers that the returns from any of the boards of election inspectors of the several election districts, or the returns of such central counting board are missing, incomplete, or incorrect, or for any other reason it is found necessary, then said board of county canvassers shall have power to adjourn from day to day until said returns shall have been procured or corrected. Said board of canvassers are hereby empowered to summon the person or persons having the boxes containing the ballots cast at such election and the keys and seals of said boxes, or having such returns or the poll books or tally sheets used and made at such elections, to bring said boxes, keys, seals, returns, poll books and tally sheets before said board and said board of canvassers are authorized to open said boxes and take therefrom any books or papers bearing upon the count and return of the election inspectors of such election districts or the returns of such central counting board, but they shall not remove or mark the ballots therein. Said board of canvassers may summon such election inspectors, or central counting board, before them, and require them to make correct returns in case, in its judgment, after examining such returns, poll books or tally sheets, the returns already made are incorrect or incomplete, and they shall canvass the votes from the corrected returns. When the examination of such papers is completed the same shall be returned to the ballot boxes or delivered to the persons entitled by law to the same,

Board of
county can-
vassers to
canvass
returns.

May adjourn.

May summon
to appear,
persons having
charge of
boxes, etc.

May open
boxes, etc.

May summon
inspectors to
appear and
make correct
returns, etc.

When boxes
and papers
to be
returned.

To prepare
statement of
result.

How certified.

When to de-
clare result
for county
officers, legis-
lature, etc.
Result, how
published.

and the boxes shall be locked and sealed and delivered to the legal custodians thereof. When said canvass shall have been finished, the said board of county canvassers shall prepare a statement setting forth their findings in the premises, and giving in detail the number of ballots cast for each candidate and the result of the votes cast on all other questions voted on at said election. They shall certify thereto, under their hands, and the seal of the circuit court of the county. It shall also be the duty of said board to declare the result of the election for county officers and members of the legislature, when the county alone constitutes one or more senatorial or representative districts, and to publish said result and a statement of votes cast, within thirty days after said election is held, in at least two newspapers printed and circulating in said county.

Am. 1899, act 224; 1901, act 67; 1905, act 43.

DUTIES OF BOARD: Under the old law it was held that the statute relating to the duties of the board of county canvassers evidently contemplated that the board should proceed promptly to determine the result of the election, and that no adjournment, except for the purpose of having returns corrected, be made.—*Newton v. Canvassers*, 94/457. The duties of canvassing boards are simply ministerial.—*People v. Van Cleve*, 1/366. They are bound by the returns and cannot go behind them, especially for the purpose of determining questions of fraud in the election.—*McQuade v. Furgason*, 91/438; *Coll v. Board*, 83/367; *Roemer v. Board*, 90/27. Where a canvassing board canvassed the votes as reported by the inspectors of election in a second or substituted return made after the filing of the original return, mandamus will lie to compel a re-canvass from the original return.—*Roemer v. Canvassers*, 90/30. As to the powers and duty of county canvassers in canvassing the returns of an election to locate a county seat, see *Att'y Gen. v. Canvassers*, 64/611. As to canvass of votes for state and county officers, presidential electors, members of congress and members of legislature, see *Pound v. Bd. of Canvassers*, 120/181.

See notes to section 124.

When two
persons have
equal number
of votes.

Method of
drawing lots.

(213) § 3666. SEC. 5. If it shall appear on the canvass of the votes polled at such election for members of the legislature or county officers, that two or more persons have received an equal number of votes for the same office, and that a failure to elect to any office is caused thereby, such persons shall proceed to draw lots for the election to said office, in the following manner: The board of canvassers for the county or district in which such election was held, shall appoint a day for the appearance of all such persons before the proper officer hereinafter provided, for the purpose of determining by lot among such persons the right to such office, and shall cause notice thereof to be given to all such persons interested. The officer before whom such drawing is to take place shall prepare as many slips of paper as there are such persons, and write the word "Elected" on as many slips of paper as there are offices to be filled, and the words "Not elected" on the remaining slips, and fold the same so as to conceal the writing, and so that they may appear as near alike as possible. Said slips shall be placed in a box, and at the time and place appointed for the drawing of said lots, each of such persons aforesaid may draw one of said slips from the box; and any such person drawing a slip on which is written the word "Elected," shall be deemed legally elected

to the office in question; and the officer conducting such drawing shall forthwith give him a certificate of such election. If the drawings under the provisions of this section are for the office of senator or representative in the State legislature, and the district exceeds the limits of a single county, then the drawing shall take place before the county clerk of the county where the district canvass is held; in all other cases before the county clerk of the county where each case shall arise: Provided further, That in cases where the office of county clerk is in question the drawing shall take place before the sheriff of the county.

If for senator or representative in legislature.

When office of county clerk is in question.

(214). § 3667. SEC. 6. It shall also be the duty of said clerk of the board of county canvassers, within five days from the time of the completion of said canvass, to send by registered mail three certified copies of the same, so far as it shall relate to the vote for State officers, electors for president and vice president of the United States, members of congress of the United States, State senators, representatives in the State legislature, and amendments to the constitution, together with a certificate of authenticity signed by himself and the chairman of the board of canvassers; one to the governor, one to the secretary of state, and one to the state treasurer. The original shall be kept on file in the office of the county clerk.

County clerk to forward copies of canvass.

To whom copies are to be forwarded.

(215) § 3668. SEC. 7. It shall be the duty of the county clerk to furnish certified copies of the original of said canvass on file in his office to the secretary of state upon the request of said secretary of state, and without charge. And if upon receipt of said certified copies by the secretary of state, there shall appear to be clerical errors in the same, it shall be the duty of the county clerk, upon written request of the secretary of state so to do to forthwith prepare corrected copies of said original canvass on file in his office and transmit the same in the manner prescribed in section six of this act.

Secretary of state to receive copy upon request.

(216) § 3669. SEC. 8. In case the clerk of the board of county canvassers shall neglect or refuse to perform, in the manner herein prescribed, any of the duties hereinbefore set forth, he shall be deemed guilty of a misdemeanor, and upon conviction shall be liable to pay a fine of not less than fifty nor more than two hundred dollars, or be imprisoned in the county jail not less than thirty nor more than ninety days.

Penalty for failure by county clerk.

(217) § 3670. SEC. 9. Any member of said board of county canvassers who shall knowingly violate any of the provisions of this act or shall wilfully neglect or refuse to perform any duties enjoined upon him hereby, or shall sign any fraudulent return, or shall change any word, letter or figure in said returns as made by the board of canvassers, except as hereinbefore provided, with intention to defraud, shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars or imprisonment in the State prison not to exceed five years, or both such fine and imprisonment in the discretion of the court.

Penalty in case of failure or fraudulent return by members of board.

Candidate
conceiving
himself ag-
grieved.

May petition
for correction,
when.

Deposit
required.

Deposit for-
feited when
case not es-
tablished.

Board to in-
vestigate pe-
tition, when.

Board to re-
count votes
in public and
make return.

Ballots to be
returned to
boxes.

Return of re-
count to be
deemed
correct

(218) § 3671. SEC. 10. Any candidate voted for at any election at which State, county or district officers are voted for, who conceives himself aggrieved on account of any fraud or mistake in the canvass of the votes by the inspectors of election or the returns made by said inspectors, may, on or before the close of the last day upon which the board of county canvassers meet, present to, and file with the clerk of such board, a written petition which shall be sworn to, setting forth as near as may be the nature of the mistakes or frauds complained of, and the township, ward or district in which they occur, and asking for a correction thereof. He shall, at the same time deposit with the clerk of said board the sum of ten dollars for each and every township, ward or district referred to in his petition: Provided, That no candidate shall be required to deposit more than one hundred dollars, which sum shall be paid in case such petitioner does not establish a fraud or mistake as set forth in his petition by the clerk of the board of county canvassers to the county treasurer, for the use of the county.

Held that a candidate for a state office, such as circuit judge, is not entitled to a recount under this act.—Pound v. Board of Canvassers, 120 / 181; Att'y Gen. v. Campbell, 130 / 285; Att'y Gen. v. Campbell, 132 / 82.

(219) § 3672. SEC. 11. Upon filing the petition and making the deposit required in the preceding section, and giving at least twelve hours' written notice thereof to the opposing candidate, by handing to such candidate a copy thereof, or, if such candidate cannot be found, by leaving such copy at his last place of residence, it shall be the duty of such board of canvassers to investigate the facts set forth in said petition. For such purpose the said board shall have power to cause the ballot boxes used in such election districts to be brought before them. The board shall, thereupon, in some public place where such candidates and their counsel may be present, if they so desire, proceed forthwith to open the ballot boxes from such districts, townships or wards, and to make a recount thereof as to such candidates, and make correct and full return in writing under their hands to said board, showing the full number of votes given, the names of the candidates, and the number of votes given to each, written out in words and figures as upon the ballot. As soon as the recount is completed, said board shall, at once, return the ballots to their respective boxes, carefully fasten and seal the same, and deliver them to the officer having the care and custody thereof. The returns made by the said board of canvassers upon recount shall be deemed to be correct, anything in the previous return from such township, ward or district, to the contrary notwithstanding.

See citations under previous section.

(220) § 3673. SEC. 12. Any candidate not receiving a certificate of election, may, for error apparent upon the face of the returns, have the same examined and corrected upon certiorari to the circuit court of the county according to the rules and practices applicable to such rights. In all cases where, by reason of such recount, the petitioner succeeds in establishing fraud or mistake as set forth in his petition, and receives a certificate of election, the money deposited by him shall be refunded. For fraudulent or illegal voting, or tampering with the ballot boxes before a recount by the board of canvassers, the remedy by quo warranto shall remain in full force together with any other remedies now existing.

Candidates may appeal to circuit court, when.

Deposit to be refunded, when

(221) § 3674. SEC. 13. The provisions of this act shall apply to special elections to fill vacancies in any of the offices mentioned in section four of this act, and at all elections at which any proposition shall be submitted to the electors of any county.

Act to apply to special elections.

Section 14 repeals "all acts or parts of acts contravening the provisions of this act."

SPECIAL CANVASS FOR STATE SENATOR AND REPRESENTATIVE TO FILL VACANCIES.

An Act to provide for a special canvass of votes cast in elections to fill vacancies in the office of State senator and representative held during a session of the legislature.

[Act 24 of 1895.]

The People of the State of Michigan enact:

(222) § 3691. SECTION 1. That in case of a special election held to fill a vacancy in the office of State senator or of representative in the State legislature during a session of the legislature, the board of county canvassers shall meet on the Thursday next succeeding the day on which the election is held, and the board of district canvassers shall meet on the succeeding Saturday, and shall make the canvass and declare the result of such election as now provided by law in case of general elections in this State.

Board of canvassers, when to meet.

UNIFORMITY IN RETURNS.

An Act to secure uniformity in election returns.

[Act 49 of 1867.]

The People of the State of Michigan enact:

(223) § 3733. SECTION 1. That the secretary of state be required to prepare and transmit, at least sixty days before

Secretary of state to furnish blanks.

any general or special election at which other than township officers are to be elected, to the several county clerks, suitable blank forms, to enable inspectors of elections' and township or city clerks to make returns of elections to the respective county or district board of canvassers.

Duty of
county clerks.

(224) § 3734. SEC. 2. That the several county clerks shall, after receiving the blank forms, and at least ten days before any general or special election, at which officers shall be elected requiring the transmission of a statement of votes to a board of canvassers, deliver to the several township or city clerks of their respective counties a sufficient number of such blank forms to enable said township or city clerks and inspectors of elections to make returns of such general or special election to the respective boards of canvassers as required by law.

CORRECTION OF FRAUDS AND ERRORS IN RETURNS.

An Act to provide for the correction of frauds and mistakes in the canvass and returns made by inspectors of elections.

[Act 208 of 1887, as amended.]

The People of the State of Michigan enact:

Petition for
correction of
canvass, to
whom made,
etc.

(225) § 3725. SECTION 1. That any candidate voted for at any election, conceiving himself aggrieved on account of any fraud or mistake in the canvass of the votes by the inspectors of election, or in the returns made, may (within three days after the conclusion of a township canvass, if a township office) or on or before the close of the last day upon which the board of city canvassers meet, if a city or ward office, or board of village canvassers, if a village office, present to and file with the clerk of such board a written petition, which shall be sworn to, setting forth, as near as may be, the errors, mistakes or frauds complained of, and the township, ward or village in which they occur, and asking for a correction thereof. He shall at the same time deposit with the clerk of said board the sum of ten dollars for each and every township, ward or village referred to in his petition: Provided, That no candidate shall be required to deposit more than one hundred dollars, which sum shall be paid in case such petitioner does not establish a fraud or mistake, as set forth in his petition, by the clerk of the board of city canvassers, to the city treasurer for the use of the city and by the clerk of the village to the village treasurer and by the township clerk to the township treasurer for the use of the city, village or township, as the case may be. Upon filing such petition, making such deposit and giving at least twelve hours' written notice thereof to the opposing candidate by handing to such candidate a copy thereof, or if such candidate cannot be found, by leaving such copy at the last place

Proviso limit-
ing amount of
deposit.

When board
of canvassers
to make in-
vestigation.

of residence, it shall be the duty of such board of canvassers to proceed to make an investigation of the facts set forth in said petition. For which purpose the clerk, if no meeting be already appointed, shall call a meeting of such board of canvassers and the said board shall have power to cause the ballot boxes used in such election districts to be brought before them. The said board shall thereupon appoint a committee of their own number as follows: The said board shall designate a member who shall be the chairman of said committee, the candidate presenting such petition and the candidate opposed thereto shall each choose a member, and if such candidates, or either of them, decline to choose a member, then the board shall designate, and the three thus chosen shall constitute a committee to investigate the errors, mistakes or frauds complained of. Said committee shall, in some public place, where such candidates and their counsel may be present, if they so desire, without unnecessary delay proceed to open the ballot boxes from such village, townships or wards, and to make a recount thereof as to such candidates, and make correct and full returns in writing under their hands to said board, showing the whole number of votes given, the names of the candidates, and the number of votes given to each, written out in words and figures as upon the ballots. Said committee, upon making such recount, shall at once return the ballots to their respective boxes, carefully fasten and seal the same and deliver them to the officer having the care and custody thereof. Said board of canvassers, upon receiving the report of such committee, shall accept the same as correct, anything in the previous (declaration, certificate or) returns from such township, ward or village to the contrary notwithstanding. Any candidate not receiving a certificate of election, may for errors apparent upon the face of the returns have the same examined and corrected upon certiorari to the circuit court of the county, according to the rules and practice applicable to such writs. In all cases where, by reason of such recount, the petitioner succeeds in establishing a fraud or mistake, as set forth in his petition, and receive a certificate of election, the money deposited by him shall be refunded. For fraudulent or illegal voting, or tampering with the ballot boxes before a recount by the board of canvassers, the remedy by quo warranto shall remain in full force, together with any other remedies now existing. (The usual final adjournment of a township board of canvassers shall be deemed subject to the recall of the board as herein provided.)

Clerk to call meeting of board.

How committee of investigation appointed.

Committee to make recount of ballots.

Ballots to be returned to boxes.

Report of committee to be accepted as correct.

Appeal to circuit court.

When deposit to be returned to petitioner.

Remedy for fraudulent voting, etc.

Final adjournment subject to recall.

PURPOSE OF THE LAW: It was intended by this act to give a party aggrieved by the action of the inspectors of election and the board of city canvassers the right to a recount of the votes cast for and against him for the office for which he was a candidate, in the first instance at least, if he should desire it, without resort to proceedings by quo warranto.—*McKenzie v. Canvassers*, 70/151; *May v. Canvassers*, 94/510. The evident purpose of this act was to provide for a recount antecedent to the determination by the county canvassers of the number of votes cast for the office as to which the recount is applied for. It was clearly intended that, in case of various

contests arising before the board, different committees could be appointed and the count in all cases proceed at once. The board acting on a contest may well be held to constitute a special tribunal, when in session, only for the purpose of considering such contest. It was not the legislative intent that a presentation of the application to the body, when so acting, and after a full performance and determination of the result as to the candidates for other offices should entitle the party presenting such petition to a recount.—*Newton v. Canvassers*, 94/458. Electors are not to be deprived of the result of their votes by the mere mistakes of election officers which do not appear to have affected the result. But, on the other hand, where fraud appears upon the part of the inspectors, the voter must sometimes be deprived of his vote; and this must always be the case where mandatory provisions of the election law are disregarded, if the result would be thereby changed.—*Att'y Gen. v. Stillson*, 108/419.

The only way to try titles to office finally and conclusively is by quo warranto.—*Frey v. Michie*, 68/324.

ENFORCEABLE BY MANDAMUS: The right to a recount, upon compliance with the provisions of this act, is enforceable by mandamus.—*May v. Canvassers*, 94/510; *McKenzie v. Canvassers*, 70/147; *Packard v. Canvassers*, 94/450.

APPLICATION TOO LATE: An application by a candidate for supreme judge to a board of county canvassers under this act made on the last day on which the state canvassers can canvass the returns and issue the certificate of election, is not in time.—*Newton v. Canvassers*, 94/455; *Drennan v. Com. Council*, 106/117.

WHEN ACT DOES NOT APPLY: This act and the next following do not apply in the case of members of a common council in a city whose council is made the sole judge of the election of its members.—*Weston v. Probate Judge*, 69/600; *Naumann v. Canvassers*, 73/252; *Aud. Gen. v. Supervisors*, 89/567; *Hilton v. Grand Rapids Com. Council*, 112/500. But these acts apply in cases where the council is not made by the charter the judge of the election and qualification of its own members.—*McKenzie v. Canvassers*, 70/147. These acts do not apply to the office of state senator.—*Wheeler v. Canvassers*, 94/448. Nor congressmen.—*Belknap v. Canvassers*, 94/516. Nor circuit judge.—*Vance v. Canvassers*, 95/462.

EFFECT OF RECOUNT MADE: When the board has recounted and declared the result, it becomes functus officio and the remedy of the party claiming to be aggrieved is by a quo warranto proceeding to test the validity of the election.—*Packard v. Canvassers*, 94/451.

See also *Lamoreaux v. Att'y Gen.*, 89/146; *Johnson v. Bd. of Canvassers*, 101/191.

PRESERVATION OF EVIDENCE OF ERROR OR FRAUD.

An Act to preserve evidence of error or fraud in the counting of ballots and in elections [election] returns, and in the count of inspectors of elections [election] and the declaration of the board of canvassers in contested elections.

[Act 293 of 1887.]

The People of the State of Michigan enact:

(226) § 3726. SECTION 1. That any candidate voted for at any election in this State intending to contest the same, may, after the decision of the board of canvassers and without waiting to commence quo warranto proceedings, by petition to the probate judge of the county in which the election is held, cause the ballot boxes, or such number of them as he may specify in his petition, to be brought before the board of examiners created by section six of this act, and by said board to be opened and the ballots therein counted: Provided, That at the time of filing such petition he shall deposit thirty dollars with such judge of probate, which amount shall be disposed of as hereinafter provided.

Petition to probate judge of candidate intending to contest election.

Proviso as to filing petition.

See notes to preceding act. The supreme court has held this act too defective to be executed, unless by common consent.—Andrews v. Probate Judge, 74 / 278.

PETITION: The petition must show whom the canvassers have decided to be elected, in order that notice of the contest may be given him.—Andrews v. Probate Judge, 74 / 278.

This act does not apply to a city whose common council is charged with the duty of canvassing the votes cast for, and given the exclusive right to determine the election, and qualification of, the officers whose election is sought to be contested, which duty it has discharged, and right exercised, without objection by any one.—Weston v. Probate Judge, 69 / 600; Naumann v. Board of City Canvassers, 73 / 252.

See Hilton v. Gd. Rapids Com. Council, 112 / 501.

(227) § 3727. SEC. 2. Said petition shall set forth that the petitioner was a candidate for the office claimed by him, and by him intended to be contested, and that he received votes therefor; that he has good reason to believe and does believe either—

What petition shall set forth.

First, That there was error or fraud in the count or in the returns of the inspectors of elections; or,

Second, That there was error or fraud in the count or determination of the board of canvassers; or,

Third, That there was error or fraud in both, and that it is his bona fide intention to contest the count and returns of the inspectors of election, or the count or determined result of the board of canvassers of said election, or of both, and further stating that he believes that unless the ballot boxes are opened and the ballots therein counted without unnecessary delay his rights will be jeopardized. Said petition shall be in writing, and shall be subscribed and sworn to by the petitioner, or by some one in his behalf, and a copy thereof shall be served upon the person or persons who were candidates for said office at said election.

Andrews v. Judge of Probate, 74 / 278.

(228) § 3728. SEC. 3. Upon the filing of said petition the probate judge shall notify the members of the board of examiners created by section six of this act of the filing of the said petition and shall in the notice appoint a time and place for the board of examiners to meet, and shall issue an order causing the ballot boxes to be brought before the board of examiners created by section six of this act at a place and at a time specified in the order, which shall not be less than two, nor more than ten days from the issuing thereof; and a copy of said order shall be served upon the persons whose election is to be contested, and also upon the officer in whose custody is kept the ballot boxes of said election, whose duty it shall be to produce said boxes before said board of examiners at the time and place named in said order.

Duty of probate judge upon filing petition.

This act is too defective to be carried into execution except by common consent, in this: (a)—No provision is made for the appointment of a time when the board of examiners will be appointed, or for the notice to the successful candidate to appear and take part in the formation of the board. (b)—There is no provision for a case where the examiners appointed refuse to serve, nor any requiring them to take an oath before proceeding to the discharge of their duties. (c)—The act should require the inspectors entrusted with the key and election seal, as well as the clerk, to appear before the board of examiners.—Andrews v. Judge of Probate, 74 / 278.

When ballot boxes to be brought before the board of examiners, etc.

(229) § 3729. SEC. 4. Upon the day and at the place specified in the order the boxes shall be brought before the board of examiners created by section six in [of] this act, and opened by and in the presence of the board of examiners and the judge of probate, and the ballots therein shall be counted by said board. And the board of examiners above mentioned shall proceed to count the ballots in said boxes, and continue the same from day to day until the completion of the count thereof, and shall make a statement in writing of the result of the said count, and each member thereof shall sign the same, and it shall be sworn to by each member of said board before the judge of probate and the said sworn statement shall be deposited by the judge of probate in the office of the county clerk, and shall be conclusive evidence in any subsequent proceeding at law of the ballots cast in boxes so opened.

Andrews v. Probate Judge, 74 / 285.

Ballots, after being counted, shall be sealed

(230) § 3730. SEC. 5. After the ballots are counted they shall be placed back in the boxes and sealed up by said board and returned to the officer who is by law entrusted with the custody thereof.

Board of examiners, of whom to consist, etc.

(231) § 3731. SEC. 6. The board of examiners to carry into effect the provisions of this act shall consist of three persons, who shall be electors of the county in which proceedings are had, one appointed by the candidate presenting such petition, one by the candidate opposed thereto, and one by the judge of probate. They shall sit together before the judge of probate [probate judge] at the time and place specified in his order, and said probate judge shall preside over all meetings of said board in accordance with the provisions of this act. If the candidate presenting such petition or the candidate opposed thereto shall decline to so choose a member then the judge of probate shall designate, and the three thus chosen shall constitute the board of examiners: Provided, however, That when there is a recount demanded of the ballots cast for the office of judge of probate then the county clerk shall serve in the place of the judge of probate and perform the duties herein imposed upon the judge of probate in other cases.

Proviso.

When fee deposited with judge to be returned to contestant.

(232) § 3732. SEC. 7. Whenever a contestant, in the opinion of the board of examiners created under this act, establishes the truth of his allegations in his petition for a recount, the fee of thirty dollars deposited with the judge of probate as provided for in section one shall be returned to him. If he does not establish the truth of his allegations, then in such case the fee shall be paid to the county treasurer to be put into the contingent fund of the county.

Section 8 repeals "All acts or parts of acts contravening the provisions of this act."

CHAPTER V.—ELECTION DISTRICTS IN TOWNSHIPS AND VILLAGES.

An Act relative to dividing townships and villages into election districts and to provide for the registration of electors in such cases.

[Act 203 of 1877.]

The People of the State of Michigan enact:

(233) § 3582. SECTION 1. That in any township in the State of Michigan the township board thereof may divide said township into two or more election districts: Provided, Such division be made at least twenty days previous to the first general election or township meeting thereafter and a diagram of the boundaries of each district be posted therein in three or more public places with a plain description and the number of the same, not less than fifteen days previous to such election or township meeting: Provided further, That no township shall be so divided unless it contains at least three hundred electors.

Division of townships into election districts
Provido.
Further proviso.

(234) § 3583. SEC. 2. The township board of such township shall enter upon their record the boundaries and number of each of said election districts, commencing at number "one," and shall have power to change the same, and shall give like notice of such change, before the next general election or township meeting as required by section one of this act for establishing the boundaries of such district. They shall also give six days' notice of the place in each district of holding the first election or township meeting therein.

Boundaries and numbers to be entered on record.
Notice of first election.

(235) § 3584. SEC. 3. The township officers of said township, who, by existing laws, constitute the board of inspectors of election in said township, shall be the board of inspectors of election in election district numbered "one" therein, and two justices of the peace and the treasurer of said township shall be the board of inspectors of election in election district numbered "two," and in case there shall be more than two election districts in any township the township board shall for the remaining districts appoint three freeholders, who shall be residents and qualified electors of the district in which they shall serve, to constitute a board of inspectors of election in such remaining district, and shall hold their office until their successors are elected and qualify, and shall be known as "district inspectors of election." The manner of such election of inspectors shall be by ballot as for township officers chosen by ballot, and the ballot shall contain the name of the person voted for and the words "inspector of election" added thereto, and the three persons receiving the highest number of votes in said district for said office shall be the board of inspectors of election for

Boards of inspectors of elections in election districts.
Manner of electing inspectors.

the ensuing year in such district, and until their successors are elected and qualify.

Inspectors of election, their powers and duties.

(236) § 3585. SEC. 4. The boards of inspectors of each district shall be inspectors of elections in each election or township meeting held therein. They shall appoint one of their number chairman of the board, shall administer oaths, make appointments, and have the same powers and authority for preserving order and enforcing their commands and all other powers for proceeding with the elections in said district, and shall conduct the elections therein, in the same manner as now or hereafter directed by law for township inspectors of general elections held in this State, unless herein otherwise provided. They shall receive the same compensation of township inspectors from the township, and before entering upon their duties shall take and subscribe the oath of office prescribed by the constitution.

Compensation and oath of office.

Electors to vote in district in which they reside.

(237) § 3586. SEC. 5. The electors of each district shall vote in the respective districts in which they reside, and for which they are registered, except such as are required to act as inspectors of election, who may vote at the polls where they act as inspectors.

Registration of electors in districts.

(238) § 3587. SEC. 6. The board of registration of said township shall complete the registration of electors of each district in separate district registers, and shall transcribe to such district register from the township register the names of such electors as they know are qualified electors and residents of such district, and shall cause such district register to be present at every election for the use of each district board of inspectors; and for the purpose of perfecting the registration of electors in any election district said board of registration may appoint a resident qualified elector of such district, who shall make and subscribe the oath of office referred to in section four of this act, and said elector with one of the members of said board of registration may hold meetings not to exceed three in number, of one day each, giving suitable notice thereof, at such time and place in said district as said township board of registration shall direct, and after completing said district registration in the manner prescribed by existing law for the registration of electors, and before the next coming election, shall return said district register to the custody of said township board of registration.

Canvass of votes in district.

(239) § 3588. SEC. 7. The district inspectors of elections shall, without adjourning, publicly canvass the votes received by them, the same as prescribed by law for canvassing votes at the general elections in this State, except as herein otherwise provided, and shall on the same day make a statement in writing, setting forth in words at full length the whole number of votes given for each office, the names of persons for whom such votes for each office were given, and the whole number of votes given upon each question voted upon, and the number [of votes] given for and against the same;

which statement shall be certified, under the hands of the inspectors of election of such district, to be correct, and they shall deposit such statement and certificate on the day of election, together with the poll list and the register of electors and the boxes containing said ballots, with the board of inspectors of district numbered "one," and said last named board shall immediately consolidate said district reports, and the combined result shall be the official canvass of said township.

Official
canvass of
township.

The provisions of this section for consolidating the reports of district inspectors is superseded, so far as relates to the manner of the return by inspectors, by the election law of 1891.—Belknap v. State Canvassers, 95 / 155. For law of 1891 see sections 111-153.

(240) § 3589. SEC. 8. The electors of each election district shall meet at one o'clock in the afternoon at the polling place of each district respectively to transact such business as is usually transacted at township meetings by viva voce vote, and shall count or canvass the votes on each and every question which shall be submitted to them, and the result of such vote shall be counted and reported to the board of inspectors of election of precinct number one, and shall be by them consolidated and canvassed in the same manner as provided by section seven of said act: Provided, That all questions proposed to be acted upon shall be previously reported to the township board and by them reported to the board of inspectors of election of each precinct on the morning of election, and that no question shall be entertained that is not so reported.

Time of meet-
ing of electors
to transact
business and
canvass votes.

Proviso as
to reporting
question.

Aud. Gen. v. Duluth, etc., R. Co., 116 / 125.

(241) § 3590. SEC. 9. The president and trustees of any incorporated village may divide said village into as many election districts, containing as nearly as possible an equal number of qualified electors, as they shall deem necessary and convenient for conducting the elections in said village. They shall give not less than fifteen days' notice of said division before the next ensuing election in said village, by posting in not less than three public places in each election district, or by publishing the same two weeks in a newspaper published in said village, a description of the boundaries of said district, and the place of holding the first election therein, and the number of said district.

Division in
villages.

Notice of
division.

(242) § 3591. SEC. 10. Said president and trustees shall make a record of the boundaries and number of each election district and file the same with the clerk of the village so divided, and may change the same by giving the notice before the ensuing election as required by [in] section nine of this act.

Record, where
filed.

(243) § 3592. SEC. 11. The officers of said village who, by existing law, act as a board of inspectors of election of said village shall, under this act, constitute a board of inspec-

Inspectors of
election.

Term of office
of inspectors.

Manner of
conducting
elections.

Canvass of
votes in dis-
tricts.

Official
canvass of
village.

Registration
of electors in
villages.

May abolish
divisions into
election dis-
tricts.

Proviso.

tors for election district numbered "one" of said village, and one of said trustees, with two qualified electors who are freeholders, the latter of whom shall be residents of the election districts in which they serve, shall constitute a board of inspectors of election in each of the remaining election districts. Six days' notice of such first appointment for any district, with the place of holding the first election therein, shall be given in said district, and said inspectors shall hold their offices for one year and until their successors are appointed and qualify.

(244) § 3593. SEC. 12. Each board of district inspectors of election shall appoint one of their number chairman, and shall conduct the election in said district with the same power and authority and in the same manner, unless herein otherwise provided, as now or hereafter directed by law for inspectors of general elections held in this State, unless herein otherwise provided, and shall, at the closing of the polls, without adjourning, publicly canvass the votes received by them the same as in general elections, and declare the result, and shall on the same day make a statement in writing, setting forth the whole number of votes given for each office, the names of persons for whom such votes for each office were given, and the number of votes so given for each person; which statement shall be certified under the hands of the inspectors of such election district to be correct, and they shall deposit such statement and certificate on the day of election, together with the poll list and the register of electors and the boxes containing said ballots, with the board of inspectors of election of district numbered "one," who shall combine the reports from each district upon each question and proposition, and what persons were duly elected, and the result thereof shall be the official canvass of such village.

(245) § 3594. SEC. 13. The registration of electors shall be conducted in said village by the board of registration, thereof, in the same manner as above provided for the registration in township election districts, and where not so provided, then by existing laws for registration of electors, and all such persons appointed or elected as herein provided shall, before entering upon the duties of their office, make and subscribe the constitutional oath of office of this State, and said villages may provide for the payment of such officers.

(246) SEC. 14. The township board of any township which has been or may hereafter be divided into two or more election districts under the provisions of this act, may at any time abolish said division into election districts, and said action so abolishing said division into election districts shall be entered upon the records of said board, and subsequent elections in said township shall be conducted in the same manner as if no division of said township into election districts had ever been made: Provided however, That this act shall

not apply to divisions made by special act of the State legislature.

Added, 1901, act 21.

CHAPTER VI.—PRIMARIES IN CITIES.

An Act to provide for the holding of primaries in cities of not less than fifteen thousand inhabitants, and not over one hundred fifty thousand inhabitants, and to punish frauds thereon, and by delegates elected thereat, and the corruption and attempted corruption of such delegates.

[Act 135 of 1895.]

The People of the State of Michigan enact:

(247) § 3514. SECTION 1. That the word "primary" in this act shall be construed to mean an assemblage of voters of any political party duly convened for any of the purposes set forth in this act, and that the words "primary elections," as used in this act, shall be construed so as to embrace all elections held by any political party, convention, organization or delegation therefrom, for the purpose of choosing candidates for office, or for choosing delegates to any convention or conventions to be held by the party holding such primary, or for the purpose of electing officers of any political organization, convention or association.

How the word "primary" to be construed.

See sections 356-364 for the protection of primary elections and conventions.

(248) § 3515. SEC. 2. The primaries of any political parties in cities included in this act, shall be held by the several wards of each such city, and all the wards shall hold their primaries for the same party at the same time: Provided, That in any city whose population is fifty thousand and not more than one hundred and fifty thousand, such primaries may, by direction of the principal committee of any party organization in any such city, be held by the voting precincts of the several wards of said city. Any ward or precinct failing to hold its party primary at the time designated therefor, as provided in section three of this act, shall not be represented at the election or convention of its party, so far as relates to the special purpose for which such primary was called.

Primaries to be held in the different wards at the same time.

Proviso as to holding primaries in voting precincts.

In case ward fail to hold primary.

(249) § 3516. SEC. 3. The time for holding the primaries in any city shall be determined by the principal committee of the party having in charge the particular matter for which the primary is called. Notices of the time for holding said primaries shall be given by the city or ward committee of the respective parties in the same manner as provided in section nine of act three hundred and three of the session

Time of holding primaries.

Notice of time for holding.

laws of one thousand eight hundred and eighty-seven, as amended by act one hundred and seventy-five of the session laws of one thousand eight hundred and ninety-three.

The section above mentioned is section 364 of this compilation.

When council may provide booths.

(250) § 3517. SEC. 4. The common council of any city embraced in this act may, in their discretion, cause the election booths of their respective cities to be provided or erected within ten days after they shall have received notice from the chairman of any duly organized committee, whose duty it shall be to call the same, that the booths will be needed for holding a primary: Provided, That the chairman of such committee shall serve such notice upon the clerk or recorder of said city, at least twenty days before the time fixed for holding such primary.

Proviso as to notice on clerk.

Time of holding primaries in cities.

(251) § 3518. SEC. 5. The primaries in any city affected by this act and containing less than thirty thousand inhabitants shall be held between the hours of four and eight o'clock p. m., standard time. The primaries in any city affected by this act and containing more than thirty thousand inhabitants shall be held between the hours of two o'clock and eight o'clock p. m., standard time.

Am. 1899, Act 22.

Board of inspectors to preside at primaries.

(252) § 3519. SEC. 6. Each primary shall be presided over by a board of inspectors, which shall be composed of a chairman, who shall be a member of the ward committee of the party holding said primary, residing in the ward where the primary is held, and of two qualified voters chosen from the residents of said ward, and who shall belong to the party holding such primary. Each political party desiring to hold primary elections shall, at the first primary election after this act takes effect, elect a member of the ward committee and two inspectors of primaries for each ward or voting precinct, whose term of office shall be for two years. At the first primary held after this act takes effect, each political party shall choose two inspectors, and if there be no member of its ward committee, also a chairman of such committee, by a viva voce vote of the electors of the party holding such primary present at the opening of said primary. And if any member of such board of primary inspectors shall be absent, or for any reason be disqualified from sitting on the board of which he is a member, such vacancy shall be filled by a viva voce vote of the voters of the party holding such primary at the opening of the same.

Members of ward committee.

Two inspectors to be chosen.

Vacancy, how filled.

Who eligible to vote at primaries.

(253) § 3520. SEC. 7. No voter whose name does not appear on the registration list of the last preceding election, or when the committee of any party shall have adopted party registration and his name does not appear upon [such] each party registration books, shall be allowed to vote at any pri-

mary: Provided, If any qualified voter whose name does not appear on said registration list or on the adopted party registration, and who desires to vote at such primary, the chairman of the board of primary inspectors shall administer to him the following oath: "You do solemnly swear that you are a resident of this ward or voting precinct; that you reside at (here state the place of residence where said proposed voter claims to reside); that you have lived there more than ten days prior to this day; that you are a member of the (here name the party holding the primary); that you are a qualified voter of this State and of the United States, and that you have not voted at any other primary election in any other ward or voting precinct than this since last election, so help you God." If after taking the foregoing oath said voter shall be challenged on the ground that he is not a resident of said ward or voting precinct, the board of inspectors shall, before his vote is received, require him to produce before said board, some well known and reputable resident of said ward or voting precinct, who will make oath that he knows the person desiring to vote, the place of residence of said person, how long he has lived there, his occupation, and to answer such other questions as may be put to him concerning the qualifications of said applicant to vote at said primary. If from the oath of such person the board is satisfied that such applicant is a qualified voter and resident of said ward or voting precinct, said vote shall be received, otherwise it shall be rejected. Any person swearing falsely under the provisions of this section, upon conviction thereof before any court of competent jurisdiction, shall be subject to all the pains and penalties of perjury.

Proviso as to administration of oath.

In case voter challenged to produce proof as to qualification for voting.

When vote may be received

Penalty for false swearing.

TEN DAYS: Amendment of 1894 to the constitution changes the time of residence in ward, etc., from ten days to twenty days.

(254) § 3521. SEC. 8. Only qualified voters identified with the party or organization holding such primaries, and who shall be residents of the ward or precinct when such caucus or primary is held for ten days or more prior to the date of the holding of such caucus or primary, shall be permitted to vote thereat, and if any person shall be challenged on the ground that he is not a member of such party he shall be required to take the following oath, to be administered by any person authorized by law to administer oaths:

Who qualified to vote at primaries.

Persons challenged to take the following oath.

STATE OF MICHIGAN, }
COUNTY OF....., } ss.

I do solemnly swear that I am a (name of party or organization) and a resident of this ward for the last ten days, and am in sympathy with its aims and objects, and will support its principles and objects, so help me God.

(Signature).....

Sworn to and subscribed before me this.....day
of..... 189....

.....
Notary public (or other proper officer authorized to administer oaths),.....county,
Michigan.

Penalty for
false swearing.

If any person who takes the foregoing oath swears falsely he shall upon conviction thereof be subject to all the pains and penalties of perjury.

TEN DAYS: See note to previous section.

Challenged
voter to wait
until others
have voted.

(255) § 3522. SEC. 9. If at the time a person proposing to vote is challenged there are several persons waiting their turn to vote, said challenged person shall stand to one side until after unchallenged voters have had an opportunity to vote, when his case shall be taken up and disposed of: Provided, That if any person shall challenge a qualified voter, resident of such ward or voting precinct, well known as a member of the party or organization holding such primary, for the purpose of annoying or delaying voters, he shall be deemed guilty of a misdemeanor.

Proviso as to
malicious
challenge.

Two parties
not to hold
primaries on
same day

(256) § 3523. SEC. 10. No two parties or organizations shall call their primaries for the same day, and the chairman of each of the principal committees of the parties having in charge the primaries to be held for any stated purpose shall notify the city clerk or recorder of the time fixed for his party primaries within twenty-four hours after the same is determined, and such day shall be considered as secured to the party whose committee chairman has first given notification thereof.

Council to
cause political
parties to hold
primaries at
certain times.

(257) § 3524. SEC. 11. The common council of any city embraced in this act, may cause all of the different political organizations in any city where booths are provided by said city to hold their primaries within a given time, and shall provide suitable ballot boxes for said primaries.

Misdemeanor
to solicit
money from
candidates.

(258) § 3525. SEC. 12. If any voter shall solicit from any candidate for election at any primary, or from any other person, or shall receive, directly or indirectly, from such candidate or from any other person any money, or promise of place or position or any valuable consideration of any kind, for his vote or support at such primary, or for his attendance thereat, or if any person shall vote at more than one party primary, each held for the nomination of the same class

of officers or delegates before any one election, he shall be deemed guilty of a misdemeanor.

(259) § 3526. SEC. 13. Any person who shall hire any carriage or other conveyance, or cause the same to be done, for conveying voters, other than those physically unable to walk thereto, to any primary conducted hereunder, or who shall solicit any person to cast an unlawful vote at any primary, or who shall offer to any voter any money or reward of any kind, or shall treat any voter or furnish any entertainment to any voter, or shall promise any place or position for the purpose of securing such voter's vote, support or attendance at such primary or convention, or shall cause the same to be done, shall be deemed guilty of a misdemeanor.

Candidate influencing voter with money or reward of any kind deemed guilty of a misdemeanor.

(260) § 3527. SEC. 14. No delegate elected to any city or county convention shall give a proxy to represent him at such convention. All vacancies occurring in any delegation to any convention shall be filled by a majority vote of such delegation: Provided, That such delegation shall not be permitted to fill any vacancy which may occur in its number by any person not a resident of the ward from which such absent delegate was chosen, and any person not duly elected or chosen as hereinbefore set forth, who shall sit as a member of a delegation in any convention, or who shall secure his election thereto by the offer of any valuable consideration whatever, or by the promise of any reward, place or position, shall be deemed guilty of a misdemeanor.

Proxies not to be given delegation to fill vacancies.

Proviso as to delegation filling vacancies.

Who deemed guilty of a misdemeanor.

(261) § 3528. SEC. 15. Any delegate or member of any convention, or any other person who shall solicit any candidate for election or nomination before said convention for money, reward, position, place or preferment for his support in such convention, shall be deemed guilty of a misdemeanor.

When delegate deemed guilty of a misdemeanor.

(262) § 3529. SEC. 16. The board of inspectors shall cause the name and residence of each voter to be registered at any primary at the time of depositing his ballot: Provided, This section or act shall not preclude the city committee of any city coming within its provisions adopting rules before the holding of any such primaries that require party registration of the voters of such party in each ward, in books to be provided by such committee, such books to be used on the day on which the primaries are held; and when such rules have been adopted and registration had, then only the persons registered as party voters can vote at said primary election: Provided, That any person whose name does not appear on the books of party registration shall be allowed to vote upon taking the oath prescribed in section seven. Said registration, after the result has been declared, shall be deposited with and preserved by the city clerk.

Registration of voters.

Committee may make rules as to registration in ward books.

Proviso as to parties whose names do not appear on books.

(263) § 3530. SEC. 17. The delegates to a convention shall be elected by ballot and in the following manner: The inspectors shall provide suitable blanks of uniform size and color, not less than three by six inches, to be used as ballots,

Delegates to be elected by ballot.

and at each primary the names of all the delegates to be voted for shall be written or printed on one ballot, and no name shall appear more than once on the same ballot. The person receiving the highest number of votes shall be declared elected a delegate, the person receiving the next highest number of votes shall be declared the next delegate, and so on in like manner until the full number of delegates to which the ward or precinct is entitled shall have been declared elected, and the person receiving the highest number of votes at any primary for any ward office shall be declared the nominee of the party holding said primary for the particular office for which he has been named: Provided, That in election of delegates to a convention or in the election of a candidate for any ward office, if it shall appear on counting the votes polled at any primary that two or more persons have received an equal number of votes for the same office and that a failure to elect to any office is caused thereby, such persons shall proceed to draw lots for the election to said office in the following manner: The board of inspectors for the ward or precinct where such tie may occur, shall prepare as many slips of paper as there are such persons who have received the same number of votes, and write the word "elected" on as many slips of paper as there are offices to be filled, and the words "not elected" on the remaining slips, and fold the same so as to conceal the writing, and so that they may appear as nearly alike as possible. Said slips shall be placed in a box and each of such persons aforesaid, or in his absence some disinterested person acting for him, may draw one of said slips from the box and such person drawing a slip on which is written the word "elected" shall be deemed legally elected as representative or nominee of the party holding such primary for the office in question, and the board shall forthwith give him a certificate of such election.

In case of tie, candidates to draw lots with slips.

Manner of drawing slips.

How cities of certain population may conduct primaries.

What acts to remain in force.

Act to apply to cities having a certain population.

(264) § 3531. SEC. 18. The common council of any city of less than fifteen thousand population not embraced in this act may, by ordinance on confirmation of the voters of such city, conduct their primaries in the same manner as those cities embraced in this act under fifty thousand population.

(265) § 3532. SEC. 19. All the provisions of act three hundred three, of the session laws of one thousand eight hundred and eighty-seven, and of all acts amendatory thereto, shall remain and be in force in the cities embraced in the provisions of this act, and have the same force as in the State at large, except as to such matters as are herein specially provided for and applicable to such cities.

(266) § 3533. SEC. 20. This act shall apply to all cities of this State having a population of fifteen thousand and not more than one hundred and fifty thousand inhabitants; the population of said cities to be determined from the last federal or State census as the case may be.

(267) § 3534. SEC. 21. Any person found guilty of any offense defined in this act as a misdemeanor, shall, upon conviction thereof, be sentenced to pay a fine of not less than ten dollars nor more than five hundred dollars, or to be confined in the county jail not less than ten days nor more than six months, or both such fine and imprisonment in the discretion of the court. Penalty for violation of act.

(268) § 3535. SEC. 22. Any person who shall influence any voter, delegate, candidate or other person to violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and punishable as hereinbefore provided. Further penalty for violation of act.

CHAPTER VII.—TOWNSHIP ELECTIONS—DUTIES OF OFFICERS.

[Extract from Chap. 16, R. S. 1846.]

TOWNSHIP MEETINGS.

(269) § 2275. SEC. 8. The annual meeting of each township shall be held on the first Monday in April, in each year, and at such meeting there shall be an election for the following officers: One supervisor, one township clerk, one treasurer, one school inspector, one commissioner of highways, so many justices of the peace as there are by law to be elected in the township, and so many constables as shall be ordered by the meeting, not exceeding four in number. Annual township meetings, when held.

BOARD OF REVIEW: For election of this board, see section 317. Abels v. Supervisors, 42 / 526; Robinson v. Supervisors, 49 / 321; People v. Knight, 13 / 424; Hubbard v. Springwells, 25 / 153.

(270) § 2276. SEC. 9. Each of the officers named in the last preceding section, shall be chosen by ballot, and before proceeding to choose the officers hereinafter directed to be chosen at such meeting. Election by ballot.

As to the last clause, see section 300. INFORMAL BALLOT: When the law requires certain officers to be elected by ballot, there is and can be no such thing as an "informal" ballot.—Conrad v. Stone, 78 / 635.

(271) § 2277. SEC. 10. There shall also be elected at such meeting, to be chosen viva voce, or in such manner as the meeting may direct, one overseer of highways for each road district, and no elector except a resident in the district where the overseer is chosen or an elector of the township having taxable property in such district, shall vote for said overseer and as many poundmasters as the meeting may direct. Election of overseers of highways.

(272) § 2281. SEC. 11. Justices of the peace shall severally hold their offices for four years, except when elected to fill a vacancy in office occurring before the expiration of the Who not to vote. Poundmasters. Term of office of justices.

legal term of four years and when elected to fill such vacancy, they shall hold during the unexpired portion of such term: Provided, That when there shall have been no previous election and classification of justices of the peace in any township pursuant to the sixth article of the constitution of this State, the justices elected at such meeting shall be classed and divided by lot, respectively, for one, two, three, or four years, and shall severally hold their offices accordingly.

Each justice of the peace elected to fill vacancy, or for a less term than four years, shall take his oath within ten days; justices elected for full term shall qualify on or before July 4th after election.

BOND OF JUSTICES: See sections 2369-2373, C. L., 1897.

Term of office of commissioner of highways. (273) § 2282. SEC. 12. The commissioner of highways shall hold his office for one year, and until his successor shall be elected and qualified.

Term of office of school inspector. (274) § 2283. SEC. 13. Each school inspector elected as aforesaid shall hold his office for two years from that time and until his successor shall be elected and duly qualified, except

Vacancy. when elected or appointed to fill a vacancy, in which case he shall hold the office during the unexpired portion of the regular term: Provided, That in the year eighteen hundred and

Proviso. eighty-two one additional school inspector in each township shall be elected for the term of one year: Provided further,

Proviso. That the township superintendent of schools and school inspectors now in office shall continue to act as school inspectors and said superintendent of schools shall continue to act as chairman of the board of school inspectors until the school inspectors provided for by this act shall have been elected and duly qualified and shall enter upon the duties of their respective offices.

Term of office. (275) § 2284. SEC. 14. Each of the officers elected at such meetings, except justices of the peace and school inspectors, shall hold his office for the term of one year, and until his successor shall be elected and duly qualified.

Att'y Gen. v. Rice, 64 / 387.

Of officers elected to fill vacancies. (276) § 2285. SEC. 15. Each township officer elected at a special meeting to fill a vacancy, shall hold his office during the then unexpired portion of the regular term of the office, and no longer, unless again elected.

Meetings, where to be held. (277) § 2286. SEC. 16. The annual and special township meetings shall severally be held at the place in the township where the last annual township meeting was held, or at such other place therein as shall have been ordered at a previous meeting, or when there has been no such previous meeting, at such place as shall be directed in the act or proceedings by which the township was organized, unless it shall, in either case, become inconvenient to do so.

When place of meeting may be changed, and meeting adjourned. (278) § 2287. SEC. 17. Whenever it shall become inconvenient to hold a township meeting at the place designated therefor, the board of inspectors, or a majority of them, after

having assembled at, or as near as practicable to such place, and opened the meeting, and before receiving any votes, may adjourn said meeting to the nearest convenient place for holding the same, and at such adjourned place forthwith proceed with the meeting.

(279) § 2288. SEC. 18. Upon adjourning any township meeting, as provided in the last section, the board of inspectors shall cause proclamation thereof to be made, and shall leave a constable, or some other proper person, at the place where such meeting was opened, to notify all persons arriving at such place that the meeting has been adjourned, and the place to which it has been adjourned.

Proceedings on adjournment.

(280) § 2289. SEC. 19. Any annual or special meeting may, by a vote of the meeting, be adjourned to any other day, and from time to time, for the purpose of transacting any proper business of the township, except for the election of officers.

For what purposes meeting may adjourn.

(281) § 2290. SEC. 20. The first township meeting after the organization of any township, shall be held on the first Monday in April after its organization, and at such meeting there shall be an election for such officers as are by law to be elected at township meetings.

First meeting in township, when held.

(282) § 2291. SEC. 21. At the first township meeting in any township, the qualified electors present, between the hours of nine and ten o'clock in the forenoon, shall choose one of their number as moderator, one of their number as clerk, and two others of their number as inspectors, who shall severally take the oath of office prescribed by the twelfth article of the constitution, and shall conduct the proceedings of such meeting in all respects as other township meetings are required by law to be conducted, as near as may be, and with the same powers.

Proceedings at first meeting in township.

The twelfth article referred to is of the constitution of 1835, now, see section 50 *infra*.

(283) § 2292. SEC. 22. If the inhabitants of any newly organized township shall fail to hold their first township meeting on the day specified by law, any three qualified voters of such township may call a meeting of the electors of such township, for such township election, at any time thereafter, by posting up notices thereof in not less than three public places in such township, at least ten days previous to the holding of such meeting.

In case of failure, meeting, how called.

(284) § 2293. SEC. 23. At such first township meeting, the moderator shall administer the oath of office to the other inspectors, and either of the other inspectors, after having been so qualified, may administer the like oath to the moderator.

Who to administer oaths.

(285) § 2294. SEC. 24. Special township meetings may be held for the purpose of choosing officers to fill any vacancy that may occur, if the township board shall deem it expedient, and make their order therefor; and in case the said township

Special township meetings to fill vacancies, how held.

board become disorganized, or reduced below the number of a quorum, as provided by law, by, or through the death or removal of the officers composing the same, or from any other cause, then such special township meeting may be called and proceeded in, in all respects, as in the case of newly organized townships.

Special meeting for other purposes.

(286) § 2295. SEC. 25. Special township meetings shall also be held, for the purpose of transacting any other lawful business, when ordered by the township board, on a request to them in writing, signed by any twelve electors of the township, specifying therein the purposes for which such meeting is to be held; and the mode of proceeding at all special meetings shall be the same as at the annual meetings.

Loomis v. Rogers Twp., 53 / 142.

Orders for special meeting, what to specify.

(287) § 2296. SEC. 26. Every order for a special township meeting shall specify the purpose for which it is to be held, and the time when, and the place where it shall be held; and if any vacancies in office are to be filled at such meeting, such order shall state in what offices vacancies exist, how they occurred, and who were the last incumbents, and if the vacancy be in the office of justice of the peace, such order shall also state at what time the constitutional term of office will expire.

The record must show all statutory requirements to have been complied with.—Loomis v. Rogers Twp., 53 / 135.

Within what time after order, meeting to be held.

(288) § 2297. SEC. 27. The time appointed for holding any special township meeting shall not be more than twenty, nor less than fifteen days from the time of making the order therefor; and such order shall be left with the township clerk within two days after the making thereof, and shall be recorded in his office.

NOTICE: A special statute fixing a shorter time for a meeting for a particular purpose supersedes pro tanto the general law.—Miller v. Grandy, 13 / 540. See Crittenden v. Robertson, 13 / 61.

Clerk to give notice.

(289) § 2298. SEC. 28. The said clerk shall, within two days after such order shall be left with him, cause copies thereof to be posted up in three of the most public places in the township; and if there be a newspaper printed in such township, he shall also cause a copy to be published therein, if practicable, at least five days before the day appointed for such special meeting.

No notice of annual meeting.

(290) § 2299. SEC. 29. No notice of the annual township meetings shall hereafter be necessary.

MANNER OF CONDUCTING ELECTIONS.

Inspectors of election.

(291) § 2300. SEC. 30. At the election of officers required to be chosen by ballot at the annual township meet-

ing, the inspectors of election shall be the same as at the general election.

See sections 200-202 relative to conducting municipal and township elections.

(292) § 2301. SEC. 31. The township clerk shall be the clerk of the township meeting, and shall keep faithful minutes of its proceedings, and a correct list of the persons voting at the election, and he shall enter at length in his minutes every order or direction, and all rules and regulations made by such meeting.

Township clerk to keep minutes, etc.

(293) § 2302. SEC. 32. If the township clerk be absent, then such person as shall be appointed by the inspectors for that purpose shall act as clerk of the meeting, first taking an oath, to be administered by one of the inspectors, that he will faithfully perform the duties of his office according to the best of his ability.

When clerk of meeting to be appointed by inspectors.

(294) § 2303. SEC. 33. The polls of the election shall be opened at seven o'clock in the forenoon, or as soon thereafter as may be, and shall close at the hour of five o'clock in the afternoon, and the inspectors shall cause proclamation to be made upon opening the polls and shall also cause proclamation to be made of the closing of the polls one hour, thirty minutes and fifteen minutes, respectively, before the closing thereof.

Polls, when opened.

Am. 1903, Act 138.

(295) § 2304. SEC. 34. When the election is by ballot, the inspectors shall deposit the ballots in a box, to be constructed, kept and disposed of, as near as may be, in the manner prescribed in chapter five.

Ballots to be deposited in box.

Chap. 5 referred to is R. S. '46, which is superseded by the act of 1851, see section 94 et seque.

(296) § 2305. SEC. 35. The ballot shall be a paper ticket, with the names of the persons for whom the elector intends to vote, written or printed, or partly written and partly printed thereon; and shall designate the office to which each person so named is intended by him to be chosen; but no ballot shall contain a greater number of names as designated to any office, than there are persons to be chosen at such election to fill such office, and each ballot shall be so folded as to conceal the contents, and shall be delivered to one of the inspectors.

Ballots, what to contain, etc.

(297) § 2306. SEC. 36. If at any election there shall be one or more vacancies to be supplied, in the office of justice of the peace, school inspectors, or commissioners of highways, and at the same election, any such officer is to be elected for the full term, it shall be necessary to designate on the ballot the person or persons voted for to supply such vacancy or vacancies.

Designation of persons to fill vacancy.

Challenges.

(298) § 2307. SEC. 37. If any person offering to vote at such election, or upon any question arising at such township meeting, shall be challenged as unqualified by any inspector, or any elector entitled to vote at such meeting, the inspectors shall proceed thereupon in the manner prescribed in chapter five, in case of a challenge at the general election; and no person whose vote shall have been received upon such challenge, shall be again challenged upon any other question, arising at the same township meeting.

See note to section 295.

Authority to preserve order, etc.

(299) § 2308. SEC. 38. The inspectors or officer presiding, shall have the same authority to preserve order, to enforce obedience, and to commit for disorderly conduct, as is possessed by the board of inspectors at a general election.

Time of electing officers.

(300) § 2309. SEC. 39. At the hour of one o'clock in the afternoon, there shall be elected the other officers to be elected at such meetings and all business of such meetings requiring a viva voce vote, except that required by section eight of this chapter, shall be then transacted: Provided, That on all votes for the appropriation of any moneys, or for the raising of any taxes in said township, said votes shall be taken in such a manner that the moderator of such meeting may be able, and shall, upon demand, state the result of each of said votes, giving the number voting for and the number voting against each proposition so voted upon, all of which shall be duly recorded by the township clerk in the records of the proceedings of such meeting.

Proviso as to appropriation of moneys.

The section 8 referred to is section 269.

Questions upon motions, how determined.

(301) § 2310. SEC. 40. All questions upon motions made at township meetings, shall be determined by a majority of the electors voting; and the officer presiding at such meeting shall ascertain and declare the result of the votes upon each question.

CANVASS OF VOTES.

Canvass of votes and determination of result.

(302) § 2311. SEC. 41. The votes given by ballot shall be publicly canvassed by the inspectors, at the place where the meeting was held, and the result shall be read by the clerk to the persons there assembled; and such reading shall be sufficient notice to all persons elected at that election to any office, whose names are on the poll list as voters.

Ballots to be counted and compared with poll list.

(303) § 2312. SEC. 42. Before the ballots are opened, they shall be counted and compared with the poll list, and the like proceedings shall be had as to ballots folded together, and as to differences in number as are prescribed in chapter five.

See note to section 295.

(304) § 2313. SEC. 43. The canvass being completed, and the result ascertained, the inspectors shall draw up a statement in writing, setting forth, in words at full length, the whole number of votes given for each office, the names of the persons for whom such votes for each office were given, and the number of votes so given to each person, which statement shall be certified under the hands of the inspectors to be correct. Statement of result, etc.

(305) § 2314. SEC. 44. The inspectors shall also certify upon such statement, their determination of the persons elected to the respective offices, including as well those elected without ballot, as those elected by ballot; which statement and certificate of determination shall be left with the township clerk, and recorded in his office. Statement of determination to be certified and recorded.

Robinson v. Supervisors, 49 / 321.

(306) § 2315. SEC. 45. The persons having received the greatest number of votes given for any office at such election, shall be deemed and declared duly elected; and if two or more persons shall have received an equal number of votes for the same office, the inspectors of election shall determine the choice by lot, and shall declare and certify the same accordingly. Choice determined by lot.

People v. Molitor, 23 / 341.

TOWNSHIP OFFICERS.

(307) § 2316. SEC. 46. All officers, except justices of the peace, required to be elected at township meetings by ballot, shall, before entering upon the duties of their offices, and within ten days after notice of their election, respectively take and subscribe the oath of office prescribed by the twelfth article of the constitution, before the township clerk, or some other officer authorized to administer oaths, and file the same with the township clerk, who shall record the same; and such oath shall be administered without reward, and certified by the officer before whom the same was taken, with the date of taking the same. Oath of office.

Art. 12 referred to, is of the constitution of 1835, see section 50.

(308) § 2317. SEC. 47. Within two days after the election of any officers at a township meeting, the clerk shall transmit to each person elected to any township office, and whose name shall not have been entered on the poll list at such election as a voter, a notice of his election; and each overseer of highways and poundmaster elected at such meeting, shall, within ten days after notice of his election, file with the said clerk a notice in writing of his acceptance, and in default thereof he shall be deemed to have refused to serve. Clerks when to notify persons elected.

When justices
to enter upon
their duties.

(309) § 2318. SEC. 48. The persons so elected justices of the peace, shall enter upon the duties of their offices respectively, as follows:

1. Those elected for the full term of, four years, on the fourth day of July next succeeding their election;

2. Those elected to fill vacancies, and those elected at the first township meeting in any new township, immediately upon the filing of their oath of office and security with the county clerk, as required by law.

Hulbert v. Henry, 105 / 212.

Justices resid-
ing in new
townships.

(310) § 2319. SEC. 49. When a new township shall be organized, if there be one or more justices of the peace residing therein, they shall be deemed to have vacated their respective offices.

Classification
of justices

(311) § 2320. SEC. 50. Within six days after the election of justices of the peace in such new township, the supervisor shall give notice in writing to the justices elected, and to the township clerk, of the time and place when and where he will meet them, to determine by lot the classes of such justices; which notice shall be served at least six, and not more than twelve days, previous to the time appointed therein for such meeting.

Mode of decid-
ing term of
office.

(312) § 2321. SEC. 51. At the time and place so appointed, the supervisor and township clerk shall cause to be written on separate pieces of paper, as near alike as may be, the numbers one, two, three, four, or such and so many of such numbers as shall correspond with the number elected, and shall cause them to be rolled up as nearly alike as may be, and deposited in a box; and the persons elected justices shall severally draw one of the said pieces of paper, and each shall be classed according to the number written on the paper so drawn by him, and shall hold his office for the term as follows: The term of number one shall expire on the fourth day of July then next following, and the terms of the others on the fourth day of July in each succeeding year, respectively, according to the numbers drawn by them.

When super-
visor to draw
for absent
justices.

(313) § 2322. SEC. 52. If any person elected a justice shall neglect to attend such drawing, the supervisor shall draw for him; but if the supervisor be absent from his township, or unable to serve, or his office be vacant, the township clerk shall give the notice, and perform the duties herein enjoined on such supervisor.

Certificates of
classification
to be made
and recorded.

(314) § 2323. SEC. 53. Duplicate certificates of such drawing, and of the result thereof, shall be made and certified by the supervisor and township clerk, or such one of them as shall attend the same, one of which shall be filed with the township clerk, and the other with the county clerk, and shall be recorded by said clerks in the books in which the canvasses of votes shall have been recorded, and shall be conclusive evidence of the classes to which the justices so elected belong.

(315) § 2324. SEC. 54. In case more than one existing vacancy in the office of justices of the peace shall be supplied by election at any township meeting, the classes of the persons elected to fill the same shall be determined by lot, within the time, and in the manner prescribed for classifying justices elected in new townships. Classification in case of election to fill vacancies

(316) § 2325. SEC. 55. If any person elected to any township office, except that of justice of the peace, of whom an oath of office is required, who is not exempted by law from holding the office to which he is elected, shall not, within ten days after notice of his election, take and subscribe the oath of office required by law, and cause the same to be filed with the township clerk, or if any such officer of whom a bond or security shall be required, shall not file such bond or security within the time above limited for filing his said oath, he shall forfeit and pay the sum of ten dollars; and if any person elected to the office of overseer of highways or poundmaster, and not exempted by law from holding such office, shall refuse to serve, he shall forfeit and pay the like sum, unless the person selected shall file with the clerk of his township, within said ten days, a written notice stating that he declines accepting the office. Penalty for neglect to qualify.

THE BOARD OF REVIEW.

[Extract from Act 206 of 1893.]

(317) § 3851. SEC. 28. At the annual township meeting held on the first Monday of April in the year eighteen hundred and ninety-four, there shall be elected by ballot, on the regular township ticket, two tax-paying electors of the township, who shall be owners of land in said township, to serve as members of the board of review, one of whom shall be elected for one year and one for two years, and annually thereafter one member shall be elected for two years, who shall take the constitutional oath of office as other township officers. The supervisor and the two electors so elected shall constitute a board of review for such township. The township board may temporarily fill any vacancy which shall occur in said membership of said board of review, but no member of such township board shall be eligible to fill such vacancy. A majority of said board of review shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day and a majority vote of those present shall decide all questions. Board of review, election of.

Am. 1901, Act 129.

The above section is taken from an act providing for the assessment of property and collection of taxes, etc.

Who to constitute.

Vacancy, how filled.

Quorum, etc.

RESIGNATIONS, VACANCIES, AND SUPPLYING VACANCIES.

(318) § 2326. SEC. 56. Resignations of all officers elected at township meetings shall be in writing, signed by the officer How resignations made.

resigning, and addressed to the township board, and shall be delivered to and filed by the township clerk; and when a justice of the peace resigns, such clerk shall immediately transmit a copy of such resignation, certified by him, to the county clerk.

When office
to become
vacant.

(319) § 2327. SEC. 57. Every township office, including the office of justice of the peace, shall become vacant, upon the happening of either of the events specified in chapter fifteen, as creating a vacancy.

VACANCIES: See sections 399, 401, 405, 408.
Paw Paw v. Eggleston, 25 / 39; People v. Stellwagen, 33 / 1.

Temporary
appointments
in certain
cases to be
made by town-
ship board.

(320) § 2328. SEC. 58. Whenever there shall be a vacancy, or when the incumbent shall, from any cause, be unable to perform the duties of his office, in either of the township offices, except that of justice of the peace and township treasurer, the township board may make temporary appointments of suitable persons to discharge the duties of such offices respectively; and such persons, so appointed, shall take the oath of office, or file the notice of acceptance required by law, and shall continue to discharge such duties until the office is filled by election, or until the disability aforesaid be removed.

Bank v. St. Joseph, 46 / 528; Locke v. Highway Com'r, 107 / 633. A township temporarily represented by an appointed supervisor has the same voice upon the board that it had before the vacancy.—Peck v. Supervisors, 102 / 346.

When town-
ship treasurer
to be appoint-
ed by board.

(321) § 2329. SEC. 59. In case the treasurer of any township shall refuse to serve, or shall vacate his office before completing the duties thereof, or be disabled from completing the same, by reason of sickness or any other cause, the township board shall forthwith appoint a treasurer for the remainder of the term, who shall give like security, and be subject to like duties and responsibilities, and have the same powers and compensation as the treasurer in whose place he was appointed, and the township clerk shall immediately give notice thereof to the county treasurer; but such appointment shall not exonerate the former treasurer, or his sureties, from any liability incurred by him or them.

CERTAIN DUTIES OF TOWNSHIP CLERK RELATIVE TO ELECTIONS.

Minutes of
township
meeting.

(322) § 2339. SEC. 66. He shall transcribe in the book of records of his township the minutes of the proceedings of every township meeting held therein, and he shall enter in such book every order or direction, and all rules and regulations made by any such township meeting.

Harding v. Bader, 75 / 318.

(323) § 2340. SEC. 67. The township clerk of each township, and the city clerk of each city, shall, immediately after the qualifying of the several officers elected or appointed in their respective townships and cities, return to the clerks of their respective counties the names of all such officers, with their respective postoffice addresses: Provided, That the township clerk of the township of South Manitou, in the county of Manitou, may make such return at any time before the first day of June next after the election of such officers.

Clerks of townships and cities to make return of names, etc., of officers to county clerk.

(324) § 2341. SEC. 68. Each township clerk shall, immediately after the election of any justices of the peace in his township, transmit a written notice thereof to the county clerk, stating therein the names of the persons so elected, and the terms for which they were respectively elected; and if one or more of them has been elected to fill a vacancy, he shall state in such notice who was the last incumbent of the office.

To give notice of election of justices.

TOWNSHIP TREASURER.

(325) § 2353. SEC. 76. The township treasurer shall receive and take charge of all moneys belonging to the township, or which are by law required to be paid into the township treasury, including all moneys that may accrue to his township on account of non-resident highway taxes, and shall pay over and account for the same, according to the order of such township, or the officers thereof duly authorized in that behalf; and shall perform all such other duties as shall be required of him by law; but no person shall be eligible to the office of township treasurer for more than two years in succession.

Duties of treasurer.

Not to hold office more than two years in succession.

COMPENSATION TO TOWNSHIP OFFICERS.

(326) § 2374. SEC. 95. The following township officers shall be entitled to compensation at the following rates, for each day actually and necessarily devoted by them to the service of the township, in the duties of their respective offices, to be verified by affidavit, whenever required by the township boards:

Officers compensated.

First, The officers composing the township board, board of registration, board of health, inspectors of election, clerks of the poll, commissioners of highways and school inspectors, one dollar and fifty cents per day, and at the same rate for parts of days;

Second, The township clerk, as clerk of the board of commissioners of highways, of the township board, and of the board of school inspectors, one dollar and fifty cents per day, and at the same rate for parts of a day; but no township officer shall be entitled to pay for acting in more than one capacity at the same time.

Compensation
for other ser-
vices.

(327) § 2375. SEC. 96. For services not otherwise provided for by law, rendered to townships by township officers in the duties of their respective offices, the township board shall audit and allow such compensation as they shall deem reasonable.

Sawyer v. Goodman Co. v. Crystal Falls Twp., 56 / 597.

TOWNSHIP BUSINESS OTHER THAN ELECTIONS.

Moderator of
township
meeting.

(328) § 2376. SEC. 97. In the transaction of any business other than the election of officers in any township meeting, the supervisor, if present, shall be the moderator of the meeting; and if he shall not be present, any other of the inspectors of election, except the clerk, who shall be designated by the inspectors present, shall be the moderator; or the meeting, under the direction of the inspectors present, may elect viva voce, a moderator of the meeting.

Powers and
duties of
moderator.

(329) § 2377. SEC. 98. The moderator shall preside in, and regulate the proceedings of the meeting; he shall decide all questions of order, and make public declaration of all votes passed; and when any vote so declared by him shall immediately upon such declaration be questioned by seven or more of the voters, he shall make the vote certain by polling the voters, or dividing the meeting, unless the township shall, by a previous vote, or by their by-laws, have otherwise provided.

Idem.

(330) § 2378. SEC. 99. No person shall address the meeting before permission obtained of the moderator, nor while any other person is speaking by his permission; and all persons at such meeting shall be silent at the request of the moderator.

Disorderly
conduct at
township
meetings.

(331) § 2379. SEC. 100. If, at any township meeting any person shall conduct himself in a disorderly manner, and, after notice from the moderator shall persist therein, the moderator may order him to withdraw from the meeting, and on his refusal, may order the constables, or any other persons to take him into custody until the meeting be adjourned.

Penalty for
disregarding
order of
moderator.

(332) § 2380. SEC. 101. Any person who shall refuse to withdraw from such meeting, on being ordered by the moderator to do so, as provided in the preceding section, shall, for every such offense, forfeit a sum not exceeding twenty dollars.

QUALIFICATIONS OF VOTERS AND OFFICERS.

Who may
vote, chal-
lenges.

(333) § 2381. SEC. 102. Each inhabitant of any township, having the qualifications of an elector, as specified in the constitution of this State, and no other person, shall have a right to vote on all matters and questions before any township meeting, and when any person claiming the right to

vote shall be challenged by a voter, the moderator shall proceed in the same manner as on challenges at the election of township officers.

Mudge v. Stebbins, 59 / 165.

(334) § 2382. SEC. 103. No person except a citizen of the United States and an elector as aforesaid shall be eligible to any elective office contemplated in this chapter: Provided, however, That any female person of or above the age of twenty-one years, who has resided in this State six months and in the township twenty days next preceding any election, shall be eligible to the office of school inspector.

Who shall be eligible to hold office.

FIRST ELECTIONS IN TOWNSHIPS.

[Extract from Act 156 of 1851.]

(335) § 2489. SEC. 16. Whenever the board of supervisors shall erect a new township in any county, they shall designate the name thereof, the time and place of holding the first annual township meeting therein, and three electors of such township, whose duty it shall be to preside at such meeting, appoint a clerk, open and keep the polls, and exercise the same powers as the inspectors of election at any township meeting. And in case any of the three electors above mentioned shall refuse or neglect to serve, the electors of said township present at such meeting shall have power to substitute some other elector of such township for each one so neglecting or refusing to serve. Notice of the time and place of such meeting, signed by the chairman or clerk of the board of supervisors, shall be posted in four of the most public places in such new township, by the persons so designated to preside at such meeting, or by some person appointed by such board of supervisors for that purpose, and in each of the townships whose boundaries may have been altered by the erection of such new township, at least fourteen days before holding the same. They shall also fix the place for holding the first township meetings in the town or towns from which such new township shall be taken, which shall also be stated in the notice posted in such last named township; but nothing in this act shall affect the rights, or abridge or enlarge the term of office of any town officer except justice of the peace, in any such township; but such township officer other than justice of the peace, residing within the limits of such new township, shall continue to be such officer in such new township, till the expiration of the time for which he was elected, in the same manner as if originally elected therein; and the terms of office of all township officers except justices of the peace elected at such first township meeting, shall expire on the first Monday of April thereafter, or as soon thereafter as their successors are elected and qualified.

Proceedings and organization of new township by board of supervisors.

Notice of fixing township meeting.

Place of holding first township meeting.

Att'y Gen. v. Marr, 55 / 445.

CHAPTER VIII.—OFFENSES AGAINST ELECTION LAWS.

PENALTIES.

[R. S. 1846, Chap. 19.]

Punishment of officers for wilful neglect of duty.

(336) § 11437. SECTION 1. If any officer on whom any duty is enjoined by law, relative to general, special, township, or charter elections, or the canvassing or return of votes given at any election, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, he shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by fine not exceeding one thousand dollars, or imprisonment in the State prison not exceeding three years.

Wattles v. People, 13 / 449; People v. Swift, 59 / 543.
Information held good under this section, 105 / 169.

Punishment for bribing an elector, etc.

(337) § 11438. SEC. 2. If any person shall, by bribery, menace, or any other corrupt means or device whatever, either directly or indirectly, attempt to influence any elector in giving his vote, or deter him from, or interrupt him in giving the same, at any election held pursuant to the provisions of law, such person shall on conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or both, in the discretion of the court.

Punishment for illegal voting.

(338) § 11439. SEC. 3. Every person not a qualified voter, who shall, at any election, wilfully give in a vote for any officer then to be chosen; and every qualified voter who, at such election, shall vote or offer to vote in any township or ward in which he does not reside, or who shall vote or offer to vote more than once at the same election, either in the same or any other township or ward, or shall give in two or more votes folded together, shall, on conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or both, in the discretion of the court.

Penalty for counseling, etc., any person not qualified to vote.

(339) § 11440. SEC. 4. Every person who shall procure, aid or counsel any person not duly qualified to vote at the place where the vote is given or offered, to give or offer his vote at any such election, and every person who shall procure, aid, or counsel any person to go or come into any township or ward for the purpose of voting therein, at any election, knowing that such person is not duly qualified to vote in such township or ward, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished in the manner prescribed in the third section of this chapter.

McDade v. People, 29 / 55.

(340) § 11441. SEC. 5. Any person not duly authorized by law, who shall, during the progress of any election in this State, or after the closing of the polls, and before the ballots are counted, and the result ascertained, break open, or violate the seals or locks of any ballot box in which ballots have been deposited at such election, or who shall obtain undue possession of such ballot box containing such ballots, and conceal, withhold or destroy the same, or who shall fraudulently or forcibly add to or diminish the number of ballots legally deposited, and all persons aiding or abetting therein, shall be adjudged guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the State prison for a term not exceeding ten years, or by a fine not exceeding one thousand dollars.

Punishment
for violation
of ballot box,
etc.

Drennan v. People, 10 / 173.

(341). § 11442. SEC. 6. It shall be the duty of every inspector of elections, sheriff, constable, and justice of the peace, knowing, or having reason to believe that an offense punishable under the provisions of this chapter, has been committed, to cause the offender forthwith to be arrested, and to give information thereof to the prosecuting attorney without delay, and such prosecuting attorney shall adopt effectual measures for the punishment of all persons who shall violate the provisions of this chapter.

Duty of
sheriff, etc.

(342) § 11443. SEC. 7. It shall be the duty of all courts in this State, having cognizance of such offenses, at each term thereof to charge the grand jury to make presentment of all offenses committed within their respective counties, against any of the provisions of this chapter.

Courts to
charge grand
jury.

BETTING UPON ELECTIONS.

An Act to preserve the purity of elections.

[Act 172 of 1861.]

The People of the State of Michigan enact:

(343) § 11444. SECTION 1. That any person who shall, either directly or indirectly, bet, wager, or hazard any money or other property, upon the result of the election of any officer of this State, or of the United States, shall, on conviction thereof, be liable to a fine at least equal in amount to the amount of money or the value of the property so bet, wagered or hazarded: Provided, That in no case shall such fine be less than five, nor more than five hundred dollars.

Penalty for
betting on
election.

Buckley v. Saxe, 10 / 328.

BETTING UPON NOMINATIONS.

An Act to prevent betting upon the result of any political nomination, appointment or election.

[Act 175 of 1877.]

The People of the State of Michigan enact:

Selling pools on election, etc., prohibited

Penalty for wagering money.

Penalty for wagering money, etc.,

(344) § 11445. SECTION 1. That any person who shall keep any room or building for the purpose, in part or in whole, of recording or registering bets or wagers, or of selling pools upon the result of any political nomination, appointment, or election, and any person who shall record or register bets or wagers or sell pools on such result, or any person who shall wager any property, money, or thing exceeding one hundred dollars in value on such result, or shall keep or employ any device or apparatus for the purpose of registering or recording bets or wagers, or the selling of such pools, shall be deemed guilty of a misdemeanor, and shall on [upon] conviction thereof be punished by imprisonment in the county jail not more than one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment.

(345) § 11446. SEC. 2. Any person who shall wager any property, money or thing not exceeding one hundred dollars in value, or shall become the custodian or depository of any money, property, or thing of value, staked, wagered, or pledged, upon the result of any political nomination, appointment, or election, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by imprisonment in the county jail not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.

BRIBERY.

An Act to maintain political purity.

[Act 190. of 1877.]

The People of the State of Michigan enact:

Persons deemed guilty of bribery.

(346) § 11447. SECTION 1. That the following persons shall be guilty of bribery, and shall be punished accordingly:

First, Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend or agree to give or lend, or shall offer or promise any money or valuable consideration or promise or endeavor to procure any money or valuable consideration to or for any voter, or to

or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid, on account of such voter having voted or refrained from voting for any person, candidate or ticket at any public election in this State;

Second, Every person who shall, directly or indirectly, by himself or by any other person on his behalf give or procure, or agree to give or procure, or offer or promise any office, place or employment, or promise to procure or to endeavor to procure any office, place or employment to or for any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid, on account of any voter having voted or refrained from voting for any person, candidate or ticket, at any such election;

The offer or promise of office, etc

Third, Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any gift, loan, offer, promise, procurement, or agreement, as aforesaid, to or for any person, in order to induce such person to procure or endeavor to procure the election of any person to any public office in this State, or the vote of any voter at any such election;

The employment of others to corrupt voters.

Fourth, Every person who shall upon, or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure or engage, promise or endeavor to procure the election of any person or persons to any public office or offices in this State, or the vote of any voter at any such election;

Who shall receive gift, etc.

Fifth, Every person who shall advance, or pay, or cause to be paid any money to, or to the use of, any other person, with the intent that such money or any part thereof shall be expended in bribery at any such election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any such election.

Who shall advance money for bribery of a voter.

(347) § 11448. SEC. 2. Any person offending, according to the provisions of the preceding section, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of two hundred dollars; but the bona fide payment by any candidate for office or other person for the fair and reasonable cost of printing tickets and slips or posters, and of advertising in the newspapers or by posters any political meeting, and the reasonable and bona fide expenses of holding such meetings and procuring speakers, and getting out the people to the same, of obtaining and distributing papers and tickets and of bringing voters out to the polls, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this act.

Penalty for violating preceding sections.

Legitimate election expenses.

(348) § 11449. SEC. 3. The following persons shall also be deemed guilty of bribery and on conviction thereof shall be punished as prescribed in the preceding section:

Others deemed guilty of bribery.

Person who offers to vote or refrain from voting for money, etc.

First, Every voter who shall before or during any election, directly or indirectly, by himself or by any other person on his behalf, ask, solicit, receive, agree or contract for any money, gift, loan or valuable consideration, office, place, or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for any person, candidate, or ticket at any public election in this State;

Person who after election receives money, etc.

Second, Every person who shall after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting for any person, candidate, or ticket at any such election.

When candidates shall not provide refreshments.

(349) § 11450. SEC. 4. No candidate for any public office shall corruptly, by himself, or by or with any person, or by any other way or means on his behalf, at any time, either before or during an election, directly or indirectly give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat, drink, refreshment, or provision to or for any person, in order to be elected, or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election; and every person so offending shall be deemed guilty of corrupt practice, and on conviction thereof shall be fined not less than twenty-five or more than two hundred dollars.

Penalty.

When others shall not provide refreshments, for purpose of corrupting voter.

(350) § 11451. SEC. 5. The giving or causing to be given to any voter on any election day, on account of such voter being about to vote, or having voted, any meat, drink, or refreshment, or any money or ticket to enable such voter to procure refreshment, shall be deemed a corrupt practice, and persons convicted thereof shall be punished as provided in the preceding section.

Intimidation of voter.

(351) § 11452. SEC. 6. Any person who shall directly or indirectly discharge or threaten to discharge any person who may be in his employ for the purpose of influencing his vote at any election in this State, and any priest, pastor, curate or other officer of any religious association or society, who shall impose or threaten to impose any penalty of excommunication, dismissal or expulsion, or who shall command or advise, under pain of religious disapproval for the purpose of influencing any voter at an election in this State, shall be deemed guilty of corrupt practice, and on conviction thereof shall be punished as provided for in section four of this act.

Penalty.

Election of candidate who commits bribery void.

(352) § 11453. SEC. 7. If any candidate for any public office at any election in this State shall commit bribery, or any corrupt practice, as defined in this act, the election of such candidate, if he has been elected, shall be void, and if he

shall enter into the office for which he was elected, an information in the nature of a quo warranto to oust him from such office, may be filed in the supreme court, or the proper circuit court, under chapter two hundred and twenty-five of the compiled laws of eighteen hundred and seventy-one: Proviso. Provided, Such bribery or corrupt practice shall be proved by at least two witnesses.

Chap. 225 referred to is Chap. 275, C. L., 1897.

(353) § 11454. SEC. 8. Any person who shall, directly or indirectly, by himself, or by any other person on his behalf, offer or promise any office, place or employment under the government of the United States, or promise to procure, or to endeavor to procure any such office, place or employment, to or for any member of the legislature, or to or for any other person, in order to induce such member of the legislature to vote or refrain from voting for any person for the office of United States senator from this State, or shall corruptly do any such act as aforesaid, on account of any member of the legislature having voted or refrained from voting as aforesaid, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison for a period not exceeding five years, or by a fine not exceeding one thousand dollars. Attempt to corrupt vote of legislator for United States senator, by offer of office, deemed felony. Penalty.

(354) § 11455. SEC. 9. It shall be unlawful for any person to sell, barter, or give away any spirituous, vinous or malt liquors, on the day of any election held within this State, under the constitution or laws thereof; and it shall be the duty of all mayors of cities, presidents of villages, and supervisors of townships, within five days previous to the days of election as aforesaid, to issue a proclamation, warning the inhabitants of the provisions of this act, and that all violations of the same will subject the offender to prompt and speedy punishment, and requiring sheriffs, marshals, constables, and police officers, to close, and it shall be the duty of such officers to close all houses or places found violating the provisions of this act, and to report forthwith all violations of this act, to the prosecuting attorney and mayor, president or supervisors aforesaid, and whose duty it shall be to immediately prosecute such violations of this act. Any person who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, and costs of prosecution, and on failure to pay such fine and costs, shall be imprisoned in the county jail not less than ten days, nor more than ninety days, or both such fine and imprisonment, in the discretion of the court. Spirituous liquor, sale of on election day prohibited. Penalty for sale of.

(355) § 11456. SEC. 10. It shall be deemed a violation of this act and of the preceding section to sell, barter, or give away spirituous, vinous or malt liquors on any election day after the hour at which, by law, the polls are closed. Unlawful to sell liquor after polls close.

PROTECTION OF PRIMARIES AND CONVENTIONS.

An Act to protect primary elections and conventions of political parties and to punish offenses committed thereat.

[Act 303 of 1887.]

The People of the State of Michigan enact:

Certain actions a misdemeanor.

(356) § 11457. SECTION 1. If at any political primary election held by any political party, organization or association in this State, any person shall falsely personate and vote under the name of any other person, or shall intentionally vote without the right to do so at such primary, or shall fraudulently and wrongfully conceal or destroy ballots cast, or in any manner intentionally and wrongfully deposit ballots in the ballot box, or take them therefrom, or shall commit any other fraud or wrong, tending to defeat or affect the result of the election, he shall be deemed guilty of a misdemeanor.

Oath of inspectors, etc., who to administer.

(357) § 11458. SEC. 2. The presiding officer and inspectors at any such election shall, before entering upon their duties, severally sign and swear to an oath in the form now required of inspectors at general elections, said oath to be taken before the clerk of the township, village or city in which such election is held, or an alderman of the ward in which said election is held, or any notary public, or any other person qualified under the State to administer an oath. The vote or ballot of any person offered at such election shall, upon challenge by any lawful voter thereat, be rejected, unless he be sworn as to his qualifications as such voter; and the presiding officer or any inspector of such primary is hereby empowered, and it shall be his duty, to administer an oath to such person and to any other persons offering to vote, as he may deem advisable, to the effect that he will true answers make to such questions as shall be put to him touching his qualifications as a voter and his right to vote. He may then be examined as to such qualifications and right to vote. If he shall swear to the necessary qualifications of a voter, as prescribed by the regulations of the association or political organization holding the primary or convention, his vote shall be received. If the person so sworn and examined shall intentionally swear falsely as to his qualifications as a voter he shall be deemed guilty of perjury, and shall on conviction, be punished as now prescribed by law for the crime of perjury.

Challenge of voters.

Who to administer oath.

When vote to be received.

Penalty for false swearing.

Am. 1899, Act 198.

Certain acts of inspectors, etc., a misdemeanor.

(358) § 11459. SEC. 3. If any person acting as inspector, teller or canvasser at any such primary election shall knowingly receive the vote of any individual who shall have

been challenged, or who is known to him not to be entitled by the regulations of the association holding the primary election to vote at such primary, unless the same shall be first sworn in as aforesaid, or shall in any manner fraudulently and wrongfully deposit or put any ballots into, or take any from the ballot box of said primary election, or shall fraudulently and wrongfully mix any ballots with those cast at said primary election, or shall knowingly make any false count, canvass, statement, certificate or return of the ballots cast or vote taken at any such primary election he shall be deemed guilty of a misdemeanor.

After several ineffectual attempts to elect a temporary chairman of a nominating convention, a like number of votes being cast for each of the opposing candidates, the vote of one of the delegates was challenged on the ground that the vote in the caucus at which he claimed to have been elected was a tie, and that thereupon the matter was determined between the contesting candidates as follows: A bystander drew from his pocket a handful of coins, and the candidates made their choice of odd or even, and a counting of the coins resulted in favor of the sitting delegate. The chair thereupon appointed a committee on credentials, who reported that the sitting delegate was not entitled to his seat in the convention. And it is held that the appointment of such committee was proper and that their determination is fully sustained by authority.—Beck v. Election Commissioners, 103 / 192.

(359) § 11460. SEC. 4. If any person elected a delegate at any such primary or convention shall accept or receive any money or valuable thing as a consideration for his vote as such delegate he shall be [deemed] guilty of a misdemeanor. Certain acts of delegate a misdemeanor.

(360) § 11461. SEC. 5. The words "primary election," as used in this act, shall be construed so as to embrace all elections held by any political party, convention, organization or association, or delegates therefrom, for the purpose of choosing candidates for office or the election of delegates to other conventions, or for the purpose of electing officers of any political party, organization, convention or association. "Primary election," how construed.

(361) § 11462. SEC. 6. No person shall be entitled to vote at any primary election unless of the age of twenty-one years and a duly qualified elector of the State. Who may vote.

(362) § 11463. SEC. 7. The punishment of any of the offenses in this act declared to be misdemeanors shall be a fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both such fine and imprisonment, in the discretion of the court. Punishment for offenses.

(363) § 11464. SEC. 8. No primary election shall be held in a saloon, bar room, or in any place adjacent to a room or place where intoxicating liquors are sold. Polling places at primary elections may be so arranged that the ballots may be received through an open window, but where the polling or ballot box is inside the room shall be sufficiently large to admit a reasonable number of persons in addition to the inspectors, clerks and challengers. Primary election not to be held in saloon, etc.

(364) § 11465. SEC. 9. Primary elections known as caucuses for the nomination of candidates for local offices and for the appointment of delegates to conventions, shall be made to Caucuses, time.

Notice of.

begin at two o'clock in the afternoon and to continue until eight o'clock in the evening, and at least five days' notice thereof shall be given by publication in one or more daily newspapers in places where such papers are published, and in other cases by posting up notices in at least three public places in the precinct for which the primary election is to be held. The manner of voting at such elections shall be by ballot: Provided, That so much of this section as relates to the hours during which primary elections shall be held, and the manner of voting thereat, shall be applicable only in cities having twenty-five thousand inhabitants and over, as by the last preceding federal or State census.

Proviso.

PURITY OF CONVENTIONS.

An Act to provide for the purity of political conventions and to provide against corruption therein.

[Act 203 of 1895.]

The People of the State of Michigan enact:

Delegates to state political convention, etc., not to give a proxy.

Vacancies in delegation, how filled.

Proviso as to filling delegations.

Soliciting or promising reward, etc., by member of convention a misdemeanor.

(365) § 11466. SECTION 1. That no delegate elected to any city, county, congressional or State political convention shall give a proxy to any person to represent him at such convention, and no person shall receive a proxy from any regularly elected delegate to any such political convention. All vacancies occurring in any delegation to any such convention shall be filled by a majority vote of such delegation; if in a city or county convention, of the delegation from the ward or township; if in a congressional or State convention, by a majority vote of the delegation from the county: Provided, That in a city or county convention the delegation shall not be permitted to fill the vacancy which may occur in its number by any person not a resident of the ward or township from which such absent delegate was chosen and represented by such delegation, and that in a congressional or State convention such delegation shall not be filled by any person not a resident of the county from which such absent delegate was chosen, and any person who shall violate any provisions of this section shall be deemed guilty of a misdemeanor.

(366) § 11467. SEC. 2. Any delegate or member of any such convention who shall solicit any candidate for nomination before such convention, for money, reward, position, place or preferment for his support in such convention, or any candidate or other person who shall promise any such delegate money, reward, position, place or preferment for his support, or vote, in such convention, in favor of any candidate, shall be deemed guilty of a misdemeanor.

(367) § 11468. SEC. 3. Any candidate or person who shall pay either money or other valuable consideration, or offer to pay money or valuable consideration, or the expenses of any delegate or member to or at any such convention that may be incurred, as an inducement or for the purpose of securing the vote of any such delegate in favor of or against any candidate that may come before such a convention, shall be deemed guilty of a misdemeanor. Other misdemeanors.

(368) § 11469. SEC. 4. Any person found guilty of any offense defined in this act as a misdemeanor shall, upon conviction thereof, be sentenced to pay a fine of not less than twenty-five dollars nor more than five hundred dollars, or to be confined in the county jail not less than ten days nor more than six months, or both such fine and imprisonment in the discretion of the court having jurisdiction thereof. Penalty for violation of act.

DISTURBANCES.

[Extract from R. S. 1846, Chap. 158.]

(369) § 11709. SEC. 20. If any person shall make or excite any disturbance or contention in any tavern, store or grocery, street, lane, alley or highway, or at any election, or other public meeting where citizens are peaceably and lawfully assembled, he shall be deemed guilty of a misdemeanor, and upon conviction before any justice of the peace, or police justice, be punished by fine not exceeding twenty-five dollars, or imprisonment in the county jail not more than ninety days, or by both such fine and imprisonment, in the discretion of the court or magistrate. Exciting disturbance at election, etc.

Ware v. Judge, 75 / 495.

CLOSING OF SALOONS.

[Extract from Act 313 of 1887.]

(370) § 5395. SEC. 17. All saloons, restaurants, bars, in taverns or elsewhere, and all other places, except drug stores, where any of the liquors mentioned in this act are sold, or kept for sale, either at wholesale or retail, shall be closed on the first day of the week, commonly called Sunday, on all elections days, on all legal holidays, and until seven o'clock of the following morning, and on each week day night What days and hours saloons, etc., shall be closed.

Officers to
close all
saloons, etc.,
found open.

Proviso.

Punishment
for violation.

from and after the hour of nine o'clock until seven o'clock of the morning of the succeeding day. And it shall be the duty of sheriffs, marshals, constables and police officers to close all saloons, houses or places that shall be found open in violation of the provisions of this section, and to report forthwith all such violations to the prosecuting attorney, whose duty it shall be to immediately prosecute for such violations. The word "closed" in this section shall be construed to apply to the back door or other entrance as well as to the front door. And in prosecutions under this section it shall not be necessary to prove that any liquor was sold: Provided, That in all cities and incorporated villages the common council or board of trustees, or council may, by ordinance, allow the saloons and other places where said liquors shall be sold to open at six o'clock in the forenoon and to remain open not later than eleven o'clock in the afternoon and no longer of of this section shall be deemed guilty of a breach of the peace any week day night, except on election days and holidays. Any person found in the act of violating any of the provisions and punished accordingly; and the arrest therefor may be without process, and this punishment shall be taken to be in excess of all other manner of punishment in this act provided for a violation of the provisions of this section. All officers authorized to make arrests for a breach of the peace shall have like power to make arrests under the provisions of this section as in other cases of a breach of the peace.

SHALL BE CLOSED: The meaning of the term "closed" is, that the sales at least shall be entirely stopped and the traffic shut off effectually, so that drinking and the conveniences for drinking shall be no longer accessible, and those who frequent saloons for that purpose shall be dispersed.—*Kurtz v. People*, 33/281. The person who engages in the business of carrying on a saloon must at his peril see that no necessity exists for keeping the same open, by carrying on any other business therein, which would require the doors to be open, or for persons to enter therein.—*People v. Waldvogel*, 49/338; *People v. Blake*, 52/568; *People v. Roby*, 52/577; *People v. Minter*, 59/558. A saloon cannot be opened on such a day even for the purpose of cleaning it.—*People v. Waldvogel*, 49/337; *People v. Roby*, 52/577; *People v. Higgins*, 56/163. And if any outsider has access for any purpose, for no matter how short a time, the law is violated.—*People v. Higgins*, 56/159. A saloon is not closed, so long as it is possible for persons desiring liquor to get in peaceably, by any entrance, or so long as any customer who is inside at the time for closing remains inside; and it is not important that there is no one attending the bar, if the liquor is accessible.—*People v. Cummerford*, 58/328.

SALOON: Three rooms opened into one another and the rear one had an outer door. A bar was in the front room and the back ones were used for card playing and drinking. Between the front and back rooms was a hole in the wall. Held, that the saloon included the three rooms.—*People v. Higgins*, 56/159. See, also, *People v. Scranton*, 61/244. If a saloon-keeper connects his living rooms with his saloon proper and permits the free passage of customers back and forth, sometimes serving liquors in his living rooms, the whole will be considered a saloon.—*People v. Cox*, 70/247; *People v. Talbot*, 120/486.

SALE NOT NECESSARY: The purpose of the statute is to prevent the sale of liquors on holidays in any place of resort for refreshments.—*People v. Hobson*, 48/27. The object is not merely to punish the sale, but to remove the danger that advantage might be taken of the saloon's being open to sell clandestinely what, on other days, is sold openly.—*People v. Beller*, 73/641. Therefore an actual sale of liquor is not necessary to constitute an opening under the law.—*People v. Cummerford*, 58/328; *People v. Robbins*, 70/130; *People v. Cox*, 70/247; *People v. Hughes*, 86/184.

BREACH OF THE PEACE: The provision allowing officers to close, on their own determination, places of sale and to arrest parties without process as for a breach of the peace, is unconstitutional.—*Robison v. Miner*, 68/549; *People v. Rohrer*, 111/31.

CHAPTER IX.—COUNTY OFFICERS.

ELECTION AND QUALIFICATION.

COUNTY TREASURER.

(371) § 2534. SEC. 35. The county treasurer shall be elected at the general election for the term of two years, and shall be incapable of holding the office of county treasurer longer than four in any period of six years. He shall give a bond for the faithful and proper discharge of the duties of his office, as hereinafter directed.

County treasurer elected for two years; to give bond.

Rice v. Shay, 43 / 380.

(372) § 2537. SEC. 38. In case the office of county treasurer shall become vacant, or in case the treasurer, from any cause, shall be incapable of discharging the duties of his office, the board of supervisors may, if in their opinion the interests of the county require it, by writing under their hands, select a suitable person to perform the duties of the treasurer; and such person so selected, upon giving such bond for the faithful performance of the duties of the office as the said board shall direct, may perform such duties until such vacancy shall be filled, or such disability be removed.

Office, how supplied, in case of vacancy, etc.

Hunt v. Buhner, 133 / 115.

(373) § 2538. SEC. 39. No person holding the office of prosecuting attorney, judge of a county court, county clerk, supervisor, or sheriff, shall hold the office of county treasurer.

Who not to be treasurer.

JUDGE OF PROBATE.

(374) § 2549. SEC. 51. The judge of probate for each organized county shall be elected at the general election, for the term of four years, and shall have possession of the seal, records, books, files, and papers belonging to the court of probate, and shall keep a record of all orders, decrees and other official acts made or done by him, which record may be inspected by all persons interested without charge.

Judge of probate to be elected for four years.

Election to fill vacancy in office of.—Secord v. Foutch, 44 / 89; People v. Palmer, 91 / 283.

Probate judges are in no sense county officers.—Douvillie v. Manistee Supervisors, 40 / 585.

COUNTY CLERKS.

(375) § 2570. SEC. 61. The county clerk in each organized county shall be elected at the general election, for the term of two years, and shall give a bond to the people of the State, in the penal sum of two thousand dollars, to be approved by the circuit judge, for the faithful discharge of the duties of his office.

Election, term of office, and bond.

Clerk to transmit list of justices to secretary of state.

(376) § 2575. SEC. 66. The clerk of each county shall transmit to the secretary of state annually, within one week after the fourth day of July, a list, certified by him, of all justices of the peace of the county, stating the time of their respective elections and their terms of service, their postoffice addresses, and whether elected to fill a vacancy, and if so, what vacancy; and whenever the county clerk shall receive information of the death, removal, or resignation of any justice of the peace of his county, it shall be his duty, forthwith, to notify the secretary of state of such vacancy; he shall also annually, immediately after receiving from the township and city clerks of his county the names and postoffice addresses of the township and city officers, transmit to the secretary of state the names and postoffice addresses of the several township and city clerks and supervisors, with the name of the township or city for which they are such clerks and supervisors set opposite their respective names.

Also of township and city clerks and supervisors.

SHERIFFS.

When sheriff elected; term of office; bond.

(377) § 2577. SEC. 68. The sheriff of each organized county shall be elected at the general election, for the term of two years, and shall give bond to the people of this State in the penal sum of ten thousand dollars, and with such sufficient sureties, not less than three in number, as the judge of the circuit court, or the county judge shall approve.

People v. Mayworm, 5 / 146; Lamoreaux v. Att'y Gen., 89 / 147.

CORONERS.

Two coroners to be elected in each county.

(378) § 2607. SEC. 86. Two coroners shall be elected for each of the organized counties of this State, at the general election, for the term of two years, who shall give bond to the people of this State, in such penal sum, and with such sufficient sureties as the judge of the circuit court or the county judge, shall direct and approve, the condition of which bond shall be in substance the same as that to be given by the sheriff, varying only in the description of the office.

People v. Cicott, 16 / 283.

REGISTER OF DEEDS.

Election of

(379) § 2610. SEC. 89. The register of deeds for each organized county shall be elected at the general election, for the term of two years, and shall give bond to the people of this State in the penal sum of three thousand dollars, with two sureties to be approved by the county treasurer, the condition of which shall be, that he shall faithfully and impartially discharge the duties of his office.

(380) § 2614. SEC. 93. If, during a vacancy in the office of the register of deeds, or his absence or inability to perform the duties of his office, there shall be no deputy register, or if such deputy be unable from any cause to perform the said duties, the judge of probate of the county may, by writing under his hand, appoint some suitable person to perform the duties of register of deeds for the time being, who shall take an oath of office, and give such bond as the said judge shall direct and approve.

When judge to appoint person to perform duties of register.

See section 409.

COUNTY SURVEYOR.

(381) § 2617. SEC. 95. The county surveyors for each organized county shall be elected at the general election, for the term of two years, and shall give bond to the people of this State, in the penal sum of two thousand dollars, with two sureties to be approved by the county treasurer, conditioned for the faithful and impartial discharge of the duties of his office.

Election of.

FILING OATHS AND BONDS BY COUNTY OFFICERS.

(382) § 2641. SEC. 118. Each of the officers named in this chapter, except notaries public and prosecuting attorneys, shall, before entering upon the duties of his office, and within twenty days after receiving official notice of his election, or within twenty days after the commencement of the term for which he was elected, take and subscribe the oath of office prescribed by the constitution of this State, before some officer authorized by law to administer oaths, and deposit the same with the clerk of the proper county, who shall file and preserve the same in his office.

Certain officers to take oath, etc.

FORM OF OATH: See section 50.

(383) § 2642. SEC. 119. Each of the said officers of whom a bond shall be required by law, except the said treasurer, before entering upon the duties of his office, and within the time limited in the last preceding section for depositing his oath, shall deposit his bond with the said treasurer, who shall file and preserve the same in his office; and the said treasurer; before entering upon the duties of his office, and within the time limited in the preceding sections for depositing his oath, shall deposit his bond with the clerk of the county, who shall file and preserve the same in his office.

Official bonds when to be deposited with county treasurer.

Detroit v. Weber, 26 / 284; People v. Johr, 22 / 461. An officer who is himself a surety on the bond cannot approve it.—Stevenson v. Bay City, 26 / 44; Gallery v. Bank, 41 / 172.

(384) § 2645. SEC. 122. Whenever the governor shall appoint a prosecuting attorney, the secretary of state shall transmit his commission to the clerk of the county for which

Commission of prosecuting attorney to be transmitted.

Clerk to give notice.

Person appointed to take oath before clerk.

Term, when to commence.

such prosecuting attorney was appointed, and the county clerk, on receiving such commission, shall immediately give notice thereof to the person so appointed.

(385) § 2646. SEC. 123. The person so appointed shall, before entering upon the duties of his office, and within twenty days after receiving notice of his appointment, appear before the county clerk, and take and subscribe the oath of office prescribed by the constitution, and file the same with the clerk, who shall thereupon deliver to the person so appointed the commission received by him for such person, and shall thereupon give notice to the secretary of state of the filing of such oath, and of the time of filing the same.

(386) § 2647. SEC. 124. The regular terms of office of the several county officers elected at the general election shall commence on the first day of January succeeding their election, but those elected at the general election, or at a special election, to fill vacancies, may qualify and enter upon the execution of their offices immediately after being notified of their election.

See section 54.

CIRCUIT COURT COMMISSIONERS.

An Act relative to circuit court commissioners, their election, powers, and duties.

[Extract from Act 204 of 1881.]

The People of the State of Michigan enact:

Election

(387) § 1064. SECTION 1. That there shall be elected at the next general election to be held in this State, and every two years thereafter, one circuit court commissioner in each of the organized counties, who shall enter upon the discharge of their official duties on the first day of January succeeding their election, and shall hold their offices two years, and be vested with judicial powers not exceeding those of a judge of the circuit court at chambers: Provided, That in each county in this State wherein any census taken by the authority of this State, or of the United States, shall show a population of twenty thousand or more, there shall be elected at the general election next succeeding the taking of such census, and every two years thereafter, two such circuit court commissioners.

Proviso.

County canvassers to designate which person to succeed to office.

(388) § 1065. SEC. 2. Whenever, in any county, two circuit court commissioners shall have been elected, it shall be the duty of the board of county canvassers to designate which of the persons so elected shall succeed to the office theretofore held by each circuit court commissioner: Provided, That if in any case the said board of county canvassers shall neglect or refuse to make such designation it may be made

by the circuit judge of the judicial circuit of which such county constitutes the whole or a part.

(389) § 1066. SEC. 3. No person shall be elected a circuit court commissioner unless he be at the time an attorney ^{Must be attorney.} and counselor at law of the supreme court.

(390) § 1067. SEC. 4. Every circuit court commissioner, ^{Oath of office.} before he shall enter upon the duties of his office, shall take and subscribe the oath of office prescribed by the constitution of this State, before some judge or clerk of a court of record, and cause the same to be filed by him in the office of the county clerk of his county.

(391) § 1080. SEC. 17. Each circuit court commissioner, ^{Bond.} before entering on the performance of the duties by this act prescribed, shall execute a bond to the people of this State, with sufficient surety or sureties to be approved by the circuit judge or clerk of his county, conditioned for the faithful performance of the duties required of him by this act, in the penal sum of not less than three thousand nor more than five thousand dollars, in the discretion of the circuit judge or county clerk by whom the same may be approved; said bond, when approved, shall be filed with the county clerk of the proper county.

(392) § 1090. SEC. 27. Whenever a vacancy shall occur, ^{Vacancy, how filled.} for any cause, in the office of circuit court commissioner of any county, the governor may fill such vacancy by the appointment of a person eligible to such office, who shall, upon taking the official oath and executing and filing the bond, as provided in section seventeen of this act, be authorized and required to discharge all the duties of circuit court commissioner, and shall be liable to all the provisions of law touching said office, and shall hold the same until his successor shall be duly elected and qualified.

COUNTY COMMISSIONER OF SCHOOLS.

[Extract from Act 147 of 1891.]

(393) § 4809. SEC. 2. There shall be elected at the election held on the first Monday in April, nineteen hundred three, and every fourth year thereafter, in each county, one commissioner of schools, whose term of office shall commence on the first day of July, next following his or her election, and who shall continue in office four years, or until his or her successor shall be elected and qualified. The county commissioner of schools elected under the provisions of this section shall file with the county clerk, for the county for which he or she is elected, his or her oath of office and bond, the same as provided in section one of this act, and the county clerk shall make the same report to the superintendent of public instruction in all respects as provided in section one of this ^{Commissioner of schools, when elected, term, etc.} ^{To file oath and bond}

Proviso, as
to Chippewa
county.

act: Provided, That in the county of Chippewa the commissioner of schools heretofore elected on the first Monday in April, nineteen hundred three, shall hold office until the first day of January, nineteen hundred nine, or until his successor shall be elected and qualified. Hereafter, in the said county of Chippewa, a commissioner of schools shall be elected at the general election to be held in November, nineteen hundred eight, and every fourth year thereafter, whose term of office shall commence on the first day of January next following his or her election.

Am. 1901, Act 35; 1905, Act 169.

Eligibility to
office of.

(394) § 4810. SEC. 3. Persons eligible to hold the office of commissioner of schools must possess, besides an experience of twelve months as teacher in the public schools of the State, one of the following qualifications: Must be a graduate of the literary department of some reputable college, university or State normal school, having a course of at least three years, or hold a State teacher's certificate, or be the holder of a first grade certificate, but said first grade certificate shall only qualify the holder thereof to hold the office of commissioner in the county where such certificate was granted: Provided, That persons who have held the office of commissioner of schools under the provisions of act number one hundred forty-seven, public acts of eighteen hundred ninety-one, shall be eligible. In counties having less than fifty districts subject to the supervision of the county commissioner, a person holding at the time of his or her election a second grade certificate shall be eligible.

Proviso as to
certain coun-
ties.

QUALIFICATIONS OF COMMISSIONER: A high school is not a college within the meaning of this section. A special first grade certificate not granted at one of the regular public examinations provided for by law, or one granted without any examination, or one granted upon public examination after election as commissioner, does not qualify.—People v. Howlett, 94/165. The legislative intent is to keep up the standard of teachers by requiring certain educational qualifications in the persons whose duty it is to examine the teachers and determine their fitness for their work.—People v. Howlett, 94/169.

Of vacancies.

(395) § 4819. SEC. 12. Whenever by death, resignation, removal from office or otherwise a vacancy shall occur in the office of the county commissioner of schools, the county clerk shall issue a call to the chairman of the township board of school inspectors of each township in the county, who shall meet at the office of the county clerk on a date to be named in said [notices] notice not more than ten days from the date of the notice, and appoint a suitable person to fill the vacancy for the unexpired portion of the term of office.

DRAIN COMMISSIONERS.

[Extract from Act 254 of 1897, Chap. II.]

(396) § 4310. SECTION 1. The board of supervisors of each organized county in this State shall, at their annual meeting in the year eighteen hundred and ninety-seven and every second year thereafter, appoint one county drain commissioner, whose term of office shall be two years, and shall begin on the first day of January following his appointment. All county drain commissioners holding office at the time that this act takes effect shall continue in office until the first day of January, eighteen hundred and ninety-eight. In case of vacancy in the office of the county drain commissioner occurring thirty days or more previous to a regular or special meeting of the board of supervisors the same may be filled within ten days, or as soon thereafter as practicable, by appointment by a majority vote of the county clerk, prosecuting attorney and judge of probate of the county and of which election they shall file the certificate with the county clerk, and the person so appointed shall hold his office until the next regular or special meeting of the board of supervisors, when the said board shall fill such vacancy. Every county drain commissioner shall within ten days after his appointment, take, subscribe and file with the county clerk the oath of office required by the constitution of this State and shall also within the same time execute and file with such clerk a bond to the county in the penal sum of ten thousand dollars with two or more sufficient sureties to be approved by such clerk, conditioned upon the faithful discharge of the duties of his office. It shall be the duty of the county clerk, upon the appointment of any county drain commissioner to make report thereof to the secretary of state, giving also the date he qualified and entered upon the discharge of his duties.

Appointment
of county
drain com-
missioner.

Term of office.

Vacancy, how
filled.To take and
subscribe oath
and file bond.Clerk to notify
secretary of
state.

Am. 1899, Act 272.
COUNTY DRAIN COMMISSIONER: Eligibility of.—Kinyon v. Duchene,
21 / 498. See section following.

(397) § 4317. SEC. 8. No person holding the office of supervisor, highway commissioner or township clerk shall be eligible to the office of county drain commissioner, and any county drain commissioner accepting the office of supervisor, highway commissioner or township clerk shall thereupon be considered as having vacated the office of county drain commissioner.

Who eligible
to the office.

APPROVAL OF BONDS.

An Act to provide for the approval of the official bonds of county officers by the board of supervisors.

[Act 27 of 1873.]

The People of the State of Michigan enact:

Bonds of county officers to be approved by board of supervisors.

Proviso.

Proviso—Wayne county excepted.

(398) § 2648. SECTION 1. All official bonds of county officers which are now required by law to be approved by the judge of the circuit court, shall hereafter be approved by the board of supervisors of the county in which said officers are elected: Provided, however, That if the board of supervisors in any case shall not have approved of such bonds or the sufficiency of the sureties thereto, before any such officer shall enter upon the duties of his office, the circuit judge of the circuit to which such county may be attached, or the judge of probate of such county may, on application of the officer so elected, approve of the bond and sureties thereto, on being satisfied of the pecuniary responsibility of the sureties to meet the exigencies of said bond, subject, however, to the approval of the board of supervisors at their first meeting thereafter: Provided, That this act shall not be in force or operation in Wayne county.

Section 2 repeals "all acts or parts of acts contravening the provisions of this act."—Bay Co. v. Brock, 44 / 49. See also sections 382-3.

CHAPTER X.—RESIGNATIONS, VACANCIES AND REMOVALS FROM OFFICE.

RESIGNATIONS.

[Extract from Ch. 15, R. S. of 1846.]

Resignations, to whom made.

(399) § 1153. SECTION 1. Resignations shall be made as follows:

1. By the governor, lieutenant governor, and all officers elected by joint vote of the senate and house of representatives: to the legislature;

2. By officers appointed by the governor alone, or by the governor by and with the advice and consent of the senate, or both branches of the legislature: to the governor;

3. By senators and representatives, to the presiding officers of their respective houses, who shall immediately transmit the same to the governor;

4. By all other officers who hold their offices by election, except officers elected at township meetings; to the officer or officers respectively authorized by law to order a special

election to fill such offices respectively;

5. By all other officers holding their offices by appointment, and not by election: to the body, board, or officer that appointed them.

Sherman v. Supervisors, 84 / 111. When a resignation will be presumed.—
Bird v. Perkins, 33 / 30.

(400) § 1154. SEC. 2. It shall be the duty of all officers, bodies, or boards to whom the resignation of any office contemplated in the last preceding section, is authorized to be made, or who are authorized to fill any vacancy in any of said offices, or to order a special election therefor, when duly informed of the existence of such vacancy, to cause to be filed in the office of the secretary of state a statement of the occurrence, with the date and cause of such vacancy.

Duties of officers, etc., to whom resignations are made.

Secord v. Foutch, 44 / 92.
See section 402.

VACANCIES.

(401) § 1155. SEC. 3. Every office shall become vacant, on the happening of either of the following events, before the expiration of the term of such office:

What events to create vacancy.

1. The death of the incumbent;
2. His resignation;
3. His removal from office;
4. His ceasing to be an inhabitant of this State; or, if the office be local, of the district, county, township, city or village, for which he shall have been elected or appointed, or within which the duties of his office are required to be discharged;
5. His conviction of any infamous crime, or of any offense involving a violation of his oath of office;
6. The decision of a competent tribunal, declaring void his election or appointment; or,
7. His refusal or neglect to take his oath of office, or to give or renew any official bond, or to deposit such oath or bond in the manner and within the time prescribed by law: Provided, That the supervisor of any township, in which the office of a township treasurer or justice of the peace may become vacated by operation of this act, shall immediately transmit to the county clerk of the county in which such township treasurer or justice of the peace resides, a notice in writing, officially signed by him, informing the county clerk that the office of such township treasurer or justice of the peace is vacated.

Proviso

SUBDIVISION 7: A party, however well entitled to an office, loses his right unless he files his oath and bonds.—*Wayne Auditors v. Benoit*, 20 / 181; *Paw Paw v. Eggleston*, 25 / 36. But the directions as to time are not applicable to a person to whom the election board refuses a certificate, but can apply only to the person declared elected.—*People v. Mayworm*, 5 / 146; *Wayne Auditors v. Benoit*, 20 / 181. One who has been elected to the office of justice of the peace and has entered upon the duties thereof, is an officer de facto, notwithstanding his failure to file his oath of office, and bond within the time prescribed by law.—*People v. Payment*, 109 / 553.

ACCEPTING INCOMPATIBLE OFFICE: The rule is well settled that he who, while occupying one office accepts another incompatible with the first, ipso facto vacates the first office.—*Northway v. Sheridan*, 111 / 18.

An Act in relation to vacancies in certain State and county offices.

[Act 190 of 1879.]

How vacancies
in certain of-
fices filled.

(402) § 1156. SECTION 1. That in case a vacancy shall occur in any public office, which vacancy may be filled by appointment by the governor or otherwise, notice of such vacancy and of the facts why the same exists shall within ten days after such vacancy shall occur, be given in writing to the officer, board or body, having power to fill such vacancy by appointment. Such notice shall be given as follows: If such vacancy shall be in any county office, excepting county clerk, by the clerk of the county wherein the same shall occur; if in the office of the circuit judge or judges or recorders of said city courts, by the clerk of the county wherein such officer may reside at the time the vacancy shall occur; if in the office of county clerk of any county, by the judge of probate of the same county; if in the office of secretary of state, by the state treasurer, and in all other cases by the secretary of state; in all cases where a vacancy may occur in an office the salary of the incumbent of which shall be paid in whole or part from the State treasury, the officer, board or body having the appointing power shall immediately after receiving notice of such vacancy notify the auditor general of such vacancy.

Notice of va-
cancy, where
filed.

See section 400.

REMOVALS FROM OFFICE.

[Extract from Ch. 15, R. S. of 1846.]

Certain officers
may be re-
moved for
misconduct.

(403) § 1157. SEC. 4. The secretary of state, auditor general, and all State and county officers, except the state treasurer, and judges of the supreme and circuit courts, who are, or shall be appointed by the governor alone, or by the governor, by and with the advice and consent of the senate, or of both branches of the legislature, or by the legislature without the concurrence of the governor, may, for official misconduct, or habitual or wilful neglect of duty, at any time during the recess of the legislature, be removed, and the vacancy supplied during such recess, by the governor.

NO REMOVAL WITHOUT CAUSE: Officers cannot be removed without cause.—*People v. Lord*, 9 / 227; *People v. Therrien*, 80 / 187. Our state

system favors appointments for fixed periods and almost entirely rejects the policy of removals at will.—*Mead v. Ingham Co. Treasurer*, 36/416. This law contains no provision of removal applicable to county superintendents of the poor.—*Id.* 418.

(404) § 1158. SEC. 5. All officers who are, or shall be appointed by the governor to fill a vacancy which shall have existed during the recess of the legislature, may be removed by the governor. Persons appointed may be removed.

(405) § 1159. SEC. 6. The governor may remove all county officers chosen by the electors of any county or appointed by him, and shall also remove all justices of the peace and township officers chosen by the electors of any township, or city or village officers chosen by the electors of any city or village, when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer is incompetent to execute properly the duties of his office, or has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this State that such officer after his election or appointment shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true, with a statement of the prosecuting attorney of the county, that in his opinion the case demands investigation. But no such officer shall be removed for such misconduct or neglect unless charges thereof shall have been exhibited to the governor, as above provided, and a copy of the same served on such officer, and an opportunity given him of being heard in his defense. Governor may remove officers for certain reasons.

When may investigate.

Miner v. Supervisors, 49/602; *Clay v. Stuart*, 74/411; *Att'y Gen. v. Detroit Com. Council*, 112/169.

(406) § 1165. SEC. 12. The judge of the circuit court and the circuit court commissioner shall have authority, in term or vacation, to remove the county clerk when in their opinion he is incompetent to execute properly the duties of his office, or when, on charges and evidence, they shall be satisfied that he has been guilty of official misconduct, or habitual or wilful neglect of duty, if in their opinion such misconduct or neglect shall be a sufficient cause for such removal; but no such clerk shall be removed for such misconduct or neglect, unless charges thereof shall have been preferred to said judge or commissioner, and notice of the hearing with a copy of the charges delivered to such clerk, and a full opportunity given him to be heard in his defense. All expense on the part of the prosecution for examination of charges, provided for in the preceding section of this act, shall be paid by the counties in which the officer to be examined holds his office. Officer to be given opportunity to be heard.

When and by whom county clerks may be removed.

Charges to be preferred.

Expenses of examination.

When governor may declare certain offices vacant.

(407) § 1166. SEC. 13. The office of state treasurer, commissioner of the land office, or of any other collector or receiver of public moneys, appointed by the legislature, by the governor alone, or by the governor, by and with the advice and consent of the senate, or of both branches of the legislature, except those officers for whose removal provision is otherwise made by law, may be declared vacant by the governor, in case it shall appear to him on sufficient proofs, that such treasurer, commissioner or other officer, has in any particular wilfully violated his duty.

An Act to subject all persons holding office under the government of the State of Michigan to removal from office for drunkenness.

[Act 79 of 1871.]

The People of the State of Michigan enact:

Drunkenness cause for removal from office.

(408) § 1167. SECTION 1. That the drunkenness of any person holding office under the constitution or laws of this State shall be good cause for removal from office by the authority and in the manner provided by law.

SUPPLYING VACANCIES.

[Extract from Ch. 15, R. S. of 1846.]

When circuit judge may appoint person to execute duties of county clerk and prosecuting attorney.

(409) § 1169. SEC. 15. When at any time there shall be in either of the offices of county clerk or prosecuting attorney, no officer duly authorized to execute the duties thereof, the judge of the circuit court of the circuit in which the county where such vacancy exists, shall be situated, may appoint some suitable person to perform the duties of either of said officers for the time being; and when at any time there shall be in either of the offices of sheriff, coroner, register of deeds, or county surveyor, no officer duly authorized to execute the duties thereof, some suitable person may be appointed by the county clerk and prosecuting attorney of the county to perform the duties of either of said offices for the time being.

How other county offices may be filled for the time being.

Constitution, Art. 6, sec. 10; Sayles v. Judge, 82/89; Lamoreaux v. Att'y Gen., 89/149. Temporary vacancies in county offices are filled by appointment and not by election.—Att'y Gen. v. Hollister, 59/591.

REGISTER OF DEEDS: See section 380.

Persons appointed to fill vacancy to comply with directions, etc.

(410) § 1170. SEC. 16. Each of the persons appointed in pursuance of either of the two last preceding sections, shall, before proceeding to execute the duties assigned him,

comply with such conditions and directions as shall be prescribed and given relative to oaths and bonds, by the officer or officers appointing him as aforesaid.

An Act prescribing the manner of filling vacancies in certain State offices.

[Act 159 of 1851.]

The People of the State of Michigan enact:

(411) § 1172. SECTION 1. That whenever, from any cause, there shall be a vacancy in the office of auditor general, attorney general, secretary of state or state treasurer, superintendent of public instruction, or commissioner of the state land office, the governor shall have power to appoint some suitable person to fill such vacancy, and the person so appointed shall take the same oath of office, and give a bond in the same manner as provided by law for the officer for whose vacancy he shall be so appointed; and such person shall hold such office, unless sooner removed by competent authority, until his successor shall be elected and qualified under the constitution of this State, or until the close of the next session of the legislature.

Vacancies in certain state offices, how filled.

DECLARING AND FILLING VACANCIES BY BOARDS OF SUPERVISORS.

[Extract from Act 156 of 1851.]

(412) § 2484. SEC. 11. The said several boards of supervisors shall have power, and they are hereby authorized, at any meeting thereof, lawfully held:

Boards of supervisors, power of.

Fourteenth, To require any county officer, whose salary or compensation is paid by the county, to make a report, under oath, to them on any subject or matters connected with the duties of his office, and to require such officer to give bonds, or further or additional bonds, as shall be reasonable or necessary, for the faithful performance of their respective duties; and any such officer who shall neglect or refuse to make any such report, or to give such bond within a reasonable time after being so required, may be removed from office by such board by a vote of two-thirds of all the members elect, and the office declared vacant, and such board may fill such vacancy for the unexpired portion of the time for which such officer was elected or appointed: Provided, That if the spring or fall election shall occur before the expiration of the said

Reports and bonds of county officers.

Neglect or refusal to furnish, cause for removal.

Proviso.

unexpired term, if the office be an elective one, the vacancy shall be filled at such election, and it shall be the duty of such board to give reasonable notice of such election to fill the vacancy.

Am. 1905, Act 98.

See section 380.

This subdivision does not give the board the general power of removal, but only for the two causes named—failure to report and neglect to give bonds.—*Mead v. Ingham Co. Treasurer*, 36 / 416. Cases of incompetency, see *Trainer v. Wayne Co. Auditors*, 89 / 162.

CHAPTER XI—ELECTION OF JUDGES AND REGENTS.

CIRCUIT JUDGES.

An Act to provide for the election of circuit judges and regents of the University.

[Act 25 of 1851.]

The People of the State of Michigan enact:

Election of
circuit judge.

(413) § 3735. SECTION 1. That an election shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter, in each of the judicial circuits into which, under the revised constitution and schedule thereto, and laws, the State is divided, by the electors thereof, of one circuit judge and one regent of the university, who shall hold their offices respectively for the term of six years, and until their successors are elected and qualified.

So far as relates to regents of the university, this act is superseded by the act immediately following. When this act was passed, Const. XIII, 6, provided for the election of a regent in each judicial circuit.

Duties of in-
spectors of
election.

(414) § 3736. SEC. 2. The inspectors of elections in the several townships and wards in cities throughout the State, are hereby required to prepare a ballot box to receive all ballots that may be offered at such election for circuit judge and regent of the university, both of which officers shall be voted for on one ballot.

Secretary of
state to give
notice to
sheriffs.

(415) § 3737. SEC. 3. The secretary of state shall, immediately after the passage of this act, transmit to the sheriff of each county included within the several judicial circuits of this State a notice in writing, containing a brief statement of the contents of this act, and he shall cause a copy of this act to be published in such newspapers within the several judicial circuits as he may deem proper, once in each week from the date of the notice till the election aforesaid.

Sheriffs to
notify town-
ship clerks,
etc

(416) § 3738. SEC. 4. The sheriffs of the several counties, on receiving the notice hereby provided for, shall forthwith, in writing, notify the township clerk of each township,

and one of the inspectors of election of each ward in any city, of such election; and it shall be the duty of the township clerks and inspectors of election receiving said notice to give eight day's notice, except for the election in eighteen hundred and fifty-one, in writing, under their hands respectively, to the electors of the township or ward, of the time and place of holding such election, by posting the same up in at least three public places in the township or ward.

Township
clerks to give
notice to.

(417) § 3739. SEC. 5. The election provided for by this act shall be conducted in the same manner as by existing laws is provided for the holding of a general election; and the inspectors of elections shall make the same canvass, statement and returns, and they are hereby invested with the same powers and authority as are provided by the election laws of this State for a general election.

Election can-
vass, etc.

(418) § 3740. SEC. 6. The county canvass for the several circuit judges and regents of the university, shall be on the second Tuesday succeeding the election, and shall be conducted in all respects in the same manner, and returns shall be made in the same manner and within the same time as is provided by existing laws for the canvass of representatives to congress; but the county clerks of the several counties shall transmit one of the certified copies of the statement of votes to the state treasurer, instead of the auditor general.

County can-
vass, when
held.

Statement,
where re-
turned.

(419) § 3741. SEC. 7. The secretary of state, state treasurer and commissioner of the state land office, shall constitute the board of state canvassers, and they are hereby authorized and required to proceed in the canvass and determination of the election of the several circuit judges and regents of the university, in the same manner and within similar periods of time, as near as may be, as is provided by law for the canvass of the election of representatives to congress, and shall transmit similar notices to the persons declared to be elected to the offices of circuit judge and regent of the university in the several judicial districts: Provided, That the board of state canvassers shall not determine the result of the election for a regent of the university in the county of Wayne, until after the receipt of the several statements of votes given for a regent of the university in the upper peninsula: Provided, Such statement shall be received before the third Tuesday of November next ensuing, when said board shall proceed to canvass and determine the election of such regent, as in other cases.

Board of state
canvassers.

Const. Art. 8,
Sec. 4.
Their duty.

Proviso as to
county of
Wayne.

(420) § 3742. SEC. 8. The officers elected under the provisions of this act, shall enter upon the discharge of their respective duties on the first day of January succeeding their election.

Commence-
ment of term.

Section 9 was superseded by section 24 of act 190 of 1891. See section 133 of this compilation.

REGENTS OF THE UNIVERSITY.

An Act to provide for the election and classification of regents of the University.

[Act 143 of 1863.]

The People of the State of Michigan enact:

General election for regents.

(421) § 3743. SECTION 1. That a general election shall be held in the several townships and wards of this State on the first Monday in April, in the year one thousand eight hundred and sixty-three, and on the first Monday in April in every second year thereafter, for the election of regents of the university, who shall enter on the duties of their office on the first day of January next succeeding their election.

See constitution, Art. 13, section 6; section 47 of this compilation.

Election in 1863.

How classified.

Term of service of each class.

Biennial election.

(422) § 3744. SEC. 2. At the election to be held on the first Monday of April, in the year one thousand eight hundred and sixty-three, there shall be elected eight regents of the university, who shall be divided into four classes, of two each, to be numbered one, two, three and four, whose term of service shall commence on the first day of January, one thousand eight hundred and sixty-four. The term of service of class number one shall expire in two years; the term of class number two shall expire in four years; the term of class number three shall expire in six years; the term of class number four shall expire in eight years from the first day of January, one thousand eight hundred and sixty-four. After the first election, two regents shall be elected every two years, and their term of office shall be eight years. The place of each class shall be filled by an election at the general election to be held on the first Monday in April next preceding the expiration of their term of service.

Sections 3 and 4 relate to the manner of giving notice of first election under this act.

Elections, how conducted.

(423) § 3747. SEC. 5. The several regents of the university, to be elected as aforesaid, shall be voted for on the same ballots with the justice or justices of the supreme court and circuit judge, to be chosen at such election; and the election provided for by this act shall be conducted in the same manner, and by the same officers, and the same notices of time and place shall be given as by existing laws for election of justices of the supreme court, and the inspectors of election shall make the same canvass, statement and return, and shall be invested with the same powers as are provided by the laws of this State for a general election.

Canvass, how conducted.

(424) § 3748. SEC. 6. The county and state board of canvassers for said election shall consist of the same persons

as provided by existing laws for canvassing votes for State officers, and the canvass shall be held and conducted in the same manner, and at the same time, and the like statements and returns shall be made, and the said board shall be charged with the same duties, and invested with the like powers as provided by existing laws for canvassing votes for justices of the supreme court and circuit judges, and the secretary of state shall perform the same duties in relation thereto, and all the proceedings shall be conducted in accordance with the laws regulating the canvass of votes cast at a general election, so far as the same are applicable.

Sec. 7 relates to the classification of regents first elected.

JUSTICES OF THE SUPREME COURT.

An Act to provide for the organization of the supreme court, pursuant to section two of article six of the constitution.

[Act 146 of 1857 as amended.]

The People of the State of Michigan enact:

(425) § 177. SECTION 1. From and after the first day of January, nineteen hundred five, the supreme court shall consist of a chief justice and seven associate justices, to be chosen by the electors of this State, and in the mean time the supreme court shall continue as at present organized. How constituted.

Am. 1903, Act 250.

(426) § 178. SEC. 2. A general election shall be held in the several townships and wards of the State, on the first Monday of April, in the year one thousand eight hundred and fifty-seven, and on the first Monday of April in every second year thereafter, for the election of judges or justices of the supreme court. General elections for judges.

(427) § 179. SEC. 3. At the election to be held in the several townships and cities of this State, on the first Tuesday after the first Monday of November, nineteen hundred four, there shall be elected three additional associate justices of the supreme court, who shall enter upon office on the first day of January, nineteen hundred five, one of whom shall hold his office until the thirty-first day of December, nineteen hundred seven, one shall hold his office until the thirty-first day of December, nineteen hundred nine, and one shall [hold] his office until the thirty-first day of December, nineteen hundred eleven. The ballots cast at such election for such justices shall designate the term of service of each justice voted for. At the election to be held in the several townships and cities Additional justices, when elected, term of office, etc.

of this State, on the first Monday in April, nineteen hundred five, there shall be elected one justice of the supreme court, who shall hold his office for the term of eight years from and after the first day of January next succeeding such election. At the election to be held in the several townships and cities of this State, on the first Monday in April, nineteen hundred seven, and every two years thereafter, there shall be elected two justices of the supreme court to hold their offices respectively for the term of eight years from and after the first day of January next succeeding such elections. The several justices of the supreme court now in office shall hold their offices respectively during the term for which they have been elected, and the term of all other justices of the supreme court shall be eight years, as above provided.

Am. 1903, Act 250.

Vacancy, how filled.

(428) § 180. SEC. 4. Whenever a vacancy shall happen in the office of judge of the supreme court, it shall be filled by appointment of the governor, and a successor shall be elected at the next general election which may be held on the first Monday of April thereafter; unless a general election shall be held in November, prior to such election in April; and in such case he may be elected at such election in November.

Sections 5 and 6 provided for the notification of officers of the new enactment.

Ballot box.

(429) § 181. SEC. 7. The inspectors of election in the several townships and wards in cities throughout the State, are hereby required to prepare a ballot box at each of the biennial elections provided for in this act, to receive all ballots that may be offered at such elections for a judge or judges of the supreme court, and for circuit judge and regent of the university, all of which shall be voted for on the same ballot.

Elections, how conducted.

(430) § 182. SEC. 8. The election provided for by this act shall be conducted in the same manner and by the same officers, and notices of the time and place shall be given, as by the existing laws provision is made for holding a general election in the State in the month of November of each second year; and the inspectors of election shall make the same canvass, statement and returns, and they are hereby invested with the same powers and authority, as are provided by the election laws of this State for a general election.

County canvass, when to be held and how conducted.

(431) § 183. SEC. 9. The county canvass for judges of the supreme court shall be held on the second Tuesday succeeding the election, and shall be conducted in all respects in the same manner and by the same officers; and returns shall be made in the same manner and within the same time, as is provided by existing laws for the canvass of votes cast for circuit judges, secretary of state, and other State officers.

(432) § 184. SEC. 10. The secretary of state, state treasurer, and commissioner of the state land office, shall constitute the board of state canvassers, and they are hereby authorized and required to proceed in the canvass and determination of the election of the judges or judge of the supreme court, in the same manner and at the same time as is provided by law for the canvass of the election of circuit judges and regents of the university, and they shall make a statement of the votes cast and the number cast for each person, and determine the person or persons elected, and make and subscribe on such statement a certificate of such determination, and deliver the same to the secretary of state, who shall cause the same to be recorded in his office; all of which proceedings shall be conducted in accordance with the laws regulating the canvass of votes cast at a general election for State officers, so far as the same are applicable.

Board of state canvassers.

How to proceed in canvassing.

The balance of this act relates to the classification of judges, and powers and duties of the court.

ELECTION OF U. S. SENATORS.

An Act to designate the time, and provide the manner of electing United States Senators.

[Act 1 of 1869.]

The People of the State of Michigan enact:

(433) § 1144. SECTION 1. That the legislature which shall be chosen next preceding the expiration of the time for which any senator was elected to represent this State in the congress of the United States, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a senator in congress, in the place of such senator so going out of office, in the following manner: Each house shall openly, by a viva voce vote of each member present, name one person for senator in congress; and the name of the person so voted for, who shall have a majority of the whole number of votes cast in each house, shall be entered on the journal of each house by the clerk or secretary thereof; but if either house shall fail to give such majority to any person on such day, that fact shall be entered on the journal. At twelve o'clock, meridian, of the day following that on which proceedings are required to take place as aforesaid, the members of the two houses shall convene in joint convention, and the journal of each house shall then be read; and if the same person shall have received a majority of all the votes in each house, such person shall be declared duly elected a senator to represent this State in the congress of the United States;

Time of electing.

Each house to name a candidate.

Entries to be made on journals.

Joint convention.

Journals to be read.
A majority vote in each house to elect.

but if the same person shall not have received a majority of the votes in each house, or if either house shall have failed to take proceedings as required by this act, the joint convention shall then proceed to choose, by a viva voce vote of each member present, a person for the purpose aforesaid; and the person having a majority of all the votes of the said joint convention, a majority of all the members elected to both houses being present, and voting, shall be declared duly elected; and in case no person shall receive such majority on the first day, the joint convention shall meet at twelve o'clock, meridian, of each succeeding day during the session of the legislature, and take at least one vote, until a senator shall be elected.

Vacancies,
how filled.

(434) § 1145. SEC. 2. Whenever, on the meeting of the legislature, a vacancy shall exist in the representation of this State in the senate of the United States, the legislature shall proceed, on the second Tuesday after the commencement and organization of its session, to elect a person to fill such vacancy, in the manner hereinbefore provided for the election of a senator for a full term; and if a vacancy shall happen during the session of the legislature, then, on the second Tuesday after the legislature shall have been organized, and shall have notice of such vacancy, the legislature shall proceed to elect as aforesaid.

Governor to
certify elec-
tion.

(435) § 1146. SEC. 3. It shall be the duty of the governor, upon the election of a senator, as herein provided, to certify his election to the president of the senate of the United States, which certificate shall be countersigned by the secretary of state, under the seal of the State. He shall also deliver by mail or otherwise a like certificate to the person so elected senator.

Section 4 repeals "all acts or parts of acts contravening the provisions of this act."

ELECTIONS IN UPPER PENINSULA.

STATE AND COUNTY OFFICERS.

An Act to change the time of holding the election for State and county officers in the upper peninsula, and to repeal the existing law on that subject.

[Act 68 of 1863.]

The People of the State of Michigan enact:

Election, when
held and how
conducted.

(436) SECTION 1. That in the year eighteen hundred and sixty-four, and every two years thereafter, the election for all State and county officers in the upper peninsula, shall be held on the Tuesday succeeding the first Monday in Novem-

ber, and shall be conducted, in all respects, in accordance with the law relative to holding general elections.

Section 2 repeals section 134 of Chap. 6, C. L., 1857.

(437) SEC. 3. The returns of elections in the upper peninsula shall be made at the several places, and within the same period of time, after the day of election, as is now provided by law for making election returns in the upper peninsula. Returns of elections.

PROSECUTING ATTORNEY.

An Act to change the time of holding the election for prosecuting attorney in the upper peninsula.

[Act 253 of 1865.]

The People of the State of Michigan enact:

(438) SECTION 1. That at the time of electing county and State officers, on the Tuesday succeeding the first Monday in November, in the year eighteen hundred and sixty-six, and every two years thereafter, there shall be elected a prosecuting attorney in each of the counties in the upper peninsula; and the said election shall be conducted, the returns made, and the votes canvassed in all respects as is now provided by law for making election returns in the upper peninsula. Election, when held.
How conducted.

See section 51 and note, and notes to section 94.

OVERSEERS OF HIGHWAYS.

An Act to provide for the election of overseers of highways, by ballot, in the upper peninsula of Michigan.

[Act 39 of 1867.]

The People of the State of Michigan enact:

(439) § 2278. SECTION 1. That at each annual township meeting, held in each organized township (or in any township that may be organized hereafter), in the upper peninsula, on the first Monday of April in each year, there may be elected by ballot, one overseer of highways for each road district in said township. Election of overseers of highways.

(440) § 2279. SEC. 2. The name of the overseer, and where a township is divided into two or more districts, the Manner of electing overseer.

number of the district shall be designated as district number one, district number two, and so on to the required number of districts in said township, shall be on the same ballot with the other township officers, and be elected in the same manner as is now provided by law for the election of township officers by ballot.

Board of commissioners of highways to fill vacancies.

(441) § 2280. SEC. 3. Should any of said townships neglect to elect overseers of highways, as provided in this act, or should the office for any cause become vacant, or should a new road district or districts be formed in any of the townships, it shall be the duty of the commissioner of highways of the township to fill such vacancies, and appoint an overseer of highways for any new road district, who shall hold his office until the next annual township meeting, and until his successor is elected and qualified according to law.

CHAPTER XII.—ELECTIONS IN FOURTH CLASS CITIES AND VILLAGES.

FOURTH CLASS CITIES.

[Extract from Act 215 of 1895.]

CHAPTER I.

Time of holding first election.

Proviso as to registration of electors.

When special election may be held.

(433) § 1144. SECTION 1. That the legislature which new corporation shall be held on the first Monday in April next after the filing of the declaration of incorporation in the office of the secretary of state: Provided, There shall be sufficient time after the division of the city into wards, to make a registration of the electors, and to give the notice of election hereinafter required; and if there shall not be sufficient time for that purpose, then such first election shall be held on the first Monday of April next thereafter; or the council may appoint a day for the holding of a special election, upon giving like notice as hereinafter required for the holding of such elections.

For proceedings for incorporation of cities of the fourth class see sections 2956-65, C. L., 1897.

Who to be appointed inspectors of election.

Clerk to give notice of time and place for holding election.

(443) § 2967. SEC. 12. At least ten days before the first election in and for the new corporation, the council of the old corporation shall appoint four persons in each ward as inspectors of such election therein; and cause notice to be given, by the clerk, by handbills posted in ten of the most public places in each ward, and by publication in one or more newspapers printed in the city, of the time and place in each

ward of holding such election, and of the city and ward officers to be elected; and of the place in each ward where the said inspectors of election will meet on the Saturday next preceding the election to make a registration of the electors of the new city corporation, and that no person, unless registered in such registry, can be permitted to vote at such elections. Said council shall also procure books of registry of the form required by law for the registration of electors in cities, and deliver them to said inspectors.

When inspectors to meet for the purpose of registration.

Council to procure books for registry.

QUALIFICATION OF ELECTORS: See sections 31, 59 and notes.

(444) § 2968. SEC. 13. The inspectors of election, appointed as provided in the preceding section, shall constitute boards of registration for their respective wards for the purpose of making the first registry of the electors therein. They shall take and file with the clerk the oath of office required in this act to be taken by city officers, and shall meet in their respective wards on the day and place appointed in the notice mentioned in the preceding section, and there make a registry of all persons in the wards qualified by law to be registered as electors therein. In making such registry they shall proceed in the manner provided by law for making the registry of electors in cities. Such registry, when completed, shall be the registry of electors of the several wards of the city.

Inspectors of election to constitute board of registration.
Oath of office.

Manner of registering of electors.

(445) § 2969. SEC. 14. Said inspectors shall be inspectors of such first election in their respective wards, and shall have the same powers and perform the same duties at the election, and in respect to the canvass of the votes, and in making and returning written statements and certificates of the votes cast; and for whom given, as are required of inspectors at annual city elections provided for in this act, except that said written statements and certificates shall be deposited with the village clerk, and the village council shall respectively perform the same duties in respect to the canvass of the votes and returns, and in determining and certifying what persons were elected to office, and in notifying such persons of their election as are required of the city clerk and council in respect to said annual city elections.

Who to be inspectors of first election, duties.

CHAPTER III.

WARDS.

(446) § 2976. SECTION 1. The wards established by the council as provided in section ten, chapter one of this act, and the wards established in any incorporated city at the time of its reincorporation under the provisions of this act, shall continue to be the wards of such city, until changed by the legislature.

Wards.

Number of
wards, how
apportioned.

(447) § 2977. SEC. 2. Any city having a population of less than five thousand inhabitants may be divided into three wards. If it contains a population of five thousand or upwards it may be divided into four wards, and an additional ward for every additional two thousand inhabitants above five thousand and up to ten thousand. But any city having, at the time of its being brought under or subject to the provisions of this act, a greater number of wards in proportion to its population than above mentioned, shall not be required to diminish the number of its existing wards.

Change of
boundaries not
to affect alder-
men or ward
officers.

(448) § 2978. SEC. 3. No election of aldermen or ward officers shall be held in any newly established ward, or in any ward, on account of changes in the boundaries thereof, previous to the next annual city election; nor shall the office of any alderman or other officer elected in any ward be vacated by reason of any change in such ward; but any such alderman and other officer shall, during the remainder of his term, continue in office and to represent the ward including the place of his residence at the time of the change of the boundaries of the ward, unless the office become vacant for some other cause.

In case of a
new ward how
terms of alder-
men may be
designated.

(449) § 2979. SEC. 4. When by the creation of a new ward two aldermen are to be elected therein at the same time, one of them shall be elected for one year, and one for two years, and the term of each shall be designated on the ballot.

CHAPTER IV.

ELECTORS AND REGISTRATION.

Who deemed
electors.

(450) § 2980. SECTION 1. The inhabitants of cities having the qualifications of electors under the constitution of the State, and no others, shall be electors therein, and every elector shall vote in the ward or election district where he shall have resided during the twenty days next preceding the day of election. The residence of any elector, not being a householder, shall be deemed to be in the ward or election district in which is located his regular place of lodging.

Residence of
electors.

See sections 31 and 59, and notes.
Warren v. Bd. of Registration, 72 / 405.

Council may
divide wards
into voting
precincts.

(451) § 2981. SEC. 2. The council of any city having more than six hundred and fifty electors in any ward of the city, according to the poll list of the last preceding election, shall cause such ward to be divided into two or more voting districts. The manner of making such division, the creation of election inspectors and boards of registration therein, and all matters pertaining to such division and the holding of elec-

tions in such districts, not covered by the provisions of this chapter, shall be provided for by the council making such division.

REGISTRATION.

(452) § 2982. SEC. 3. The aldermen of each ward shall constitute the board of registration therein, except as in this act otherwise provided. If, by reason of a change of boundary of any ward, or the formation of a new ward, or the formation of more than one election district in a ward, or other cause, there shall not be any or a sufficient number of aldermen representing such ward or residing within each election district, to constitute a board of registration of two persons, the council shall supply the vacancy or appoint a board of registration for the ward or election district. The members composing such board of registration shall receive two dollars per day as compensation.

Aldermen to constitute board of registration. When council to appoint additional member.

Compensation.

See general law for registration in cities, sections 57-63.

(453) § 2983. SEC. 4. When changes shall be made in any ward or wards, or a new ward shall be formed in whole or in part from the territory of other wards, or when a ward shall be divided into voting districts, the boards of registration of the respective wards or voting districts affected by the change shall meet previous to the time prescribed by law for giving notice of their sessions preceding the next election, and the name of each registered elector known to have been transferred by such change from one ward to another ward, or to a new ward, or from one voting district to another, shall be copied into the register of the ward or district to which the transfer was made, and be stricken from the register of the ward or district from which the elector was transferred by the change.

When change made in ward, board of registration to meet and arrange names of electors.

(454) § 2984. SEC. 5. When a new ward or voting district shall be formed, the board of registration thereof, at its session next preceding the next election therein, shall make or complete a new register of the electors residing therein, and for that purpose shall remain in session two days, and notice of the formation of such ward or district, and that a new register of the electors will be made at that session, shall be given with the notice required by law to be given of such session of the board.

When new ward is formed board to make new register.

Notice of to be given.

(455) § 2985. SEC. 6. Each ward, unless otherwise subdivided, shall be an election district. On the Saturday next preceding a general election, and on the Saturday next preceding the day of the regular city election, or any special election, and on such other days as shall be appointed by the council, not exceeding three days in all, previous to any such election, the several boards of registration for the city, except as in this act otherwise provided, shall be in session at

Each ward to be an election district.

When board of registration to sit.

Each qualified elector to have his name registered.	such places in their several wards as shall be designated, as hereinafter provided, from eight o'clock in the forenoon until eight o'clock in the afternoon, for the purpose of completing the lists of the qualified voters; during which session it shall be the right of each person then actually residing in the ward or voting district, and who, at the then next approaching election may be a qualified elector and whose name is not already registered, to have his name entered in the register of such ward or voting district.
When council to fix place where board to meet.	(456) § 2986. SEC. 7. At least two weeks previous to the commencement of any such session of the several boards of registration, the council shall fix the place in each ward and voting district of the city where the board of registration will meet, and at least eight days before such session of the board the city clerk shall give notice by hand bills posted in ten public places in each ward or voting district, and by publication in one or more newspapers printed in the city, of the time and place in each ward or voting district when and where the board of registration for such ward and voting district will meet. Except as in this act otherwise provided, the general laws of this State relating to the registration of electors in cities shall apply to the registration of electors in cities incorporated under or made subject to the provisions of this act.
General laws to apply to registration.	(457) § 2987. SEC. 8. The boards of registration in cities incorporated under this act at their sessions previous to the general election in November, in the year one thousand eight hundred and ninety-six, shall make a reregistration of the qualified electors of their respective wards, in books of the form provided by law. The same rules shall be observed in such reregistration as are provided by law for the registration of electors in cities; and a like reregistration of the electors of each ward shall be made at the session of the board next preceding the general election, in the year nineteen hundred, and every fourth year thereafter. When such new registry shall be made the former registry of electors shall not be used, nor shall any person vote at any election in such ward after such reregistration unless his name shall be registered in such new register. Notice that such reregistration is required to be made shall be given with the notice of the meeting or session of the board at which it is to be made.
When board to make reregistration.	
Old register not to be used.	
When notice of reregistration to be given.	

CHAPTER V.

OFFICERS.

What city officers to be elected.	(458) § 2988. SECTION 1. In cities incorporated under this act the following city officers [viz.], namely, a mayor, city clerk, city treasurer, and two justices of the peace, shall
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be elected by the qualified voters of the whole city: Provided, That no person shall be eligible to the office of city treasurer for more than two terms in succession.

Treasurer
to hold but
two terms.

(459) § 2989. SEC. 2. In each ward a supervisor, two aldermen and a constable shall be elected: Provided, That the council of any city reincorporated under and made subject to the provisions of this act, which at the time of such reincorporation shall have but two wards, may provide by ordinance for the election of two additional aldermen, to be known as aldermen at large, and to be elected by the qualified electors of the whole city. At the first election held under this act one of such aldermen shall be elected for a term of one year and one for a term of two years, and annually thereafter one shall be elected for a term of two years.

Ward officers
to be elected.

Att'y Gen. v. Cogshall, 107 / 181; Ostrander v. Supervisors, 111 / 65.

(460) § 2990. SEC. 3. The following officers shall be appointed by the mayor, by and with the consent of the council [viz.], namely, a city attorney, city marshal, street commissioner, city surveyor, a city assessor when provided for, and a chief engineer of the fire department. The council may also, from time to time, provide by ordinance for the appointment of, for such term as may be provided in the ordinance, such other officers whose election or appointment is not herein specially provided for, as the council shall deem necessary for the execution of the powers granted by this act. All such appointments shall be made by the mayor, by and with the consent of the council, and their powers and duties shall be prescribed by ordinance, but the mayor shall have no vote in the council on the question of his appointments of above named officers.

City officers to
be appointed
by mayor.

Council may
provide for ap-
pointment of
other officers.

Appointments
to be made by
mayor with
consent of
council.

(461) § 2991. SEC. 4. Appointments to office, except appointments to fill vacancies, shall be made on the first Monday of May in each year; but appointments which for any cause shall not be made on that day may be made by the mayor and confirmed at any subsequent regular meeting of the council.

When appoint-
ments to be
made.

(462) § 2992. SEC. 5. At the first election held in any city incorporated under this act, two justices of the peace shall be elected; also two aldermen in each ward, but in cities reincorporated under this act, the aldermen elected under the former corporation shall continue in office for the term for which they were elected; and, at such first election, such number of aldermen only shall be elected, as with those continuing in office as aforesaid, shall make the requisite number of aldermen as required by this act, and the terms of the aldermen first elected as aforesaid shall be so arranged that one alderman for each ward shall be elected annually thereafter. In all such cities reincorporated under the provisions of this act, the then existing justices of the peace shall hold their offices until the fourth day of July next after such

What officers
to be elected at
first election.

Terms of al-
dermen, how
arranged.

When to elect
justices of
peace.

- first election, and no longer, and at such first election two justices of the peace shall be elected, one for the term of two years and one for the term of four years from the fourth day of July next thereafter, and the term for which each is elected shall be designated upon the ballots cast for him, and biennially thereafter one justice of the peace shall be elected for a term of four years: Provided, That whenever any city reincorporated under this act shall at the time of such reincorporation have but two justices of the peace, whether elected by wards, districts, or by the city at large, such justices shall hold their respective offices until the expiration of the term for which they were respectively elected, and thereafter their successors shall be elected for the term of four years as provided in this act.
- Terms of office of certain city officers. (463) § 2993. SEC. 6. The mayor, city clerk, city treasurer, supervisors and constables shall hold their offices for the term of one year from the second Monday in April of the year when elected, and until their successors are qualified and enter upon the duties of their offices.
- Terms of office of appointed officers. (464) § 2994. SEC. 7. All officers appointed by the mayor or council, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the first Monday of May next after such appointment, and until their successors are qualified and enter upon the duties of their office, unless a different term of office shall be provided in this act, or in the ordinance creating the office. Any officer elected to fill a vacancy shall hold the office during the residue of the term of office in which the vacancy occurred, and any officer appointed to fill a vacancy in any elective office shall hold such office until the next annual city election.
- Term of officer filling vacancy. (465) § 2995. SEC. 8. Justices of the peace not elected to fill vacancies shall enter upon the duties of their offices on the fourth day of July next after their election. In all other cases officers shall enter upon the duties of their offices on the second Monday of April of each year, unless herein otherwise provided for.
- When officers to enter upon duties.

QUALIFICATIONS, OATH AND BOND OF OFFICE.

- Qualifications for holding office. (466) § 2996. SEC. 9. No person shall be elected or appointed to any office unless he be an elector of the city, and if elected or appointed for a ward, he must be an elector thereof; and no person shall be elected or appointed to any office in the city who has been or is a defaulter to the city or to any board or officers thereof, or to any school district, county, or other municipal corporation of the State. All votes for, or any appointment of, any such defaulter shall be void.
- When and how justices of peace to file oath of office. (467) § 2997. SEC. 10. Justices of the peace elected in any city shall take and file an oath of office with the county clerk of the county in which the city is located within the

same time and in the same manner as in cases of justices of the peace elected in townships. All other officers elected or appointed in the city, shall, within ten days after receiving notice of their election or appointment, take and subscribe the oath of office prescribed by the constitution of the State and file the same with the city clerk.

When other officer to take oath.

See section 50.

(468) § 2998. SEC. 11. Every justice of the peace, within the time limited for filing his official oath, shall file with the county clerk, mentioned in the preceding section, the security for the performance of the duties of his office, required by law in the case of justices of the peace elected in townships; except that said official bond or security may be executed in presence of, and be approved by the mayor; and in case he shall enter upon the execution of the duties of his office before having filed his official oath and bond or security and such other bond or security to the city as may be required by law or by any ordinance or resolution of the council, he shall be liable to the same penalties as are provided in cases of justices of the peace elected in townships; and every other officer elected or appointed in the city before entering upon the duties of his office and within the time prescribed for filing his official oath, shall file with the city clerk such bond or security as may be required by law or by any ordinance or requirement of the council, and with such sureties as shall be approved by the council, for the due performance of the duties of his office, except that the bond or security of the clerk shall be deposited with the city treasurer.

When and how justice of peace to file security.

Penalty for not filing.

When and how other officers to file security.

Bond of clerk to be deposited with treasurer.

Sufficiency of sureties.

(469) § 2999. SEC. 12. The council, or the mayor, or other officer whose duty it shall be to judge of the sufficiency of the proposed sureties of any officer or person of whom a bond or any security may be required by this act or by any ordinance or direction of the council, shall inquire into the sufficiency of such sureties, and may examine them under oath as to their property; such oath may be administered by the mayor, or any alderman, or other person authorized to administer oaths. The examination of any such surety shall be reduced to writing and be signed by him, and annexed to and filed with the bond or instrument to which it relates.

Examination of surety.

(470) § 3000. SEC. 13. The council may also, at any time require any officer, whether elected or appointed, to execute and file with the clerk of the city, new official bonds in the same or in such further sums, and with new or such further sureties as said council may deem requisite for the interest of the corporation. Any failure to comply with such requirement shall subject the officer to immediate removal by the council.

When council may require new bonds.

Penalty for failure to comply

VACANCIES IN OFFICE.

Resignations
to be made to
council

When office to
be declared
vacant.

Office may be
vacated when
oath or bond
not filed.

When and how
council may
fill vacancy.

What vacan-
cies filled by
election.

When and how
vacancies to
be filled.

Resignation or
removal not to
exonerate from
liability.

When officer to
turn over city
property to
successor.

Penalty for
violation.

(471) § 3001. SEC. 14. Resignation of officers shall be made to the council.

(472) § 3002. SEC. 15. If any officer shall cease to be a resident of the city, or if elected in and for a ward, shall remove therefrom during his term of office, the office shall thereby be vacated. If any officer shall be a defaulter the office shall thereby be vacated.

(473) § 3003. SEC. 16. If any person elected or appointed to office shall fail to take and file the oath of office, or shall fail to give the bond or security required for the due performance of the duties of his office, within the time herein limited therefor, the council may declare the office vacant, unless previous thereto he shall file the oath and give the requisite bond or security.

(474) § 3004. SEC. 17. In case any vacancy occurs in the office of mayor, or in any other elective office, except justice of the peace, constable and school trustee, as hereinafter provided, the council may fill such vacancy by appointment at any time within twenty days after such vacancy occurs, or may, within such time, call a special election for the purpose of filling such vacancy, as they may deem for the best interest of the city. Vacancies in the office of justice of the peace and constable shall be filled at the next annual election or at a special election called for that purpose. Vacancies in any appointive office shall be filled within twenty days after such vacancy occurs, by the mayor by and with the consent of the council.

People v. Highland Park, 88 / 653.

(475) § 3005. SEC. 18. The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office, exonerate such officer or his sureties from any liability incurred by him or them.

(476) § 3006. SEC. 19. Whenever any officer shall resign or be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor in office all the books, papers, moneys and effects in his custody as such officer and in any way appertaining to his office; and every person willfully violating this provision shall be deemed guilty of a misdemeanor and may be proceeded against in the same manner as public officers may be proceeded against for the like offense, under the general laws of this State now or hereafter in force and applicable thereto; and every officer appointed or elected under this act shall be deemed an officer within the meaning and provisions of such general laws of the State.

CHAPTER VI.

ELECTIONS.

(477) § 3007. SECTION 1. An annual city election shall be held on the first Monday in April in each year, at such place or places in each of the several wards of the city, as the council shall designate.

When annual city election to be held.

(478) § 3008. SEC. 2. Special elections may be appointed by resolution of the council, and held in and for the city, or in and for any ward thereof, at such times and place or places as the council shall designate; the purpose and object of which shall be fully set forth in the resolution appointing such election.

When and how special may be called.

(479) § 3009. SEC. 3. Whenever a special election is to be held the council shall cause to be delivered to the inspectors of election in the ward or wards where the same is to be held, a notice signed by the city clerk, specifying the officer or officers to be chosen and the question or proposition, if any, to be submitted to the vote of the electors, and the day and place at which such election is to be held, and the proceedings and manner of holding the election shall be the same as at the annual elections.

Notice to inspectors of election.

(480) § 3010. SEC. 4. Notice of the time and place or places of holding any election and of the officers to be elected and the questions to be voted upon, shall, except as herein otherwise provided, be given by the city clerk, at least ten days before such election, by posting such notices in three public places in each ward in which the election is to be held, and by publishing a copy thereof in one or more newspapers published in the city, the same length of time before the election, and in case of a special election the notice shall set forth the purpose and object of the election as fully as the same are required to be set forth in the resolution appointing such election.

When and how notice to be given by city clerk.

(481) § 3011. SEC. 5. The council shall provide and cause to be kept by the city clerk, for use at all elections, suitable ballot boxes of the kind required by law to be kept and used in townships.

Ballot boxes, how provided and kept.

(482) § 3012. SEC. 6. On the day of elections, held by virtue of this act, the polls shall be opened in each ward, at the several places designated by the council, at seven o'clock in the morning or as soon thereafter as may be, and shall be kept open until five o'clock in the afternoon, at which hour they shall be finally closed. The inspectors shall cause proclamation to be made upon opening the polls, and shall also cause proclamation to be made of the closing of the polls, one hour, thirty minutes and fifteen minutes respectively, before the closing thereof.

When polls to be open.

When inspectors to make proclamation of opening and closing.

Who to constitute board of election inspectors.

How to be chosen when vacancy exists.

Compensation.

Who to be chairman and clerk of board.

Inspectors of state, county and district election.

Elections, manner of conducting.

Election commissioners, appointment of, duties.

(483) § 3013. SEC. 7. The supervisor and two aldermen of each ward when eligible and one elector of the ward to be appointed by the council shall, except as in this act otherwise provided, constitute the board of inspectors of election. If by reason of the formation of new wards or by a change in the boundaries of existing wards or the creation of more than one election district therein, or for any reason there shall not be a sufficient number of the officers last named in any ward or district to make a board of four inspectors for each election district, it shall be the duty of the council, at least one week before the election, to appoint a sufficient number of inspectors, who, with the officers above named, if any, residing in the ward or election district shall constitute a board of four inspectors for the ward or district, and if at any election any of the inspectors above provided for shall not be present, or remain in attendance, the electors present may choose, viva voce, such number of electors, as with the inspector or inspectors present shall constitute a board of four in number, and such electors so chosen shall be inspectors at that election, during the continuance thereof. Each inspector of the election shall receive two dollars per day as compensation.

(484) § 3014. SEC. 8. The inspectors of election in each ward or voting district shall choose one of their number chairman of the board, and shall designate one of their number to act as clerk of the election, and another of their number to act as second clerk, and each person chosen or appointed as inspector of election shall take the constitutional oath of office, which oath either of the inspectors may administer.

(485) § 3015. SEC. 9. The inspectors of election, as specified in the last two sections, shall also be inspectors of State, county and district elections in their respective wards or voting districts.

(486) § 3016. SEC. 10. All elections held under the provisions of this act, shall be conducted, as nearly as may be, in the manner provided by law for holding general elections in the State, except as herein otherwise provided; and the inspectors of such elections shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this State.

(487) § 3017. SEC. 11. The council shall, at least ten days previous to any election, appoint a board of three election commissioners, not more than two of whom shall belong to the same political party, who shall be the board of election commissioners for such city for such election, and they shall perform such duties relative to the preparation and printing of ballots as are required by law of the boards of election commissioners of counties.

(488) § 3018. SEC. 12. The electors shall vote by ballot. Such ballot shall be prepared and furnished by the board of election commissioners as provided by the general election laws of the State, and shall contain the names of all officers to be voted for, and all questions or propositions submitted to be voted upon, and all matters touching the form and contents of the ballot and the casting and canvassing of the same, and all other matters touching elections shall be governed by the general election laws of the State, when not inconsistent with the provisions of this act.

Electors to
vote by ballot.

See notes to general election law, sections 94 et sequ.

(489) § 3019. SEC. 13. The council shall convene on Thursday next succeeding each election, at their usual place of meeting, and determine the result of the election upon each question and proposition voted upon, and what persons are duly elected at the said election to the several offices respectively; and, thereupon, the city clerk shall make duplicate certificates, under the corporate seal of the city, of such determination, showing the result of the election upon any question or proposition voted upon, and what persons are declared elected to the several offices respectively; one of which certificates he shall file in the office of the county clerk, in the county in which the city is located, and the other shall be filed in the office of the city clerk.

Council to
meet and de-
termine result
of election.

Certificate of
election.

(490) § 3020. SEC. 14. The person receiving the greatest number of votes for any office in the city or wards, shall be deemed to have been duly elected to such office; and if there shall be no choice for any office by reason of two or more candidates having received an equal number of votes, the council shall, at the meeting mentioned in the preceding section, determine by lot between such persons which shall be considered elected to such office.

Who to be
deemed
elected.
In case of tie
vote.

(491) § 3021. SEC. 15. It shall be the duty of the city clerk, within five days after the meeting and determination of the council, as provided in section thirteen, to notify each person elected, in writing, of his election; and he shall also, within five days after the appointment of any person to any office, in like manner notify such person of such appointment.

Clerk to notify
person elected
or appointed.

(492) § 3022. SEC. 16. Within one week after the expiration of the time in which any official bond or oath of office is required to be filed, the city clerk shall report in writing, to the council, the names of the persons elected or appointed to any office, who shall have neglected to file such oath and requisite bond or security for the performance of the duties of the office.

Failure to file
bond, clerk to
give notice.

CHAPTER XXXIII.

MISCELLANEOUS.

Certain cities
incorporated
by general law,
etc.

(493) § 3358. SECTION 1. All cities heretofore incorporated under any general or special law of this State, and having a population of ten thousand or less, according to the last preceding census, are hereby reincorporated under and made subject to the provisions of this act, as cities of the fourth class, such reincorporation to take effect on the first day of January, in the year of our Lord one thousand eight hundred ninety-six, and all acts by virtue of which such cities have been incorporated are hereby repealed from and after the said first day of January, in the year of our Lord one thousand eight hundred ninety-six, except as hereinafter in this section provided: Provided however, That whenever fifty or more of the qualified voters of any city hereinbefore described as a city of the fourth class, which has been incorporated under a special act of the legislature, shall file with the council thereof, on or before the first day of November, in the year of our Lord one thousand eight hundred ninety-five, a petition praying that an election of the qualified voters of such city be called to determine the question as to whether such city shall remain incorporated under the special act under which it was incorporated and by which it is governed at the time of the filing of such petition, or whether it shall become subject to the provisions of this act, thereupon it shall be the duty of such council, within ten days after the filing of such petition, to call a special election of the qualified voters of such city to determine such question. If a majority of all the votes cast at such election are in favor of remaining incorporated under such special act by which such city is governed at the time of the filing of such petition, then such city shall not be reincorporated under the provisions of this act, but shall remain incorporated under such special act, which shall remain in full force and effect as if this law had not been enacted: Provided further, That any city of this State, when the population thereof is ten thousand or less, according to the last preceding State census even though the voters of said city have theretofore elected to remain incorporated under the special act governing such city, may at any time thereafter be incorporated under and made subject to the provisions of this act and the act of which this act is amendatory, as a city of the fourth class as follows: When one hundred or more freeholders residing within such city shall file with the council thereof, on or before the first day of July in any year, a petition praying that an election of the qualified voters of such city be called to determine the question as to whether such city shall become incorporated as a city of the fourth class under this act being act number two hundred fifteen of the public acts of this State for the

Proviso as to
when election
may be called.

Further proviso.

year A. D. eighteen hundred ninety-five, then it shall be the duty of the council within ten days after the filing of such petition to call a special election of the qualified voters of such city to determine such question. Any election held under the provisions of this chapter shall be held upon such day, and at such time and in such places in said city as may be designated by a resolution of the council: Provided, That the same shall be held on or before the first day of December in the year in which the petition as above provided is filed. Notice of such election shall be given in the same manner and for the same length of time as is provided in the charter of such city for the calling of special elections, and the votes shall be counted and canvassed, and the returns shall be made, and the result declared and determined in the same manner as is provided in such charter for the counting, canvassing and returning of votes, and the determining of the result thereof at special elections. No new registration shall be necessary for the holding of such election, and only those whose names shall appear in the registration books used at the next previous annual city election shall be entitled to vote at such election. The ballots used at such election shall contain the instructions required by the general election laws of the State, and the proposition to be submitted shall be in the following language:

Election
when held

Proviso.

Notice of
election.New registra-
tion not neces-
sary.

For becoming reincorporated under the general law— Yes. [] Form of ballot.

For becoming reincorporated under the general law— No. []

If a majority of the votes cast at such election shall be in favor of reincorporating under the provisions of this act, then such city shall become reincorporated under and made subject to the provisions of this act on the first day of January in the year following such special election. At the next regular meeting the council shall, by a resolution to be entered in the record of their proceedings, recite that at said election, stating the date thereof, the question as to whether said city should be reincorporated as a city of the fourth class under the provisions of this act was submitted to a vote of the electors of the city, and that a majority of those voting upon the question, voted for reincorporation, and shall in the resolution declare that, in accordance with said vote, the said city shall be and is reincorporated as a city of the fourth class; the clerk of the city shall record the same in the record of the proceedings of the council and shall make a copy of so much of the record of the proceedings of the meeting at which the same was adopted as may be necessary to show the time and place of holding such meeting, and the names of the members of the council who were present, and the passage of said resolution, including a true copy thereof. To said copy the clerk and the mayor of the city shall annex their certificate, under the corporate seal of the city showing the same to be

Vote required
to become re-
incorporated.Duty of the
council.Clerk to make
copy of record
of proceedings.Clerk and
mayor to an-
nex certificate

When filed. a true copy of said record, which said certified copy of the record and resolution aforesaid shall be designated as a "declaration of reincorporation" and shall be transmitted to, and filed and recorded in the office of the Secretary of State, and the declaration of reincorporation filed in the office of the Secretary of State, or the records thereof, or certified copies of such records shall be prima facie evidence of the due and legal reincorporation of such city as a city of the fourth class under the provisions of this act.

Evidence of reincorporation.

Am. 1899, act 136.

First election of officers incorporated under this act.

(494) § 3364. SEC. 7. The first election of officers for any such city reincorporated under the provisions of this act shall be held on the first Monday in April, in the year of our Lord, one thousand eight hundred and ninety-six, and notice thereof and of the officers to be elected thereat shall be given and the election held and conducted, the votes canvassed, the result determined and notice given to persons elected in the same manner and within the same time as herein provided.

ELECTIONS IN VILLAGES.

[Extract from Act 3 of 1895.]

When board of supervisors to declare village incorporated.

(495) § 2692. SEC. 9. If such board, after hearing the parties, shall be satisfied that all the requirements of this act in respect to such application have been complied with, and that such territory as determined upon contains the population required by this act, it may make an order declaring that such territory as determined upon shall be an incorporated village, by the name specified in such application, or by such other name as to such board shall seem proper; and said board shall in such order appoint the time and place of holding the first election; and shall also appoint four discreet persons, residents of such territory and qualified electors therein, who shall constitute a board of registration for said first election to be held in said village, and who shall also act as inspectors of election at said first election. The said board of registration shall meet on the Saturday next preceding said first election, and shall remain in session the same hours required of boards of registration for general elections, and register the names of all persons residents of said village, presenting themselves for registration, and having the qualifications of voters at annual township meetings, due notice of the time and place of which registration shall be given by said board, by posting notices thereof in five public places in said village, at least ten days previous to said meeting. Such application and affidavit verifying the same, with copy of notice of hear-

Time of holding first election.

Meeting of board of registration.

ing and proof of the posting or publishing of the same, and all the proceedings of such board of supervisors touching such incorporation shall be entered upon the records of said board, and all papers relating thereto shall be filed with the county clerk of the county in which such proceedings are had and taken, and the county clerk of said county shall thereupon transmit a certified copy of such order of incorporation to the secretary of state, who shall file and record the same in his office. The original order of incorporation, or a certified copy thereof by the county clerk of such county or a certified copy of the copy thereof on file in the office of the secretary of state, by the secretary of state, shall be prima facie evidence of such incorporation and of the regularity thereof in all courts and places.

Order of incorporation to be filed with secretary of state.

Am. 1901, act 33.

For proceedings relative to incorporation of villages, see sections 2684-91, C. L., 1897.

(496) § 2693. SEC. 10. The inspectors so appointed shall give notice of the time and place of holding such election and the officers to be elected at such election, by posting up written or printed notices thereof in at least five public places in such territory, at least three weeks previous to the day appointed for holding the same, or by publishing the same in some newspaper printed in such territory for three successive weeks immediately preceding the time aforesaid. At such election the polls shall be opened at seven o'clock in the forenoon and shall close at five o'clock in the afternoon.

Notice to be given of time and place of holding election.

(497) § 2694. SEC. 11. Every elector residing in such territory, and qualified to vote for township officers in the township in which such territory or some part thereof may be situate, may vote at all elections in said village, and all the laws of this State in relation to the election of township officers, canvass of votes, certifying the election of officers, and notifying them of their election, shall apply to such first election of officers in such village, so far as the same may be applicable and not inconsistent with the provisions of this act.

Qualification for voting at first election.

QUALIFICATION OF ELECTORS: See sections 31, 59 and notes.

(498) § 2697. SEC. 14. After the first election the clerk and two of the trustees, to be appointed each year by the council, shall be the village board of registration. On the Saturday previous to the day of holding any annual or special election, and on any other days that the council may appoint, the board shall be in session from nine o'clock in the morning until eight o'clock in the afternoon, for the purpose of completing the registration of the electors of the village; and in case of the absence of said clerk, or of either of the trustees so appointed, those who shall be in attendance are authorized to appoint some competent person to fill the vacancy occasioned by such absence. Notice of the time and place of

Who to constitute village board of registration.

holding such meeting shall be given with the notice of said election. The members of the board of registration shall each receive two dollars per day as compensation.

Registration to conform with registration laws in townships.

(499) § 2698. SEC. 15. In making and completing any such registration, the board shall proceed in the same manner and conform to the same rules, as near as may be, as are provided by law for registering electors in townships.

CHAPTER II.

OFFICERS.

Village officers.

(500) § 2699. SECTION 1. In each village the following officers shall be elected, viz., a president, six trustees, one clerk, one treasurer, who shall be ex officio collector, and one assessor. The president and trustees shall constitute the village council.

Term of office.

(501) § 2702. SEC. 4. The president, clerk, treasurer and assessor shall hold their respective offices for the term of one year from the second Monday of March of the year when elected, and until their successors are elected and qualified and enter upon the duties of their offices: Provided, That no person shall be eligible to the office of treasurer for more than two successive terms.

Proviso.

Village of Laurium v. Mills, 129 / 537.

Term of trustees of village.

(502) § 2703. SEC. 5. The trustees shall hold their offices for the term of two years from the second Monday in March of the year when elected and until their successors are qualified and enter upon the duties of their offices; except that at the first election held in any village incorporated subject to the provisions of this act, six trustees shall be elected, three for the term of one year and three for the term of two years from the second Monday of March in the year when elected, and annually thereafter three trustees shall be elected for the term of two years.

Term of appointive officers.

(503) § 2704. SEC. 6. All appointive officers, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the second Monday of April next after such appointment, and until their successors are qualified and enter upon the duties of their offices, unless a different term of office shall be prescribed in this act, or in the ordinance or resolution creating the office. Officers appointed to fill vacancies shall hold their office until the next annual election, and until their successors are elected or appointed and qualified. All persons elected or appointed to office shall enter upon the duties thereof, upon taking the oath of office and filing the requisite security, if any is required of them.

(504) § 2705. SEC. 7. No person shall be elected or appointed to any office unless he shall be an elector of the village. And no person shall be elected or appointed to any office in the village who has been or is a defaulter to the village or to any board of officers thereof, or to any school district, county or other municipal corporation of the State. All votes for or any appointment of any such defaulter shall be void. All officers of the village, elected or appointed, shall take and subscribe the oath of office prescribed by the constitution of the State, and file the same with the clerk, and in case of failure to do so, within ten days after receiving notice of their election or appointment, shall be deemed to have declined the office. Qualification for office.

CHAPTER III.

ELECTIONS.

(505) § 2714. SECTION 1. After the first election an annual election of officers shall be held on the second Monday in March in each year, at such place in the village as the council shall designate. Annual election.

(506) § 2715. SEC. 2. Special elections may be appointed by resolution of the council, and held at such times as they shall determine, the purpose and object of which shall be fully set forth in the resolution appointing such election. Special election.

(507) § 2716. SEC. 3. The president and clerk, and two of the trustees, or any four of the trustees, to be appointed by the council, shall be the inspectors of election. The president, when present, shall be chairman of the board of election inspectors, and the clerk, if present, shall act as clerk of the election, and the inspectors shall appoint one of their number to act as second clerk. In case four of the inspectors do not attend at the opening of the polls, or shall not remain in attendance, such vacancy shall be filled as provided by the general election laws of the State, and in case either the president or clerk, or both of them, are absent, the inspectors shall designate from their number a chairman and a clerk. Each inspector of election shall receive as compensation two dollars per day. Who to be inspectors of election. Compensation of inspectors.

People v. Avery, 102 / 573.

(508) § 2717. SEC. 4. Notice of the time and place of holding any election, and of the officers to be elected, and the questions to be voted upon, shall, except as herein otherwise provided, be given by the clerk, at least eight days before such election, by posting such notices in three public places in the village, and by publishing a copy thereof in a newspaper in Notice of time of holding election to be published.

the village, if any is published therein, the same length of time before the election; and in case of a special election, the notice shall set forth the purpose and object of the election as fully as the same are required to be set forth in the resolution appointing such election.

Highland Park v. McAlpine, 117 / 668.

Council to appoint board of election commissioners.

(509) § 2718. SEC. 5. The council shall, at least ten days previous to any election, appoint a board of three election commissioners, not more than two of whom shall belong to the same political party, who shall be the board of election commissioners for such village for such election, and they shall perform such duties relative to the preparation and printing of ballots as are required by law of the boards of election commissioners of counties. The council shall also provide and cause to be kept by the clerk, for use at all elections, suitable ballot boxes of the kind required by law to be kept and used in townships.

Opening and closing of polls.

(510) § 2719. SEC. 6. On the day of elections, the polls shall be opened at seven o'clock in the morning, or as soon thereafter as may be, and shall be kept open until five o'clock in the afternoon, at which hour they shall be finally closed. The inspectors shall cause proclamation to be made upon opening the polls, and shall also cause proclamation to be made of the closing of the polls, one hour, thirty minutes, and fifteen minutes, respectively, before the closing thereof.

Manner of conducting elections.

(511) § 2720. SEC. 7. All elections in said village shall be conducted as nearly as may be in the manner provided by law for holding general elections in the State, except as herein otherwise provided; and the inspectors of such election shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this State. If at any election vacancies are to be filled, or if any person is to be elected for less than a full term of office, the term shall be designated on the ballot.

See notes to sections of the general election law, sections 94 et sequ.

Canvass of votes to be public.

(512.) § 2721. SEC. 8. Immediately after closing the polls, the inspectors of election shall, without adjourning, publicly canvass the votes received by them, and declare the results, and shall on the same day or the next day make a statement in writing, setting forth in words at full length, the whole number of votes given for each office, the names of the persons for whom such votes for each office were given, and the number of votes so given for each person, and the whole number of votes given upon each question voted upon, and the number of votes for and against the same, which statement shall be certified under the hands of the inspectors to be cor-

rect, and they shall deposit such statement and certificate on the day of election, or on the next day, together with said poll lists, and the register of electors, and the boxes containing said ballots in the office of the village clerk. The manner of canvassing said votes shall be the same as prescribed by law for canvassing votes at general elections held in this State, and the inspectors shall in all other respects, except as herein otherwise provided, conform as nearly as may be to the duties required of inspectors of election at general elections.

Certificate of election.

(513) § 2722. SEC. 9. The council shall convene on Thursday next succeeding each election, at their usual place of meeting, and determine the result of the election upon each question and proposition voted upon, and what persons were duly elected at the said election to the several offices respectively; and thereupon the clerk shall make duplicate certificates of such determination, showing the result of the election upon any question or proposition voted upon, and what persons are declared elected to the several offices respectively; one of which certificates he shall file in the office of the county clerk of the county in which the village is located, and the other shall be filed in the office of the village clerk.

Council to determine result of election.

(514) § 2723. SEC. 10. If there shall be no choice for any office by reason of two or more candidates having received an equal number of votes, the council shall at the meeting mentioned in the preceding section, determine by lot between such persons which shall be considered elected to such office.

In case of tie council to determine by lot.

(515) § 2724. SEC. 11. It shall be the duty of the clerk, within five days after the meeting and determination of the council, as provided in this chapter, to notify each person elected, in writing, of his election; and he shall also, within five days after the appointment of any person to any office, in like manner notify such person of the appointment.

Village clerk to notify persons elected.

(516) § 2725. SEC. 12. Within one week after the expiration of the time in which any official bond or oath of office is required to be filed, the clerk shall report in writing to the council the names of all persons elected or appointed to any office, who shall have neglected to file such oath or bond.

Clerk to report failure of officers to file oath or bond.

(517) § 2726. SEC. 13. The council of any village having more than six hundred and fifty electors according to the poll list of the last preceding election, may cause such village to be divided into two or more voting precincts, and the manner of making such division, the registration, and holding of elections and of canvassing the votes, and all other matters pertaining to the division of villages into voting precincts, and of the holding of elections therein, shall be governed by the general laws of the State relating thereto.

Division of village into voting precincts.

CHAPTER XIII.—MISCELLANEOUS.

VOTING MACHINES.

An Act to authorize the use of any thoroughly tested and reliable voting machine at any election held in this State.

[Act 61 of 1897, as amended.]

The People of the State of Michigan enact:

Voting machines, who shall authorize the use of.

(518) § 3750. SECTION 1. That the board of supervisors of any county may at their annual meeting by a two-thirds vote, authorize the use of any thoroughly tested and reliable voting machine at any township election, to be held within their respective counties, during the ensuing year after such annual meeting, and any city council, or village council, may at any regular meeting authorize the use of such voting machines at any election to be held within their respective cities or incorporated villages during the ensuing year, but all voting by machines shall be a secret vote, as hereinafter provided.

The acts relative to the use of the "Rhines Vote Recorder," "Myers Ballot Machine" and the "Abbott Voting Machine," are omitted from this compilation, see sections 3759-3823, C. L., 1897.

Voting, how done.

Assisting disabled, etc.

(519) § 3751. SEC. 2. All voting shall be done in voting booths or compartments of suitable dimensions to enclose one voter with a voting machine in such a manner as to ensure a secret vote, providing that if any voter makes affidavit that he is unable to vote intelligently on account of defective eyesight, or other physical disability, or from ignorance, the chairman of the board of election inspectors shall designate an inspector, who in the presence of the authorized challengers or other inspectors shall assist a physically disabled voter, or instruct a voter who cannot read the ballot, how to operate the machine to give expression to such voter's choice, but in no case shall any such voter be advised what person or party ticket to vote for, that question being left solely for the voter's own choice and determination. Whenever a voter has been assisted or instructed as indicated, a notation to that effect shall be made in the poll book, or register of electors, and on the poll list and tally sheets stating briefly the nature of the disability of such voter.

To test machines and see that names are properly placed thereon.

(520) § 3752. SEC. 3. The board of election commissioners shall thoroughly test all voting machines within thirty days previous to any election at which the use of such machines has been authorized. They shall also see that the names of all duly authorized nominees for office are suitably placed and arranged in connection with the voting machines

and deliver the voting machines and all their appurtenances connected with them in perfect order for use in voting, together with full instructions for the voters' information, to the proper officials in time for use on election day.

(521) § 3753. SEC. 4. The board of inspectors of election will place plain printed or written instructions for voters in each voting booth, or compartment before the opening of the polls, showing how to vote on the machine and will give general oral instructions previous to a voter's entering a voting booth, to such voters as may desire them. They will also determine what length of time not to exceed three minutes a voter may remain in a voting booth or compartment.

Instructions to be placed in booth.

(522) § 3754. SEC. 5. An ordinary ballot box shall be provided for use in each voting precinct, wherein shall be cast duly authorized ballots relating to any question or matter not provided for by the voting machine, if any, and such votes shall be counted and returns made as provided by existing laws.

Ballot on questions, box to be provided for.

(523) § 3755. SEC. 6. Whenever the use of voting machines has been duly authorized in any city, village or township, one such voting machine shall be placed in each voting precinct, whenever and wherever a board of registration is in session and some member of such board will call the attention of voters who are entitled to registration, to such voting machine and explain how it will operate when used on election day, to all such voters, if they express a desire for such information.

Board of registration to explain operation of machine.

(524) § 3756. SEC. 7. At the close of the polls a statement of the votes for each and every person and proposition as shown by the voting machine shall be ascertained and publicly proclaimed by the board of election inspectors and correct copies of the result of the vote shall be made up in proper form and transmitted, to the designated officials as required by existing laws, but no adjournment of any board of election inspectors shall take place until the true result of the vote has been ascertained and publicly announced.

Board to ascertain and publicly proclaim vote before adjourning.

(525) § 3757. SEC. 8. Any person who shall knowingly and willingly damage any voting machine or knowingly and willingly do anything to obstruct its use or make a wrong use of such machine on election day, or shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars, or by imprisonment of not less than six months, nor more than three years or by both such fine and imprisonment in the discretion of the court.

Damaging or obstructing use of machines.

Penalty for.

(526) § 3758. SEC. 9. All election laws not incompatible with this act are continued in full force and effect.

Laws in force.

(527) SEC. 10. Voting machines provided for in this act, shall be so constructed that any elector may by means of irregular ballots or otherwise vote for any person for any office,

Relative to construction, etc., of machine.

although such person may not have been nominated by any party, and his name may not appear on such machine; and that when a person is voted for for any such office, by means of an irregular ballot, the elector cannot vote for any name on the machine for the same office. Said machines may be so constructed that the names of all candidates for presidential electors will not occur thereon, but in lieu thereof one ballot label in each party column or row shall contain only the words "Presidential Electors," preceded by the party name; and every vote registered for such ballot label shall operate as a vote for all candidates of such party for presidential electors and shall be counted as such. In case the machine is so constructed that the candidates for presidential electors of any party can be voted for by voting for a ballot label containing the words "Presidential Electors," it must be so constructed that by voting an irregular ballot as herein defined, the elector may vote for any person or persons he may choose for presidential electors.

Added 1903, Act 234.

Relative to
ballots, etc.

(528) SEC. 11. Ballots voted for any person whose name does not appear on the ballot label on the machine as a candidate for office shall be known as irregular ballots. Where two or more candidates are to be elected to the same office the voting devices belonging to all the candidates for said office shall be included in a group to be known as a multicandidate group. Except for presidential electors and except in multicandidate groups, where the irregular balloting device requires otherwise, no person shall be voted for on any irregular ballot for any office whose name appears on the ballot label on the front of the machine as a candidate for that office; any ballot so voted shall be rejected. An irregular ballot must be cast in its appropriate place on the machine, or it shall be void and not counted. In voting for presidential electors the elector may vote an irregular ticket, made up of the names of persons in nomination by different parties or partially of the names of persons so in nomination and partially of persons not in nomination, or wholly of names of persons not in nomination by any party. All irregular ballots shall be deposited, written or affixed in or upon the receptacle or device provided on the machine for that purpose, in accordance with the plan of such machine, otherwise they shall be rejected.

Add. Id

Election districts by
whom created,
number of
voters.

(529) SEC. 12. For any election in any city, town or village in which voting machines are to be used, the election districts in which such machines are to be used may be created by the officers charged with the duty of creating election districts, so as to contain as near as may be five hundred voters each. Such redistricting or redivision may be made at any time after any November election and on or before August

Redivision,
when made.

fifteen following, and when so made shall take effect immediately. Thereafter no redivision of such election districts shall be made for elections by such machines until at some general election the number of votes cast in one or more of such districts shall exceed six hundred. In case of townships and incorporated villages so divided the provisions of chapter ninety-five Miller's Compiled Laws of eighteen hundred ninety-seven, shall apply to and govern all proceedings hereunder, with reference to such division, boards of registration, election inspectors and all matters arising therefrom not provided for by this act. In cities where no special provisions exist relative thereto, such division and all matters arising therefrom, not covered by the provisions of this act, shall be provided for by ordinance of the common council of said city, and it is hereby made the duty of such common council to make all necessary rules and regulations in connection therewith to fully carry out the provisions of this section. This provision, however, shall not apply to cities where the election law provides for a different, or larger number of voters in an election district.

In case of townships and villages laws to govern.

Cities.

Not to apply to certain cities.

Added 1905, Act 217.

(530) SEC. 13. The local authorities, on the adoption and purchase of a voting machine, may provide for the payment therefor in such manner as they may deem for the best interest of the locality and may for that purpose issue bonds, certificates of indebtedness or other obligations, which shall be a charge on the city, town or village. Such bonds, certificates or other obligations may be issued with or without interest, payable at such time or times as the authorities may determine, but shall not be issued or sold at less than par.

May issue bonds for payment of machine.

How issued.

Add. 1d

(531) SEC. 14. Where voting machines have been adopted for use in any county, city, town or village within this State, the Secretary of State shall supply appropriate samples of all ballot labels, diagrams and return sheets required for elections, and he shall prescribe suitable rules and regulations in addition to those contained in this act, not inconsistent with law, which shall govern the conduct of inspectors and clerks of elections, and voters in the use of such voting machines during elections; for filling out the return sheets and for making return thereof; and shall prepare and furnish all instructions and printed matter necessary for the use of such voting machines.

Secretary of state to supply samples of labels, instructions, etc.

Add. 1d

(532) SEC. 15. The Secretary of State, and the election commissioners of any city, village or township where voting machines have been purchased and are used, shall not be required to print and furnish paper ballots, except for any

When secretary of state not to furnish paper ballots.

question or matter that cannot be provided for by the voting machine.

Add. Id

Ballot clerks,
etc., dispensed
with.

(533) SEC. 16. Ballot clerks and gate keepers may be dispensed with in election districts in any city, village or township where voting machines have been purchased and are used.

Add. Id

RETURN OF VOTE TO SECRETARY OF STATE.

[Extract from Act 44, 1899.]

County clerks
to make re-
turns of vote
of certain
officers.

(534) SEC. 28. The vote for governor and secretary of state by townships and wards, and the vote for members of the State legislature cast at the preceding November election, shall be returned to the secretary of state by the several county clerks on or before the first day of December following such election, and it shall be the further duty of all county clerks to furnish to the secretary of state, promptly and without compensation, any further information requested of them, to be used in the compilation of the manual.

Further
duty of
county clerks.

Secretary of
state to pub-
lish result of
canvass.

(535) SEC. 29. The secretary of state shall, as soon as possible after the canvass of votes at the April election, print in pamphlet form the result of such canvass. A sufficient number of said pamphlets shall be printed to supply demands, as shall in the judgment of the secretary of State be required, but in no case to exceed five thousand pamphlets, and they shall be mailed by the secretary of state to persons who may request them.

PUBLICITY OF PROPOSED CONSTITUTIONAL AMENDMENTS.

An Act to secure greater publicity concerning proposed amendments to the constitution.

[Act 23 of 1905.]

The People of the State of Michigan enact:

Constitutional
amendments,
secretary of
state to give
notice of effect
of proposed.

(536) SECTION 1. That whenever a proposed constitutional amendment or other question is to be submitted to the electors of the State for popular vote, the secretary of state shall duly prepare concise statements, setting forth the purport, nature and effect of the proposed amendment, or other

question, and shall three times send copies of said statements to the several daily and weekly newspapers published in the State of Michigan, no less than sixty, thirty and fifteen days respectively, prior to the election, with a request that said papers give as wide publicity as possible to said proposed amendment, or other questions. And he shall also furnish each county and city clerk in the State at least ten copies of such statement for each voting precinct in their respective counties or cities. Each county or city clerk in the State shall furnish the board of election inspectors of each voting precinct in their respective counties or cities, such statements of not less than ten copies, to be posted by such board of election inspectors in a conspicuous place in the room of holding such election and such statements shall be furnished to the inspectors of election in the following languages, namely: Two copies each of Holland, German, Polish and four copies of English. Such statements shall be furnished the election inspectors at least five days before the election.

How given.

Copies of statement to be sent clerks.

Statement to be posted at polling places.

(537) SEC. 2. Publication of any matter by any paper under the provisions of this act, shall be without expense or cost to the State of Michigan.

No charge for publication.

APPORTIONMENT OF SENATORS AND REPRESENTATIVES.

An Act to apportion anew the representatives in the State legislature among the several counties and districts of this State.

[Act 244 of 1905.]

The People of the State of Michigan enact:

(538) SECTION 1. That the House of Representatives shall hereafter be composed of one hundred members, elected agreeable to a ratio of one representative to every twenty-four thousand two hundred persons, including civilized persons of Indian descent not members of any tribe, in each organized county, and one representative of each county having a fraction more than a moiety of said ratio, and not included therein, until the one hundred representatives are assigned; that is to say, within the county of Wayne, fourteen; Kent, five; Houghton, three; Saginaw, three; Allegan, two; Bay, two; Berrien, two; Calhoun, two; Genesee, two; Ingham, two; Jackson, two; Kalamazoo, two; Lenawee, two; Marquette, two; Oakland, two; Ottawa, two; St. Clair, two; Washtenaw, two; Alpena, one; Antrim, one; Barry, one; Branch, one; Cass, one; Charlevoix, one; Cheboygan, one; Chippewa, one; Clinton, one; Delta, one; Dickinson, one; Eaton, one; Emmet,

Apportionment of representatives.

Counties entitled to two or more representatives.

Entitled to one.

Counties constituting one representative district, election returns, where made.

one; Gogebic, one; Grand Traverse, one; Gratiot, one; Hillsdale, one; Huron, one; Ionia, one; Isabella, one; Lapeer, one; Livingston, one; Macomb, one; Manistee, one; Mason, one; Mecosta, one; Menominee, one; Midland one; Monroe, one; Montcalm, one; Muskegon, one; Newaygo, one; Oceana, one; Osceola, one; St. Joseph, one; Sanilac, one; Shiawassee, one; Tuscola, one; Van Buren, one. The counties of Wexford and Lake shall constitute a representative district and be entitled to one representative. The election returns of said district shall be made to the county of Wexford. The counties of Benzie and Leelanau shall constitute a representative district, and be entitled to one representative. The election returns of said district shall be made to the county of Leelanau. The counties of Alger, Luce, Mackinac and Schoolcraft shall constitute a representative district and be entitled to one representative. The election returns of said district shall be made to the county of Schoolcraft. The counties of Baraga, Iron, Keweenaw, Ontonagon, shall constitute a representative district, and be entitled to one representative. The election returns of said district shall be made to the county of Iron. The counties of Roscommon, Clare and Gladwin, shall constitute a representative district, and be entitled to one representative. The election returns of said district shall be made to the county of Clare. The counties of Crawford, Montmorency, Presque Isle, Oscoda and Otsego shall constitute a representative district, and be entitled to one representative. The election returns of said district shall be made to the county of Presque Isle. The counties of Kalkaska and Missaukee shall constitute a representative district, and be entitled to one representative. The election returns of said district shall be made to the county of Missaukee. The counties of Alcona, Iosco, Arenac and Ogemaw shall constitute a representative district, and be entitled to one representative. The election returns of said district shall be made to the county of Iosco.

An Act to divide the State of Michigan into thirty-two senatorial districts.

[Act 245 of 1905.]

The People of the State of Michigan enact:

Apportionment of state into thirty-two senatorial districts.

(539) SECTION 1. The State of Michigan shall be divided into thirty-two senatorial districts, and each district shall be entitled to elect one senator, and the districts shall be constituted and numbered as follows: The first district shall consist of the ninth, eleventh, thirteenth, fifteenth and seventeenth wards of Detroit, and the townships of Grosse Pointe, Gratiot, Hamtramck, Greenfield, Redford, Livonia, Plymouth

and Northville. The second district shall consist of the first, second, third, fifth and seventh wards of Detroit. The third district shall consist of the fourth, sixth, eighth and tenth wards of Detroit. The fourth district shall consist of the twelfth, fourteenth and sixteenth wards of Detroit, and the townships of Canton, Nankin, Dearborn, Springwells, Van Buren, Romulus, Taylor, Ecorse, Sumpter, Huron, Brownstown and Monguagon, and the city of Wyandotte. The fifth district shall consist of the counties of Lenawee and Monroe. The sixth district shall consist of the counties of St. Joseph, Branch and Hillsdale. The seventh district shall consist of the counties of Berrien and Cass. The eighth district shall consist of the counties of Allegan and Van Buren. The ninth district shall consist of the counties of Calhoun and Kalamazoo. The tenth district shall consist of the counties of Jackson and Washtenaw. The eleventh district shall consist of the county of St. Clair. The twelfth district shall consist of the counties of Oakland and Macomb. The thirteenth district shall consist of the counties of Genesee and Livingston. The fourteenth district shall consist of the counties of Ingham and Shiawassee. The fifteenth district shall consist of the counties of Barry and Eaton. The sixteenth district shall consist of the first, second, third, fourth, fifth, ninth, tenth, eleventh and twelfth wards of the city of Grand Rapids. The seventeenth district shall consist of the sixth, seventh and eighth wards of the city of Grand Rapids, and the townships of Tyrone, Solon, Nelson, Spencer, Sparta, Algoma, Courtland, Oakfield, Alpine, Plainfield, Cannon, Grattan, Walker, Grand Rapids, Ada, Vergennes, Wyoming, Paris, Cascade, Lowell, Byron, Gaines, Caledonia and Bowne. The eighteenth district shall consist of the counties of Ionia and Montcalm. The nineteenth district shall consist of the counties of Gratiot and Clinton. The twentieth district shall consist of the counties of Huron and Sanilac. The twenty-first district shall consist of the counties of Lapeer and Tuscola. The twenty-second district shall consist of the county of Saginaw. The twenty-third district shall consist of the counties of Muskegon and Ottawa. The twenty-fourth district shall consist of the counties of Bay and Midland. The twenty-fifth district shall consist of the counties of Isabella, Newaygo, Mecosta and Osceola. The twenty-sixth district shall consist of the counties of Oceana, Mason, Lake, Manistee and Benzie. The twenty-seventh district shall consist of the counties of Antrim, Charlevoix, Grand Traverse, Kalkaska, Leelanau and Wexford. The twenty-eighth district shall consist of the counties of Arenac, Alcona, Iosco, Oscoda, Ogemaw, Gladwin, Clare, Crawford, Roscommon and Missaukee. The twenty-ninth district shall consist of the counties of Alpena, Montmorency, Otsego, Presque Isle, Cheboygan, Emmet and Mackinac. The thirtieth district shall consist of the counties of Menominee, Delta, Schoolcraft, Luce and Chippewa. The

thirty-first district shall consist of the counties of Iron, Baraga, Dickinson, Marquette and Alger. The thirty-second district shall consist of the counties of Gogebic, Ontonagon, Houghton and Keweenaw.

Election returns, where made.

(540) SEC. 2. The election returns of each county forming one district shall be made to the county clerk's office of said county. The election returns of each district composed of more than one county, shall be made to the county clerk's office of the county in which the largest total vote for presidential electors was cast at the last preceding presidential election. The election returns of each district composed of a portion of a county, shall be made to the county clerk's office of said county.

LOCAL OPTION LAW.

An Act to prohibit the manufacture, sale, keeping for sale, giving away or furnishing of vinous, malt, brewed, fermented, spirituous or intoxicating liquors, or any mixed liquor or beverage, any part of which is intoxicating, and to prohibit the keeping of any saloon or other place for the manufacture, sale, storing for sale, giving away or furnishing of such liquors or beverages, and to suspend the general laws of the State relative to the taxation and regulation of the manufacture and sale of such liquors in the several counties of this State under certain circumstances; to authorize the qualified electors of the several counties in this State to express their will in regard to such prohibition by an election, and to authorize and empower the board of supervisors of the several counties, after such election, if they shall determine the result to be in favor of such prohibition, to prohibit the manufacture, sale, keeping for sale, giving away or furnishing of any such liquors, or the keeping of a saloon or any other place for the manufacture, sale, storing for sale, giving away or furnishing of the same within their respective counties; and to provide for penalties and rights of action in case of its violation.

[Act 207 of 1889, as amended.]

The People of the State of Michigan enact:

When unlawful to sell, keep, etc., intoxicating liquors.

(541) § 5412. SECTION 1. That it shall be unlawful for any person directly or indirectly, himself or by his clerk, agent or employe, to manufacture, sell, keep for sale, give away or furnish any vinous, malt, brewed, fermented, spirituous or intoxicating liquors, or any mixed liquor or beverages, any part of which is intoxicating, or keep a saloon or any other place where any such liquors are manufactured, sold, stored for sale, given away or furnished in any county of this State on and after the first day of May next following after the adoption by the board of supervisors of such county of a resolution prohibiting the same, as provided in section thirteen of this act, so long as such resolution remains unrepealed: Provided, however, That the provisions of this section shall not apply to druggists or registered pharmacists, in selling any such liquors under and in compliance with the

Proviso.

restrictions and requirements imposed upon them by the general laws of this State and section twenty-five of this act, as amended.

Am. 1899, Act 183.

NOTE.—Only such annotations are here used as refer to the holding of elections under this act. For more complete annotations, see sections 5412-5435, C. L., 1897, or pamphlet on manufacture and sale of spirituous liquors. This act is not unconstitutional.—Feek v. Twp. Board of Bloomingdale, 82/393.

(542) § 5413. SEC. 2. On and after the first day of May next following after the adoption by the board of supervisors of any county of a resolution prohibiting the manufacture of liquors and the liquor traffic, as hereinafter provided in section thirteen of this act, the provisions of the general laws of this State for the taxation and regulation of the business of manufacturing, selling, keeping for sale, furnishing, giving away or delivering spirituous and intoxicating liquors, and malt, brewed or fermented and vinous liquors shall be and the same are hereby declared suspended and superseded so far as relates to the territory and municipalities within the limits of any such county: Provided, however, That all sales of liquors by druggists, or registered pharmacists, in such counties shall be under the restrictions and requirements imposed upon them by the general laws of this State and this act, as amended.

When provisions of general law for taxation, etc., suspended.

Proviso.

Am. 1899, Act 183.

(543) § 5414. SEC. 3. In order to ascertain the will of the qualified electors of each organized county, in regard to such prohibition, it shall be the duty of the county clerk of the counties of this State, severally, upon written application and petition filed with him and addressed to the board of supervisors of the county, signed by not less than one-third of all the qualified electors thereof, as shown by the poll lists or returns and canvass of the last preceding general election for State officers held in such county, praying that the question, should the manufacture of liquor and the liquor traffic be prohibited within the county, be submitted to the qualified electors of the county, to lay such petitions before the board of supervisors at the earliest opportunity.

Proceedings to ascertain the will of the electors, etc.

Petition.

Am. Id.

(544) § 5415. SEC. 4. To enable the county clerk to ascertain that the petitioners thus praying for such an election are qualified electors of such county, and that they constitute at least one-fourth of all the electors of such county, as shown by the poll list or the returns and canvass of the last preceding general election. To enable each and every elector to determine for himself if his name has been fraudulently attached to said petition, it is hereby required that the signatures of all the petitioners residing in any one and the same township, ward or election district, shall be attached to one

Petition required of each township separately.

Signatures to
be posted in
public places.

To be accom-
panied by
transcript of
poll list.

Affidavit of
posting.

Proviso as to
transcript.

petition or list, separate from those of any other township, ward or election district, and that an exact copy of said petition and of all the signatures thereto shall be posted in three of the most conspicuous places in the said township, ward or election district for at least ten days immediately prior to its presentation to the county clerk. Every such petition shall be accompanied by a transcript of the poll list, if it can be procured, of the last preceding general election, held in such township, ward or election district, certified as correct by the township, city or county clerk, as the case may require, and also an affidavit or affidavits, by one or more resident electors of such township, ward or election district, stating therein that an exact copy of such petition, and of all the signatures thereto, has been posted in three of the most conspicuous places in such township, ward or election district, for at least ten days immediately prior to its presentation to the county clerk; and that he or they are personally acquainted with said petitioners and know that they reside within such township, ward or election district, and that the signatures are the genuine signatures of the persons signing the petition, and of the persons whose names severally appear upon such transcript of the poll list, or if such transcript shall not have been procured, then that the persons whose names are attached to said petition are, to the best of his knowledge and belief, qualified electors in such township, ward or election district: Provided, however, That, if for any reason a certified transcript of any poll list shall not have been procured, or if such transcript shall be defective, it shall be sufficient if the whole number of all the petitioners is equal to one-fourth of the number of all the qualified electors of such county, as shown by the returns or county canvass of the last preceding general election.

If the petitions presented to the county clerk praying that an election be held are accompanied by transcripts of the poll lists of the last preceding general election, as provided for, the fact that the petitioners whose names appear upon the poll lists still reside within their respective townships, wards or election districts must be shown by the affidavit or affidavits of one or more resident electors thereof, upon his or their own knowledge; but if such transcripts do not accompany the petitions, the affidavit or affidavits need only state that the persons whose names are attached to the petitions are, to the best of affiant's knowledge and belief, qualified electors in such township, ward or election district, which implies a residence within the township.—Friesner v. Common Council of Charlotte, 91 / 504.

County clerks
to file petition,
etc

(545) § 5416. SEC. 5. When such petitions have been presented to the county clerk, he shall file the same in his office, and when it shall appear upon the face thereof, and by the transcripts of the poll lists, or by reference to the returns and canvass of the last general election that such submission of said question of prohibition has been prayed for by not less than one-third of all the qualified electors of the entire county, shown as aforesaid, he shall, at the next regular or adjourned meeting of the board of supervisors, call the

attention of the board to the fact that such petitions have been received and filed with him.

Am. 1899, Act 183.

The resolution of the board of supervisors, adopted in conformity to law, and the record being regular, that an election under the local option law has been prayed for by the requisite number of electors, is conclusive of the preliminary steps necessary to set the board in motion.—Thomas v. Abbott, 105/687. The statute does not provide for the filing or keeping of any separate order, distinct from that entered upon the journal, and the provision that the board "shall thereupon issue an order directing that such election be held" is complied with by the service upon the officers named in the act of copies of the order, and the publication of the same. Where, in the record of the day's proceedings, other matters appear besides the resolution or order of the board directing the holding of a local option election, it is proper to omit such irrelevant matter from the notices served and posted, and to append thereto the signatures of the clerk and chairman found at the close of the day's proceedings as recorded. The law does not, in terms, require the posting of the certified copy of the order served upon the township clerk, and it is sufficient if said order is embodied in the notice of election posted by that officer. Three of the inspectors signed the original canvass of the votes given in their township and apparently all joined in the returns that were canvassed by the board of supervisors, and it is held that the board had power to require an amended return if the one made was incomplete, and might, in certain cases, proceed and complete the canvass. The commissioners of election have authority under the more recent Australian ballot law, to provide ballots for a local option election. The jurisdiction being shown by a valid record and canvass, the determination of the board of supervisors as to the result of a local option election is final.—Id.

(546) § 5417. SEC. 6. At such meetings of the board of supervisors it shall be the duty of the county clerk to lay before them petitions filed in his office praying for such submission of said question of prohibition, and when upon examination, it shall appear to the said board, upon the face of said petitions, and by the transcripts of the poll lists, or by reference to the returns and canvass of the last general election, that such submission of said question has been prayed for by the requisite number of electors, as hereinbefore provided, they shall, by resolution, determine and declare to that effect, and such determinations shall be final as to the sufficiency of the petitions and the requisite number of electors signing the same, and they shall thereupon issue an order directing that such question shall be voted upon at the next annual township election to be held in and for such county. Said order shall recite: The filing and examining of the petitions; the resolution determining and declaring that said petitions represent not less than one-third of all the qualified electors of the county as shown by the transcripts of the poll lists, or the returns and canvass of the last preceding general election for State officers held in such county; the ordering of the question of prohibition to be submitted at the next general election for township officers in the several townships, villages and cities in the county, to ascertain whether or not it is the will of the electors of the county that the manufacture of liquor and the liquor traffic should be prohibited within the limits of the county; which said day of election shall always be at the time of the township meeting for the election of township officers. Such orders shall be entered in full upon the journal of the proceedings of the board for that day, and the same shall be signed by the acting chairman and

Clerk to lay petitions before supervisors.

Order for election what to recite.

Order to be entered upon journal.

Copy to be sent to clerks and inspectors of election.

Order for election how published.

clerk of the board before final adjournment. The county clerk shall, without delay, cause a copy of such order, duly certified by him, to be delivered to the township clerk of each township, and to one of the inspectors of election of each ward or election district of every city in the county, and shall also at the same time cause such order to be published for three successive weeks in two newspapers published in the county.

Am. Id.

The purpose of the provisions of the act making the determination by the board of supervisors that the election has been prayed for by the requisite number of electors signing the same, was to place the result when once reached by the people, beyond controversy or collateral attack, which power it was competent for the legislature to confer upon the board, under article 4, sec. 38, of the constitution.—*Friesner v. Common Council of Charlotte*, 91 / 504.

The provisions fixing the time when the different proceedings taken by the board of supervisors under the act shall be entered on their journal and signed by the acting chairman and clerk, are mandatory.—*Covert v. Treasurer of Gratiot Co.*, 93 / 603.

It is competent for the board of supervisors, when convened for the purpose of determining whether or not an election under the local option law has been prayed for by the requisite number of electors, to collect and collate the required statutory facts through a committee appointed for that purpose.—*Giddings v. Wells*, 99 / 221.

Sec. 2477, C. L., 1897, which makes it the duty of the clerk of the board of supervisors to record the vote of each supervisor on any question submitted to the board when required by any member, gives an ample remedy to minorities, and where the record sets forth the adoption of a resolution without giving the yea and nay vote, it will be presumed that it received the necessary majority vote to authorize its passage.

Where the returns made by the inspectors of election bear date as of the day on which the election was held, it will be presumed that the inspectors prepared the same "without recess or adjournment," as required by section ten of the local option law.

The consideration by the board of supervisors, in determining the result of an election under local option law, of illegal returns from certain townships, will not invalidate the election, where the exclusion of such returns will not destroy the majority in favor of the proposition submitted to the electors.

The operation of the local option law in a given county does not depend upon the forwarding, without delay, by the county clerk to the secretary of state, of a certified transcript of the resolution of prohibition, and of so much of the journal of the proceedings of the board of supervisors, as pertains to the election, including the tabular statement of votes, together with a copy of the affidavit of publication of the notice of the adoption of the resolution, as required by section fourteen of the local option law; and the failure of the clerk to comply with said provision will not defeat the proceeding.

Under this section which provides that the order of the board of supervisors directing that an election be held, "shall be entered in full upon the journal of the proceedings of the board for that day, and the same shall be signed by the acting chairman and clerk of the board before final adjournment," it is sufficient if the journal for the day is signed after the close of the session.—*Thomas v. Abbott*, 105 / 688.

Section 7 repealed, 1899, Act 183.

Ballots who to furnish form of, etc.

(547) § 5419. SEC. 8. The officers whose duty it is to provide ballots for such annual township election shall provide suitable ballots, as is provided for in section forty-eight of act number two hundred sixty-six of the session laws of eighteen hundred ninety-seven, containing the question, "Shall the manufacture of liquors and the liquor traffic be prohibited within the county?"

Am. 1899, Act 183.

Qualification of electors.

(548) § 5420. SEC. 9. All persons entitled under the law of this State to vote for supervisor shall be deemed qualified to vote upon the question of prohibition provided for in this

act. The registration of the qualified electors, the hours of opening and closing the polls, the manner of voting, and of holding and conducting an election under this act, and the power and duty of the boards of registration, of inspection of election, township boards and common council, and all other officers with reference to such election, shall be the same in every respect as in the case of annual township elections, or the election of members of the board of supervisors, except as otherwise provided for by this act so far as the same shall be applicable: Provided, however, That such proposition having been once submitted and decided either way by a majority of the votes of the qualified electors in any county in the State, voting thereon, the same shall not be again submitted in such county within a period of two years next thereafter, but may, at any time after the expiration of such period upon a like petition and action, be again submitted, and so on, at the expiration of not less than two years after such election.

Registration
how conduct-
ed, etc.

Proviso as to
submitting
question.

Am. Id.

EXPIRATION OF TWO YEARS: See *Keefer v. Hillsdale Co.*, 109 / 645.

(549) § 5421. SEC. 10. At the close of the canvass, and after declaring the result of the vote, and without recess or adjournment, the inspectors shall draw up a statement of such result and cause a duplicate thereof to be made, which statement and duplicate, together with the poll lists, shall be certified by the inspectors to be correct, and shall be subscribed with their names. Such statement shall set forth in words at length the whole number of votes given upon the proposition submitted, and the whole number of votes cast "Yes" and the whole number of votes cast "No" thereon, and the majority for or against the proposition. Said statements, together with the poll lists, shall forthwith be filed by the inspectors with the township or city clerk, one copy of each of which shall be filed and preserved in his office, and the other transmitted by him to the county clerk of the county within five days after such vote shall be taken, and there remain on file.

Statement of
result, etc., by
inspectors.

Contents.

To be filed.

WITHOUT RECESS, ETC.: This provision relative to drawing up the statement is mandatory.—*Covert v. Munson*, 93 / 605. See *Giddings v. Wells*, 99 / 224.

(550) § 5422. SEC. 11. The board of supervisors of such county shall meet on the first Monday after such election to canvass the vote of the county, and shall ascertain, determine and declare the result thereof. At such meeting the county clerk shall lay before the board the statements of the votes of the several townships, wards and election districts filed with him, as above provided. Such canvass, determination and declaration of the result, together with a tabular statement of all the votes cast, shall be entered in full upon the journal of their proceedings for that day, and the same shall be signed by the acting chairman and the clerk of the

Board of su-
pervisors
when to meet
and canvass
vote.

Proviso.

board: Provided, That if any such statement or poll list shall not be made, certified or returned, as provided in section ten of this act, the board of supervisors may, at such meeting, send for the same and require the same to be certified and made, the same, and with like power and authority, as the board of county canvassers at general elections.

In case township, etc., shall refuse to hold election.

(551) § 5423. SEC. 12. In case any township, ward or election district shall refuse or neglect to hold an election at the time or in the manner required under this act, or in case the statement of the votes of any one or more townships, wards or election districts shall be unlawfully withheld from such board of supervisors, and it shall appear to said board of supervisors upon inquiry that such refusal or neglect to hold an election, or that such withholding of any statement of the votes is done for the purpose of preventing a full expression of the will of the electors of such county upon the proposition so submitted, it shall nevertheless be lawful for such board to proceed with the canvass of the votes and declare the result thereof, the same as though no such refusal or neglect to hold such election or the withholding of any such statement had taken place; and such refusal, neglect or withholding shall in no wise affect or invalidate the result of the election as determined and declared by such board.

Peek v. Twp. Board, 82 / 410; Thomas v. Abbott, 105 / 692.

Duty of supervisors, when vote is in the affirmative.

(552) § 5424. SEC. 13. When the result of the county canvass shall show that a majority of all the legal voters voting on such proposition shall have voted to prohibit within such county the manufacture of liquors and the liquor traffic, and when the board of supervisors shall have so determined and declared, as hereinbefore provided, it shall be the duty of such board of supervisors to order the prohibition within the limits of such county of the manufacture, sale, keeping for sale, giving away or furnishing of any vinous, malt, brewed, fermented, spirituous or intoxicating liquors, or any mixed liquor or beverage, any part of which is intoxicating, and to prohibit the keeping of a saloon or any other place where such liquors are manufactured, sold, stored for sale, given away or furnished, by resolution, adopted at that same meeting of the board, or at a meeting to which the same may be adjourned not more than ten days after such canvass. Such resolution shall be spread in full upon the journal of their proceedings and shall set forth in a preamble the fact that an election submitting a proposition of prohibition as aforesaid was duly held in the county; that sufficient returns and statements have been canvassed by them and the result thereof ascertained; that such result was in the affirmative of such proposition, giving the majority, and that the same has been so determined and declared by them. Such resolution of prohibition shall take full effect in such county on the first

Resolution of prohibition.

Entered upon journal.

When to take effect.

day of May next following its adoption, and shall not be subject to repeal by the board of supervisors within two years next thereafter, after the expiration of which period the board may again on petition of one-third of all the qualified electors thereof, as shown by the poll lists or returns and canvass of the last preceding general election for State officers held in the county, by a majority vote of all the members elect act as in the first instance, and repeal such resolution of prohibition, but not unless a majority of the electors of the county, voting on such proposition, at a subsequent election duly held in accordance with the provisions of this act, shall have declared against the prohibition of the manufacture of liquor and of the traffic therein, and upon the repeal of such resolution of prohibition by the board of supervisors, all former suspension and superseding of the general laws of the State relative to the taxation and regulation of the manufacture and sale of intoxicating liquors, as provided in section two of this act, shall cease within such county: Provided, however, That all actions which may have been brought and all rights of actions which may have accrued before such repeal shall remain and continue to exist as fully as if no such repeal had taken place.

When not subject to repeal.

Result of repeal, etc.

Proviso

Am. 1899, Act 183.
Peek v. Twp. Board, 82 / 414; Keefer v. Supervisors, 109 / 645.

(553) § 5425. SEC. 14. It shall be the duty of the clerk of such board of supervisors to publish without delay, once in each week until the first day of the next May, in a newspaper published and circulating in such county, to be designated by the board, a copy of the preamble and resolution adopted by the board, as provided by section thirteen of this act: Provided, That if such proposition shall have been decided in the negative, such publication shall not be required. The said clerk shall also, without delay, forward to the secretary of state a certified transcript of such resolution and of so much of the journal of the proceedings of the board of supervisors as pertains to such election, including the tabular statement of votes, together with a copy of the affidavit of publication of the notice of the adoption of the resolution. Such original affidavit of publication shall be filed with the clerk of the board of supervisors, and he shall spread the same on the records of the board, following the record of the adoption of the resolution of prohibition, and the said clerk shall state next on the record the date when said notice and affidavit of publication was entered for record, and shall then sign the record officially. The record of such resolution of prohibition and the publication of notice, and all duly certified copies thereof, shall be the evidence of the facts therein stated so far as relates to the territory and municipalities within the limits of said county; and the regularity of any proceedings prior to the adoption of such resolution by the board of supervisors shall not be open to question on the

Clerk to publish copy of resolution.

Proviso.

Clerk to forward to secretary of state transcript of resolution, etc.

Record of publication to be evidence.

examination or trial of any person for the violation of any of the provisions of section one of this act.

Am. Id.

DESIGNATION OF NEWSPAPER: The statute requires a designation by the board when declaring the result. A prior letting of the county printing to certain papers is not sufficient. The record of the proceedings is fatally defective if it does not contain such a designation.—*Moran v. Co. Treasurer*, 97/186.

TRANSCRIPT: The operation of the law is not made to depend upon the forwarding or filing of this transcript and the failure of the clerk to comply with this provision will not defeat the proceedings.—*Giddings v. Wells*, 99/224.

AFFIDAVIT OF PUBLICATION: Sufficiency of.—*People v. Whitney*, 105/633.

When certain provisions to take effect.

(554) § 5426. SEC. 15. The prohibitory provisions of this act shall take effect and have full force within such county of this State on and after the first day of May, immediately following the adoption by the board of supervisors of such county of the resolution ordering such prohibition and upon publication of the notice of the adoption of such resolution: Provided, however, That nothing in this act shall be so construed as to prohibit the sale of wine for sacramental purposes, nor shall anything herein contained prohibit druggists or registered pharmacists from selling or furnishing pure alcohol for medicinal, art, scientific and mechanical purposes, nor prohibit the sale of wine or cider from home-grown fruit in quantities of not less than five gallons, nor shall the provisions of this act be construed to prohibit the manufacture of wine or cider, nor shall the provisions of this act be construed to prohibit the sale at wholesale of wine or cider manufactured in said county to parties who reside outside of said county.

Proviso.

Am. 1899, Act 183; 1903, Act 170.

Sections 16, 17, 18 and 19 contain provisions relative to the enforcement of the act, if adopted by the electors.

Penalty on certain officers for neglect of duty.

(555) § 5431. SEC. 20. Any township, city, or county clerk, member of the board of registration, inspector of election, supervisor or other officer, who shall refuse or wilfully evade or neglect to perform any of the duties imposed upon him by the provisions of this act, shall, upon conviction thereof, be adjudged guilty of a misdemeanor and shall be punished by a fine not exceeding two hundred dollars, or by imprisonment in the county jail not exceeding six months, or both, in the discretion of the court.

Compensation of certain officers.

(556) § 5432. SEC. 21. The several officers required to render any service by reason of this act shall receive the same compensation allowed by law for other like services and from the same sources, and the fees for publishing the required notices shall be allowed by the board of supervisors and paid by the county.

When certain officers to make copy of poll list.

(557) § 5433. SEC. 22. It shall be the duty of any township, city or county clerk on the demand of any qualified elector in the county, and on payment or tender to him of the fee herein prescribed, to make out within a reasonable time

and at his office deliver to such elector a true and certified copy of the poll list, or poll lists of the last general election held in his township, city or county, on file in his office, for which he shall be entitled to receive at the rate of fifty cents for every one hundred names.

(558) § 5434. SEC. 23. The secretary of state is hereby required to prepare all suitable blank statements and poll books to be used at elections held under this act, and to furnish the same in sufficient numbers upon application to each county clerk, whenever they shall be needed in the county. And it shall be the duty of such county clerk, whenever such election is to be held in the county, to make requisition upon the secretary of state for a sufficient number of such blank statements and poll books, and at least ten days before such election distribute and deliver the same to the several township and city clerks in the county.

Secretary of state to prepare blank statements, poll books

(559) § 5435. SEC. 24. It shall be the duty of the attorney general to draft, or cause the same to be done, under his supervision, a complete set of all the blank forms that may be used or required under the provisions of this act; and it shall be the duty of the secretary of state to publish and distribute a sufficient number of copies of this act in pamphlet form, with an appendix containing a copy of all such blank forms.

Duty of attorney general to draft blank forms.

Section 25 was added in 1899, Act 183, and relates to the recording of sales of liquors by druggists.

CHAPTER XIV.—PRIMARY ELECTION LAW.

An Act relative to the nomination of party candidates for public office, and delegates to political conventions, in certain cases, to regulate and protect primary elections, and to prescribe penalties for violation of the provisions hereof.

[Act 181 of 1905.]

The People of the State of Michigan enact:

CHAPTER I.

OF DIRECT NOMINATIONS.

(560) SECTION 1. In any city, county, legislative district or congressional district in this State, whenever an election shall be held pursuant to the provisions of this act, at which election a majority of the qualified voters of any political party voting thereat shall vote in favor of the direct nomination of the candidates of such party in such city, county or district, thereafter the nomination of all candidates of said party for election at the November election to any elective

When candidates shall be nominated by direct vote.

Voter must be enrolled.

Proposition may be re-submitted.

When primary to be held.

In case of cities.

Certain words how construed.

Proviso.

Notice of primary, who to give, etc.

Primary elections, how conducted.

office in such city, county or district, as the case may be, and in the case of any such city the nomination of all candidates of said party for election to any elective office in such city at the next ensuing city election, shall be made by direct vote of the qualified voters of such political party in such city, county or district, as hereinafter provided, and such method of nomination of the candidates of said party for said offices shall prevail in such city, county or district, until a majority of the qualified electors of such political party voting on said proposition at an election held pursuant to law, shall vote against said proposition when re-submitted to them under the terms of this act. No person shall vote at such primary unless he shall have been enrolled as hereinafter provided as a member of said political party. Said proposition may be re-submitted and decided by a majority of the qualified voters of any political party voting thereon in any such city, county or district, in the same manner, at the primary election held in such city, county or district on the second Tuesday of June preceding any general November election as hereinafter mentioned. The provisions herein made for the submission of the proposition in the first instance shall apply to the re-submission of the said proposition herein provided for. Such primary election, when authorized as above, for the nomination by direct vote of the candidates of any such party, shall be held in the several election precincts of such county or district, as the case may be, on the first Tuesday in September preceding any November election. In the case of any city, said primary election for the nomination of city offices, when authorized as above, shall be held on the second Tuesday preceding the day on which the officers of said city are to be elected.

(561) SEC. 2. The words "primary" and "primary election" shall be construed to mean an election as herein provided for, to decide by ballot who shall be the nominees of any or all political parties for the next ensuing November election, or for any city election, and delegates to conventions. The word "election" shall be construed to mean a general or local election as distinguished from a primary election: Provided, That nothing in this act shall apply to the nomination of any circuit or supreme judge.

(562) SEC. 3. All officers required by law to give notice of registration shall also give notice, when necessary, that a primary election will be held, and shall state the date, the place where it will be held and the time the polls shall be open, and the purposes for which such primary will be held.

(563) SEC. 4. Primary elections shall, except as herein otherwise provided, be conducted and regulated as near as may be in every particular, as prescribed by law for the regulation and conduct of general elections. All officers required by law to perform any duty, or to provide places, ballot boxes, and equipment and supplies for general elections, are like-

wise to do and provide for primary elections with the like power and compensation. All expenses of primaries shall be defrayed from the same fund from which are defrayed like expenses of election. Expenses, how defrayed.

CHAPTER II.

OF PARTY ENROLLMENT.

(564) SECTION 1. A party enrollment shall be taken in each election district of this State of the voters in the respective political parties in the following described manner: At the election held on the first Monday of April, nineteen hundred six, and on the first Monday of April in every second year thereafter, in each election district of this State, the board of election inspectors shall make an enrollment of the names of all persons voting at said election who apply for enrollment as members of any political party. Notice of such enrollment shall be included in the notice of such election. Such enrollment shall be made in a separate, suitable book, in which the names shall be enrolled in alphabetical order, such book to be furnished by the Secretary of State to the county clerk and by him delivered to said board at the same time and in the same manner as is now provided by law for the delivery of blanks for use at general elections, and shall be prepared substantially in form as follows: When taken.

Party Enrollment of the Voters in

.....County.
City.
Ward.
Elective District.

Form of

Date	Enrolled No.	Name	P. O. Add.	Age	Nativity	Color	St. No.	Party affiliations	Removal

Said enrollment book shall also contain blank forms of certificate to be used by the board in making return of such enrollment as herein provided.

(565) SEC. 2. The legal custodian of the general registration book of each election district shall be the custodian of the party enrollment book provided for herein. Such custodian, within thirty days after such party enrollment in nineteen hundred six, and every second year thereafter, shall make two copies thereof and shall forward, under seal, one of said copies to the county clerk of his county, and one copy thereof to the Secretary of State, to each of which copies he shall Custodian of enrollment book, Shall make two copies, etc

attach his certificate that the same is a true and correct copy of the party enrollment in his election district.

When board of registration to review enrollment book.

(566) SEC. 3. At the usual time of registration before the election on the first Monday of April, nineteen hundred eight, and every second year thereafter, the board of registration in each election district shall review the enrollment book for said district and correct the same in the same manner as corrections are made in the book of registration for said district. The custodian of said enrollment book shall deliver the same to the board of registration for the purposes of review and correction as herein provided: Provided, That in districts in which no election is held on the first Monday of April, nineteen hundred eight, and every second year thereafter, the board of registration shall review the said enrollment book for said district and make such corrections therein as herein provided on the day specified in section five hereof.

Proviso.

Enrolling clerk, who to appoint.

(567) SEC. 4. The board of election inspectors in each district at which the election referred to in this act is held, shall appoint a suitable person to act as an enrolling clerk, and who, under the direction of said board, shall enroll the names of such qualified voters of said election district as apply for party enrollment as hereinbefore provided. Such enrollment clerk shall receive the same compensation and be paid in the same manner as clerks of election under existing law.

Compensation.

When enrollment made in certain districts.

(568) SEC. 5. In any election district of this State in which no election is to be held on the day fixed herein for making the party enrollment, the board of registration shall meet on said day, and remain in session from one o'clock until eight o'clock in the afternoon of said day, and shall enroll the names of all qualified electors of said district making application for party enrollment. Notice of the time and place of such meeting of said board of registration, and that the purpose of said meeting is to give opportunity for party enrollment of the qualified voters of such election district, shall be given as in case of the annual meeting of said board of registration.

Notice of.

Last name enrolled, how indicated.

(569) SEC. 6. It shall be the duty of the chairman of the board having in charge the party enrollment in any election precinct, to cause two black lines to be drawn across the page under the last name enrolled under each alphabetical letter in the party enrollment book, and shall cause to be written between said lines the words, "Last name enrolled under this letter April, 19.." filling in the date of said enrollment.

When person may cause name to be enrolled on primary day.

(570) SEC. 7. Any person who was a qualified voter in any election district in this State on the day of enrollment provided for in this chapter, and who failed to have his name enrolled on that day by reason of sickness or unavoidable absence from the election district, and who is a qualified voter in said district at the time of the primaries thereafter

held therein, or who may have become twenty-one years of age after the day of enrollment, may have his name enrolled by the election board on any primary day upon making oath as provided in the general election law in relation to registration of electors on election days. Any person who was a qualified voter in any election district in this State on the day of enrollment provided for in this chapter and who was duly enrolled as provided herein, who has had occasion to transfer his place of residence to an election district other than that in which he was enrolled, may be entitled to a new enrollment in such election district and be entitled to vote therein: Persons entitled to new enrollment. Provided, That he has resided in the election district to which he has lately removed for a period of twenty days and that he obtain from a member of the election board of the district in which he formerly resided a certificate stating that he was duly enrolled in such district and that he has changed his residence therefrom to such other district and that he is entitled to enrollment therein. Proviso.

CHAPTER III.

OF SUBMISSION OF PROPOSITION.

(571) SECTION 1. The question of the direct nomination by any political party of its candidates for city, county, legislative or congressional district offices, shall be submitted to the qualified, enrolled electors of such party upon petition therefor, signed by enrolled electors of such political party constituting at least twenty per cent of the qualified enrolled voters of such party in such city, county or legislative or congressional district: When proposition shall be submitted. Provided, That for the purposes of this section, the number of persons belonging to any political party in any such city, county or district shall be deemed to equal the number of votes cast in such city, county or district for the candidate of such political party for Governor at the last preceding November election. Proviso.

(572) SEC. 2. The petition referred to in the preceding section, in the case of a city shall be addressed to the city clerk, and in the case of a county, or legislative district wholly within one county, shall be addressed to the county clerk; and in the case of a legislative or congressional district comprising more than one county, to the Secretary of State, and shall be delivered to said city clerk, county clerk or Secretary of State at least thirty days before the second Tuesday of June, mentioned in section one of chapter four hereof. Petition, to whom addressed.

(573) SEC. 3. The petition mentioned in section one of this chapter shall embrace but a single object; that is to say, a submission of the question of direct nomination of candidates of the party named for Representative in Congress, or State Senator, or Representative in the State Legislature, When delivered. Object of petition.

	or county offices, or city offices, and shall be substantially in the following form:
Form of.	To the City Clerk, County Clerk (or Secretary of State): We, the undersigned, members of the party, and enrolled as such in the party enrollment book of the election district, county, respectfully petition that the question of direct nomination of candidates of said party for shall be submitted to the qualified voters of said political party on the second Tuesday of June next. (Signed) Dated, 19...
When officers to give notice of proposition.	(574) SEC. 4. Upon examination of said petition, if said city clerk, county clerk or secretary of state, as the case may be, shall find that twenty per cent of the qualified voters of such party in said city, county or district, as mentioned in section one of this chapter petition therefor, he shall give notice in such manner as is provided by law for giving notice of general elections in this State, that at the primary election to be held pursuant to the provisions of this act on the second Tuesday of June thereafter, the proposition will be submitted to the qualified voters of the political party referred to in such petition or petitions, as to whether the nomination of the candidates of such political party for the offices named in said petitions shall be made thereafter in such city, county or district, by direct vote; and the board of election commissioners in such city or county, or in each of the counties in such district, as the case may be, shall cause to be printed in an appropriate place on the ballot of said party to be used at such primary, the words
What to contain.	"Direct nomination of (here name party) candidates for offices. [] Yes. [] No.
Duty of election commissioners.	A separate line shall be printed on said ballot, as above, to enable each proposition petitioned for, according to the provisions of this chapter, to be voted on by itself. No person shall vote at such primary unless he shall have been enrolled as provided in section one or section seven of chapter two hereof, as a member of such political party. The votes cast at such primary election shall be canvassed and returns thereof made in like manner as is provided for the canvassing of votes and the making of returns of any general election held in such city, county or district, by the terms of existing law.
Form of ballot.	
Who entitled to vote.	(575) SEC. 5. The question of nominating candidates for the offices of governor and lieutenant governor shall be submitted to the enrolled voters of each political party at the primary election held on the second Tuesday of June, nineteen hundred six, in the same manner and under the same
Votes, how canvassed.	
When question of nominating candidates for governor and lieutenant governor to be submitted, etc.	

regulations as is provided for submitting the question of direct nominations in counties or legislative or congressional districts, except as to petitioning for submission in the first instance, and if a majority of the enrolled voters of any political party voting thereon shall vote therefor; said party shall nominate candidates for the offices of Governor and Lieutenant Governor in said manner at the general primary election thereafter held as provided by this act. All of the provisions of this act for the preparation of petitions for nominations, and all of the provisions of this act for the preparation of ballots and for the conducting of said primary election and for the canvassing, certifying of the returns thereof and any contest or recount shall apply to primaries held pursuant to the provisions of this section, which said primaries shall be conducted as the case may be in accordance with the provisions of this act and with the provisions of the general election law when not in contravention of any provisions of this act, except that the Secretary of State and Board of State Canvassers shall perform the necessary duties in place of the county canvassers, as herein provided: Provided, That such method of nomination of the candidates of said party for said offices of Governor and Lieutenant Governor shall prevail until a majority of the qualified electors of such political party voting on said proposition at an election held pursuant to law shall vote against such proposition when re-submitted to them on petition addressed to the Secretary of State by at least twenty per cent of the enrolled electors of such political party in the State under the terms of this act: And provided further, That the candidate receiving the plurality, and at least forty per cent of the votes cast by his party for any office named in this section at any primary held pursuant to the provisions thereof, shall be the nominee of said party for said office at the next ensuing general November election.

Manner of conducting primaries, preparation of ballots, etc.

Proviso, as to re-submitting of question

Further proviso. Votes necessary to nominate.

(576) SEC. 6. The nomination of candidates in nineteen hundred six of all political parties for the offices named in section five of this chapter shall be made at the primary election held on the second Tuesday of June, nineteen hundred six, in the same manner and under the same conditions as nominations for office may be made at September primaries pursuant to the provisions of this act as if the question of nominating such candidates for State offices had already been submitted and decided affirmatively by a majority of each of said political party voting thereon: Provided, That in case the question of direct nomination of candidates for said offices, submitted pursuant to the provisions of section five of this chapter shall be decided affirmatively by a majority of any political party voting thereon at said primary election the candidates of said party for the said offices receiving such plurality and at least forty per cent of the votes cast by said party for each of the said offices respectively shall be

Nominations to be made at June primary.

Proviso. When candidate to be nominee of political party.

In case proposition shall fail of adoption.

Further proviso.
When candidate fails to receive plurality, etc.

the nominees of said party for the said offices respectively and shall be the nominee of said party for the said offices to be voted for at the general November election to be held in nineteen hundred six, but if said proposition shall fail of adoption by any political party the candidates of such party to be voted for at such November election shall be nominated and certified the same as if this act had not been passed: And provided further, That in the case of any of the said offices if no candidate receives a plurality, and at least forty per cent of the votes cast by his party at said primary for said offices, said political party shall nominate its candidate for said office and certify such nomination in the same manner as if this act had not been passed. The provisions of section nine of chapter five relating to the challenging of electors shall apply with equal force at the June primaries provided for by this chapter.

CHAPTER IV.

OF ELECTION OF DELEGATES.

General primary election, when held.

Delegates, election of.

How conducted.

Vacancy, how filled.

Who to apportion delegates.

How apportioned.

Challenge of electors

(577) SECTION 1. A general primary election shall be held in every election district in the State on the second Tuesday of June, nineteen hundred six, and on the second Tuesday of June in every second year thereafter, at which time there shall be elected by direct vote of the qualified enrolled voters of each political party in such election district as many delegates as each political party in such district shall be entitled to by the call issued by the county committee of such political party to the county convention thereafter to be held by such political party in said county in that year for the purpose of electing delegates to the State convention to nominate candidates for State offices. Such primary election shall be conducted as nearly as may be in the same manner as general elections are conducted and by the same officers; and in case of any vacancy in any delegation from any election district to the county convention, such vacancy shall be filled by delegates present from such election district. The State Central Committee of each political party, at least thirty days before the holding of the primary election provided for in this chapter, shall certify to the board of election commissioners of each county the number of delegates to which such county shall be entitled in the State convention of such party, and said State Central Committee shall apportion such delegates to the several counties in proportion and according to the number of votes cast for the candidate of such party for Governor in each of said counties respectively at the last preceding November election. The provisions of section nine of chapter five relating to the challenging of electors shall apply with equal force at the

June primaries provided for by chapters three and four of this act.

(578) SEC. 2. It shall be the duty of the board of election commissioners in each county to prepare and furnish the ballots to be used at said primary election. Such ballots shall contain the name of the party for which they are to be used, the voting precinct and county, the instruction as to the method of voting, and at least as many lines thereon as there are delegates to be elected in the different voting precincts. The ballots shall be prepared as nearly as may be as to color and size as provided in section seven of chapter five of this act, and no vote shall be counted for delegates to any party convention that is not cast upon a ballot prepared for such political party as herein provided.

Ballots, who to furnish; form, color, etc.

Certain votes not counted.

(579) SEC. 3. The chairman of the county committee of each political party shall certify to the board of election commissioners of his county at least ten days before the holding of such primary election, the number of delegates to which each election district in said county will be entitled at the county convention of said political party to be held in said county in said year, for the purpose of electing delegates to the State convention of said political party as provided in section one of this chapter.

Chairman of county committee, to certify number of delegates.

(580) SEC. 4. All the ballots designed for use at any primary election held pursuant to the provisions of this chapter, shall be printed on different colored paper for each political party, in the same manner as is provided in section seven, chapter five of this act. And all the provisions of sections three and four of chapter one, and section nine of chapter five of this act, relating to the board of election inspectors, ballots, ballot boxes, tally sheets, etc., shall apply to elections held under the provisions of this chapter.

Color of ballots.

Sections relating to inspectors, ballots, etc.

(581) SEC. 5. The provision of section ten of chapter five hereof shall be applicable so far as consistent with the provisions of this chapter to any primary election held pursuant to the provisions of this chapter, and the persons receiving the highest number of votes for delegates at said primary shall be declared by the board of election inspectors to be elected. Said board shall certify to the county clerk the names of the persons so elected as delegates, naming the political party upon whose ballot such persons were elected.

Plurality vote necessary to elect delegates.

Board to certify delegates elected.

(582) SEC. 6. The county conventions of all political parties, for the election of delegates to the State convention for the nomination of State officers, shall be held within seven days after the primary election held pursuant to the provisions of this chapter. All such county conventions of any one political party shall be held on the same day, such day to be designated by the State Central Committee of such political party in its call for the State convention to nominate candidates for State officers. The place of meeting of such county conventions shall be designated in the call issued

County conventions, when held.

State Central Committee to name date of conventions.

When delegates to State convention chosen.

State conventions, when held, etc.

therefor by the respective county committees of such political party. At such county conventions respectively, the number of delegates to which each such county is entitled in the State convention of the party according to the apportionment set forth in the call for such State convention by the State Central Committee of said party, shall be chosen.

(538) SEC. 7. The State conventions of all political parties for the nomination of candidates for State officers shall be held within sixty days after the second Tuesday in June preceding any general November election, the particular day and the place of meeting to be designated by the State Central Committees of the political parties respectively, in the calls for said State conventions, which said calls shall be issued on or before the first day of July aforesaid.

CHAPTER V.

OF NOMINATION OF CANDIDATES.

Time and place of holding primaries.

Proviso as to certain counties.

Number of votes necessary to nominate.

City offices: Nomination papers, where filed; signatures necessary.

County offices.

(584) SECTION 1. Primary elections held within any city, county, legislative district or congressional district, the electors of any political party or parties of which have decided, pursuant to the provisions of this act, in favor of the direct nomination of party candidates for city, county or district offices, shall be held for the purpose of selecting such candidates of such political party or parties at the time and place and in the manner in this act provided, and not otherwise: Provided, That the provisions of this chapter shall not apply to, or be operative in the counties of Alpena, Kent, Muskegon and Wayne, except where such counties or parts of counties form a part of a congressional or legislative district, in which case the provisions of this chapter shall be in effect in said county or parts of counties in regard to the nomination of candidates for Representative in Congress or State Senator in the State Legislature. The candidates who receive the greatest number of votes on any party ballot for each of such offices at any primary, shall be the nominees of such party for the ensuing election.

(585) SEC. 2. To obtain the printing of the name of any candidate of any such political party for a city office for any primary election held pursuant to provisions of this act, there shall be filed with the clerk of the city, nomination papers signed by a number of qualified electors who are enrolled in the party enrollment of said party and who reside in the city in which the election is to be held for the office named therein equal to at least two per cent of the number of votes that such party cast therein for Governor at the last preceding November election. To obtain the printing of the name of any candidate of any such political party for a county office upon the ballots for any primary election

held pursuant to the provisions of this act, there shall be filed with the clerk of the county nomination papers signed by a number of qualified electors who are enrolled in the party enrollment of said party, and who reside in the county in which the election is to be held, for the office named therein, equal to at least two per cent of the number of votes that such party cast therein for Governor at the last preceding November election. To obtain the printing of the name of any candidate of any such political party for a district office in any district comprising less than one county, nomination papers signed by a number of qualified electors who are enrolled in the party enrollment of said party in said district for an office named therein equal to at least two per cent of the number of votes that such party cast in said district for Governor at the last preceding November election, shall be filed with the county clerk of said county, and in the case of a district office in a district comprising more than one county to obtain the printing of the name of any candidate of any such political party upon the ballot, there shall be filed with the clerk of each county, in such district nomination papers signed by a number of qualified electors residing in such county and who are enrolled in the party enrollment of said party, equal to at least two per cent of the number of votes that such party cast therein for Governor at the last preceding election. And in the case of a State officer, to obtain the printing of the name of any candidate of any such political party upon the ballot, there shall be filed with the Secretary of State nomination papers signed by a number of qualified electors residing in the State and who are enrolled in the party enrollment of said party, equal to at least two per cent of the number of votes that such party cast therein for Governor at the last preceding election. Nomination papers of candidates of new parties shall be signed by electors residing in such city, county or district as the case may be, equal in number to one per cent of the total vote cast for Governor in such county or district at the last preceding November election. All nomination papers shall be substantially in the following form:

We, the undersigned, qualified electors of the..... election district of the city of, or of the township of, in the county of..... and State of Michigan, and enrolled members of the..... party, hereby nominate, who resides at No. street, city of, or in the township of in the county of as a candidate of the party for the office of to be voted for at the primary election to be held on the day of as representing the principles of said party, and we further declare we intend to support the candidate herein named.

District office,
comprising
less than one
county.

District office,
comprising
more than
one county.

State offices.

Nomination
papers of new
parties.

Form of nomi-
nation papers.

Name.	Residence.	St. number (in Cities.)	Date of signing.

Elector to sign
but one paper;
exception.

Each signer of said nomination papers shall sign but one such paper for the same office, except where there are two or more to be nominated and elected to the same office, when he may sign as many papers as there are persons to be elected to such office. He shall therein declare that he intends to support the candidate named therein, adding his residence, with the street and number, if any, and the date of signing, and this paragraph shall be printed in full at the top of each nomination paper. The above mentioned clerks shall keep on hand printed forms for such primary petitions and nomination papers.

Declaration
of signer.

Nomination
papers, when
filed.

(586) SEC. 3. The respective city clerk or county clerk shall receive nomination papers filed in accordance herewith, up to four o'clock in the afternoon of the fifteenth day before the day of a primary election, for the nomination of candidates for office, and shall forthwith prepare and publicly expose in his office a list of the candidates for offices, named in the nomination papers filed in his office, under the headings of party and office as near as may be as they will appear upon the primary ballots. Such clerks shall keep a public record of the nomination papers, filed in a book, with the columns in which shall be entered respectively, the dates, the names of the candidates and the offices sought. Said book shall state the number of electors signing nomination papers for each candidate. The said clerks respectively shall forthwith, after the last day for receiving and filing nomination papers, certify to the proper board of election commissioners the names of all candidates mentioned in said nomination papers, together with the name of the party and the office stated.

Clerks to pre-
pare a list of
candidates.

Keep record of
nomination
papers.

Clerks to cer-
tify names of
all candidates.

Election com-
missioners,
duty of.

(587) SEC. 4. The board of election commissioners of any city or county shall cause to be printed upon the ballots of any political party for any primary at which candidates of such political parties are to be nominated by direct vote, the names of all candidates for such offices in whose behalf the requirements of this act shall have been fulfilled and no others. The number of ballots to be printed for the use of each political party at a primary election in any election district shall be at least fifty per cent more than the total number of votes cast therein at the last presidential election by such party. Proof copies of the primary ballot shall be on file at the office of the county clerk or city clerk, as the case may be, for public inspection at least three days before the primary. It shall be the duty of the Secretary of State to cause to be printed pamphlet copies of this act and to furnish to the county clerk of any county and to the city

Number of
ballots to be
printed.

Proof copies,
where filed,
etc.

Secretary of
State to print
pamphlet #
copies of this
act.

clerk of any city in which any political party shall hereafter adopt direct voting, as provided for by this act, a sufficient number of copies thereof to enable said clerk to furnish at least two copies to each board of election inspectors, in his city or county at the same time the other supplies are furnished.

(588) SEC. 5. The ballots for primary election shall be printed by the respective boards of election commissioners as follows: At the top of the ballot shall be printed in large type the words "Official Primary Ballot." Underneath shall be printed the date of the election at which the ballot is to be used, followed, when necessary by the designation of the political subdivision, as county, district, city, ward, etc. Then shall follow, in bold faced type, the name of the political party, the candidates of which are printed on the ticket. Underneath that shall appear these instructions: "Make a cross in the square to the left of as many names for each office as is indicated under the title of such office." The ballots for such election district shall be numbered consecutively, as provided for the numbering of ballots by the general election law. All names of candidates of each political party shall be printed on a separate ballot, and said ballot shall be in one or more columns, as may be determined by the election commissioners in making up the same. The order of the offices on the ballot shall be the same as is required by law in making up the ballot for an election. The title of the office shall be immediately above the names of the candidate or candidates for such office, and under such title the words "Vote for" followed by the word "one" "two" or a word designating the number of persons under that head to be voted for. The names of the different candidates shall be separated from each other by a light-faced rule, with a square at the left of the name, and the spaces devoted to the several offices shall be separated by a black-faced rule to separate each position clearly. If two or more columns are used on a ballot, the columns shall be separated by a black line one-sixth of an inch wide. The names under heading designating each official position shall be alternated on the ballots of each party casting at least five per cent of the vote cast in the county or political subdivision at the preceding November election, and printed in the following manner:

Election commissioners, to print ballots.
General form of.

How numbered.

Names of candidates, order of offices, title, etc.

First, The forms shall be set up with the names of such candidates arranged alphabetically, in order according to surnames. In printing each set of tickets for the several election districts, the positions of the names shall be changed in each office division, as many times as there are candidates in the office division in which there are the most names. As nearly as possible an equal number of tickets shall be printed after each change. In making the changes of position, the printers shall take the line of type at the head of each office

Printing of names, how alternated, etc.

division and place it at the bottom of the division, and shove up the column so that the name that before was second shall be first after the change. After the ballots are printed, and before being trimmed, they shall be kept in separate piles, the one pile for each change of position, and shall then be piled by taking one from each pile and placing it upon the pile to be trimmed, the intention being that every other ballot in such pile shall have the names in a different position. After the pile is made in this manner, the ballots shall be numbered consecutively on the upper right hand corner upon the front of the ballot, with a perforated line across said corner, underneath the said number, so that the corner with the number can be torn off. After that the ballots shall be trimmed, and done up in sealed packages and distributed for use at the primary election the same as is required by law for the distribution of ballots at the general election. The ballots shall be in the form provided herein, and annexed hereto, as nearly as possible:

When num-
bered.

When trim-
med and
sealed.

No.

OFFICIAL PRIMARY BALLOT.

Primary Election.....

.....Party.

Make a cross in the square [X] in front of as many names for each office as is indicated under the title of such office.

CONGRESSIONAL.

Representative in Congress, — District.
Vote for One.

- ☐ JOHN DOE
- ☐ RICHARD DOE
- ☐ JOHN SMITH

State Senator, — District.
Vote for One.

- ☐ JOHN DOE
- ☐ RICHARD DOE
- ☐ JOHN SMITH
- ☐ WILLIAM BROWN

Representatives in State Legislature, — District.
Vote for Three.

- ☐ JOHN DOE
- ☐ RICHARD DOE
- ☐ JOHN SMITH
- ☐ WILLIAM BROWN
- ☐ CHARLES WHITE
- ☐ JAMES BLACK

COUNTY.

Judge of Probate.
Vote for One.

- ☐ JOHN DOE
- ☐ RICHARD DOE
- ☐ JOHN SMITH

Sheriff.
Vote for One.

- ☐ JOHN DOE
- ☐ RICHARD DOE
- ☐ JOHN SMITH
- ☐ WILLIAM BROWN

Circuit Court Commissioners,
Vote for Two.

- ☐ JOHN DOE
- ☐ RICHARD DOE
- ☐ JOHN SMITH
- ☐ WILLIAM BROWN
- ☐ CHARLES WHITE
- ☐ JAMES BLACK

The arrangement of the names of candidates for other offices shall be substantially in the same form as above.

General laws
to govern.

(589) SEC. 6. All primary elections for the nomination of candidates for office shall be held by election districts or precincts as general elections are held, and the polls thereof shall be kept open in the respective precincts for the same length of time.

Color of bal-
lots

(590) SEC. 7. All the ballots designed for use at any primary election held for the nomination of candidates for office shall be printed on different colored paper for each political party. Ballots for the Republican party shall be printed in black ink, upon a good quality of white paper. Ballots for the Democratic party shall be printed in black ink upon a good quality of blue paper. Ballots for the Prohibition party shall be printed in black ink upon a good quality of red paper, and if there are other political parties, the board of election commissioners shall print all ballots therefor in black ink, upon a different colored paper from that as above designated. The size of all ballots shall be such as the said board shall prescribe.

Size.

Inspectors,
who to con-
stitute.

(591) SEC. 8. Each primary election shall be presided over by a board of primary election inspectors, which board shall be composed of the members of the board of election inspectors provided for under the general election law. The ballots herein provided for, together with the necessary pencils, tally sheets, etc., necessary to carry on said election, shall be delivered by the board of county election commissioners, at the office of the county clerk or by the board of city election commissioners at the office of the city clerk, as the case may be, to a member of the board of primary election inspectors of each ward or voting precinct in the city or county, at least three days prior to the day designated as primary election day. The provisions of the general election law relative to the furnishing of ballots, tally sheets, pencils and ballot boxes shall be applicable hereto, except in so far as the provisions of this act may be inconsistent therewith.

When ballots
and supplies to
be delivered.

General laws
to govern,
relative to
supplies.

Voter given
ballot of his
political party

(592) SEC. 9. After the polls are opened at a primary election any elector, who is legally qualified and enrolled as hereinbefore provided, shall before entering the booth be given a ballot of the political party with which he is enrolled. It shall be incumbent upon him to state to the inspector of election, having in charge the giving of ballots to electors, the party ballot he desires, which, if he is enrolled as a member of said party and if his right to vote that ballot is not challenged, he shall be entitled to receive forthwith. It shall be competent for any elector or inspector of primary election present to challenge the right of any one offering to vote, on the ground that he is not a legal voter in that district, or that he belongs to a political party other than that whose ballot he has asked for. When the right of any voter to a ballot is challenged he shall be required to make

Must state
party ballot
desired.

Right of
challenge

Challenged
voter to make
oath.

oath that he will be entitled to vote in that precinct at the next ensuing election, and that he is in sympathy with the political party whose ballot he has asked for. Such oath shall be in the following form: Form of oath

You do hereby solemnly swear that you are a resident and qualified voter in the township of, or election district or district or ward of the city of; that you are in sympathy with the principles of the party; that you are enrolled as a member thereof in the party enrollment in said township or ward, or election district, and expect to vote the ticket of that party at the next ensuing election.

When the challenged voter has taken said oath, he shall then receive the ballot asked for, and be entitled to vote, the same as if his vote had not been challenged. The elector after having received his ballot, shall enter a booth, and while there concealed from view prepare such ballot by making a cross in the square at the left of such names as he may desire to vote for, but in no case for more candidates for any office than is indicated under the title of such office. He may, however, vote for any candidate whose name is not printed on the ballot by so writing in such other name as shall make it substitute for any name which is printed thereon or when no candidate's name appears upon the ballot. He shall then fold the ballot so that the perforated corner having within ballot number shall be on the outside, and present it to the proper inspector, who shall tear off the number and deposit the ballot in the ballot box. The inspector shall enter upon the poll list the name of each elector, the name of the political party and the number of his ballot, before the same is given to him, and the inspector receiving the ballot shall, before depositing it in the box, ascertain by comparison with the poll list whether it is the same ballot given to him, and if it is not the same ballot he shall reject it and such elector shall not be allowed to vote at such primary. If any elector shall, after marking his ballot, so expose it to any person as to reveal the name of any person voted for thereon, such ballot shall be rejected and such voter shall forfeit the right to vote at such primary, and a brief minute of such occurrence shall be made in the enrollment book and upon the poll list. Challengers and witnesses appointed by the several political parties shall be allowed to be present with the same powers as are provided by law for general elections. Manner of voting.

(593) SEC. 10. After the closing of the polls on the day of holding of any primary, the ballots shall be counted as provided by law for the counting of the ballots of any regular election. In counting such ballots, those candidates who have a cross made in the square at the left of their names shall be deemed to have been voted for, but any ballot upon which more candidates for any office have been voted for than may, by law, May substitute candidate.

How ballot folded.

Duty of inspector.

Voter not to expose ballot.

Challengers and witnesses.

Counting of ballots

Declaration of results, care of tally sheets, etc., general laws to govern.

be elected to such office shall be rejected as to that office. After the votes in any primary election in any district shall have been counted, the officials counting the same shall publicly declare the result, and forthwith make and certify written detailed statements, as are required by law for general election, except as hereinafter provided, of the whole number of votes cast in such district for each candidate for each of said offices or positions provided for in section one of chapter V of this act, on each party ballot, and shall certify, subscribe and seal in a separate envelope such statements and one of the tally sheets, and write thereon the name and number of the election district, if any, and deliver such statements and tally sheets to such persons and at such times as are required by law for general elections, and as soon as they have completed the counting of the votes of their precincts they shall return all the ballots voted to the ballot boxes, which shall be locked and sealed, and the same, and all books, unused ballots, supplies and lists shall be safeguarded and returned, as is prescribed for so doing at the close of the general elections. The ballots in the ballot boxes shall be preserved until after the respective boards of canvassers shall have made up their respective tickets.

Canvass of returns.

(594) SEC. 11. The returns of said primary election shall be canvassed and the results declared in the same manner, at the same time after the primary, and by the same officers as is provided by general law for canvassing the returns of and declaring the result in city, county and district elections. The candidates, who shall have received the largest number of votes cast for any office as set forth in such returns, or determined by the board of canvassers on a recount by them of said ballots, as hereinafter provided, shall be declared nominated as candidates for the respective offices and the said board of canvassers shall forthwith certify such nominations to the county election commission in each county affected thereby.

Who declared nominated.

Candidate may petition for recount.

(595) SEC. 12. Any candidate voted for at any primary election provided in this act, who conceives himself aggrieved on account of any fraud or mistake in the count by the inspectors of election, of the votes cast, or the returns made by them, may on or before the close of the first day upon which the board of state, city or county canvassers meet, present to and file with the chairman of such board a written petition, which shall be sworn to, setting forth as near as may be, the nature of the mistakes or frauds, complained of, and the township, ward or district in which they occurred, and asking for a recount of the votes cast therein. He shall, at the same time, deposit with said chairman, the sum of ten dollars for each and every township, ward or election district, the vote of which he asks to have recounted by such board: Provided, That no candidate shall be required to de-

Amount of deposit.

Proviso.

posit more than one hundred dollars. Upon filing the petition and making the deposit required herein, and giving at least twelve hours written notice thereof to the opposing candidate, by handing to such candidate a copy thereof, or, if such candidate cannot be found, by leaving such copy at his last place of residence, it shall be the duty of said board of canvassers to investigate the facts set forth in said petition. For such purpose the said board shall cause the ballot boxes used in such election districts to be brought before them. The board shall thereupon, in some public place where such candidates and their counsel may be present, if they so desire, proceed forthwith to open the ballot boxes from such districts, townships or wards and to make a recount thereof as to such candidates, and make correct and full return, in writing, under their hands, to said board, showing the full number of votes given, the names of the candidates and the number of votes given to each, written out in words and figures. As soon as the recount is completed, said board shall, at once, return the ballots to their respective boxes, carefully lock up and seal the same, and deliver them to the officer having the care and custody thereof. The returns made by said board of canvassers upon such recount shall be deemed to be correct, anything in the previous return from such township, ward, or district, to the contrary notwithstanding. In all cases, where, by reason of such recount, the petitioner succeeds in establishing fraud or mistake, as set forth in his petition, and receives a certificate of nomination, the money deposited by him shall be refunded; otherwise it shall be turned into the treasury of the State, county or city, as the case may be. If two or more candidates of the same political party are tied for the same office, the tie shall be determined by lot to be cast then and there as the canvassing board may direct.

Notice of recount, how served.

Procedure of board in case of recount.

Disposition of money deposited

How tie determined.

(596) SEC. 13. The several boards of election commissioners shall cause to be printed upon the ballots to be used for election for offices included in section one of chapter V of this act, the names of the candidates for such offices, selected under the provisions of this act: Provided, That when any candidate shall die, or shall withdraw as such candidate before the printing of the ballots, after having been nominated as herein provided, then the proper board of election commissioners shall cause to be printed or placed upon such ballot, in the place of such candidate, the name of the candidate who shall be selected by the proper party committee upon the certificate of its chairman and secretary, as is provided for general elections: Provided further, In the case of any political party which has not voted according to the provisions of this act to nominate its candidates for office by direct vote may have its candidates for office certified to the boards of election commissioners, as provided by law previous to the passage of this act.

Boards to cause names placed on ballots.

Proviso.

Party committee to supply name, when candidate dies or withdraws.

Further proviso.

CHAPTER VI.

OF PENALTIES AND MISCELLANEOUS PROVISIONS.

Misdemeanor,
what deemed.

(597) SECTION 1. Any person who shall, while the polls are open at any polling place on any primary day, solicit votes in the said polling place, or within one hundred feet thereof; any person who shall offer or give to any other person any intoxicating liquors, or drink any intoxicating liquors within any such polling place; any person who shall solicit or receive, directly or indirectly, any money or any promise of place or position, or any valuable consideration for his vote or support at any such primary election; any person who shall offer any voter any money or reward of any kind, or who shall promise any place or position for the purpose of securing such votes or vote, or support, at any such primary election; any person who shall violate any of the requirements or provisions of this act; any person who shall refuse or neglect to perform any duty enjoined upon him thereby; any person who shall vote or attempt to vote more than once, or in more than one election district, at the same primary election, shall be guilty of a misdemeanor. When by this act any act or duty is required to be done or performed by or under the direction, supervision or authority of any officer, and such act or duty shall not be done or performed, then the officer who shall neglect to perform such act or duty, or shall suffer or permit the omission to perform such act or duty, require or authorize the omission or non-performance of such act or duty, shall be guilty of a misdemeanor, and shall be punished as herein provided. Any person who shall be convicted of any of the acts or omissions which are by this act declared to be misdemeanors, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both such fine and imprisonment in the discretion of the court.

Penalty.

Duty of
county clerk,
relative to
printing and
distributing
posters.

(598) SEC. 2. It shall be the duty of the county clerk of any county in which primaries are held for the nomination of candidates for office, pursuant to the provisions of this act, to cause to be printed large posters containing the whole verbatim of the preceding section of this act, and shall furnish two of such posters to the board of election inspectors of each election district in his county at the same time that the official ballots for use at such primaries are delivered, and the board of election inspectors shall cause the said posters to be posted in conspicuous places in the polling place, so that the same can be plainly seen and read by all persons at such primary election. It shall be the duty of the clerk of any city, township or village in which this act is operative to deliver to the board of primary election inspectors of each election district within his jurisdiction, before the time for opening of the polls on the day of such

Duty of election inspectors.

Clerks to deliver blanks, enrollment books, etc.

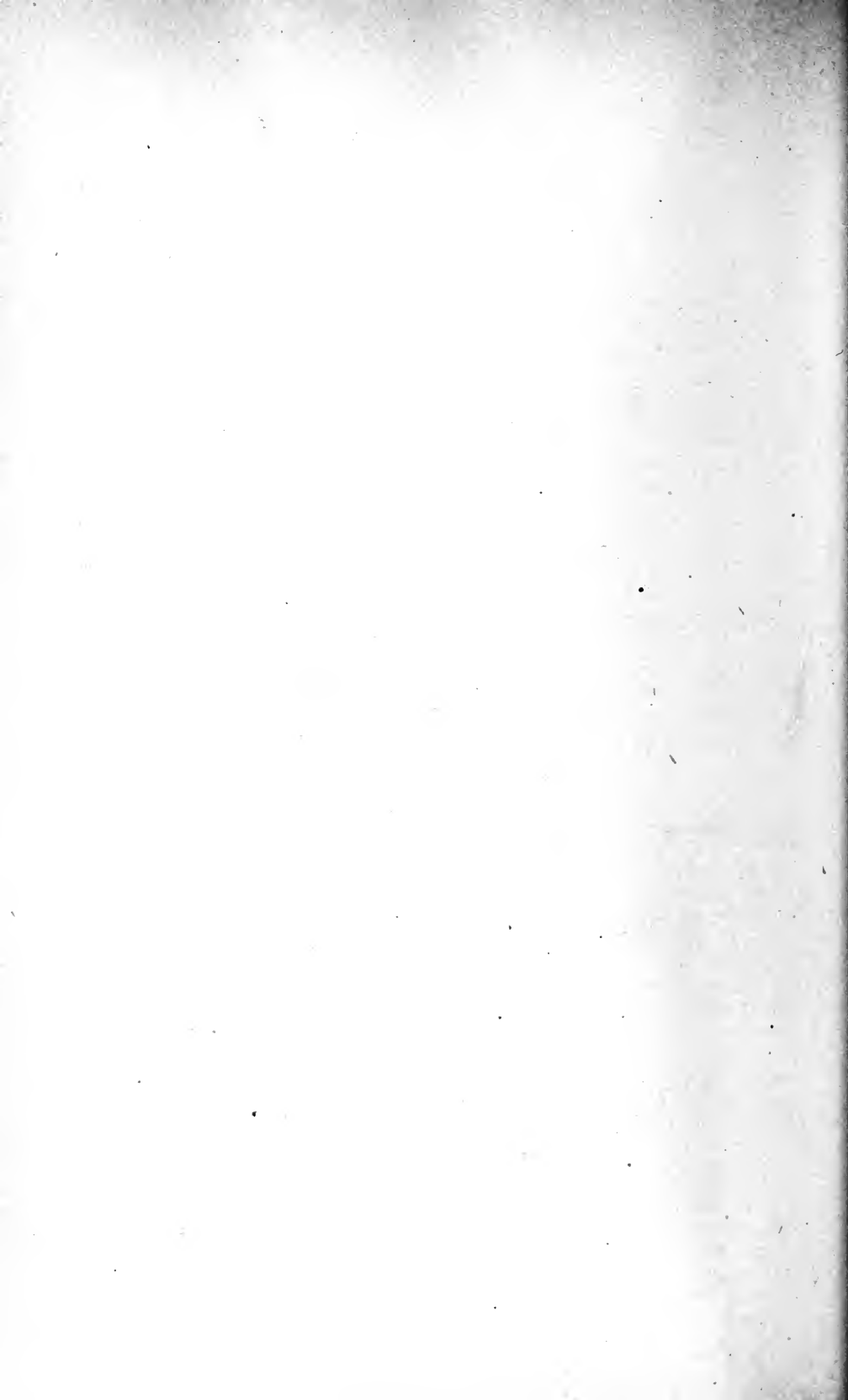
primary, the register of electors and the party enrollment book; also blanks for poll lists and returns and any other supplies necessary to carry out the provisions of this act.

(599) SEC. 3. The day on which any primary election shall be held pursuant to the provision of this act shall be deemed to be an election day in any city, county, or district, where such primary election is held, within the meaning of section seventeen of act number three hundred thirteen of the public acts of eighteen hundred eighty-seven, entitled "An act to provide for the taxation and regulation of the business of manufacturing, selling, keeping for sale, furnishing, giving or delivering spirituous and intoxicating liquors, and malt, brewed, or fermented liquors, and vinous liquors in this State, and to repeal all acts or parts of acts inconsistent with the provisions of this act."

Primary day,
deemed an
election day.

Reference to
certain act.

A P P E N D I X .



APPENDIX.

PROVISIONS OF THE CONSTITUTION OF THE UNITED STATES APPLICABLE TO ELEC- TIONS IN THE STATES, AND LAWS IN RELATION TO THE NATURAL- IZATION OF ALIENS.

CONSTITUTIONAL PROVISIONS.

ARTICLE I.

SECTION I.

1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives. Legislative power.

SECTION II.

1. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature. House of representatives, and qualifications of electors.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen. Of representatives.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies. Vacancies.

SECTION III.

1. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote. Senate, each senator a vote.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen. Qualifications of senators.

SECTION IV.

Elections, how regulated.

1. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law, make or alter such regulations, except as to the places of choosing senators.

ARTICLE II.

SECTION I.

Executive power.

1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected, as follows:

Electors of president and vice president.

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative or person holding an office of trust or profit under the United States shall be appointed an elector.

Time of choosing electors.

4. The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Qualifications for president.

5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

ARTICLE V.

Amending constitution.

1. The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: Provided, That no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE XII.

PROPOSED AT THE FIRST SESSION OF THE EIGHTH CONGRESS.

1. The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves, they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But, in choosing the president the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president.

Mode of electing president and vice president of the United States—choosing president.

2. The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

Vice president.

3. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

Qualification

ARTICLE XIV.

PROPOSED AT THE FIRST SESSION OF THE THIRTY-NINTH CONGRESS.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the

Who are citizens.

Immunities
of citizens.

United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Apportion-
ment of rep-
resentatives.

2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Basis of repre-
sentation.

Conditional
prohibition to
hold certain
offices.

3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

ARTICLE XV.

PROPOSED AT THE FIRST SESSION OF THE FORTY-FIRST CONGRESS.

Right of
suffrage.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Power of
congress.

2. The congress shall have power to enforce this article by appropriate legislation.

NATURALIZATION OF ALIENS.

Aliens, how
naturalized.

SEC. 2165. [U. S. Comp. Stat. 1901, p. 1329.] An alien may be admitted to become a citizen of the United States in the following manner, and not otherwise:

First. He shall declare on oath, before a circuit or district court of the United States, or a district or supreme court of the territories, or a court of record of any of the states having common law jurisdiction, and a seal and clerk, two years, at least, prior to his admission, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and, particularly, by name, to the prince, potentate, state or sovereignty of which the alien may be at the time a citizen or subject.

Declaration of intention.

Second. He shall, at the time of his application to be admitted, declare, on oath, before some one of the courts above specified, that he will support the constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty; and particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

Oath to support the constitution of the United States.

Third. It shall be made to appear to the satisfaction of the court admitting such alien, that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year at least; and that during that time he has behaved as a man of a good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same; but the oath of the applicant shall in no case be allowed to prove his residence.

Residence in United States, and state, and good moral character.

Fourth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Titles of nobility to be renounced.

Fifth. Any alien who was residing within the limits and under the jurisdiction of the United States before the twentieth day of January, one thousand seven hundred and ninety-five; may be admitted to become a citizen, on due proof made to some one of the courts above specified, that he has resided two years, at least, within the jurisdiction of the United States, and one year, at least, immediately preceding his application, within the state or territory where such court is at the time held; and on his declaring on oath that he will support the constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly, by name, to the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; and, also, on its appearing to the satisfaction of the court, that during such term of two years he has behaved as a man of

Persons residing in the United States before 29 Jan., 1795.

good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien, applying for admission to citizenship, has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility. All of the proceedings required in this condition to be performed in the court, shall be recorded by the clerk thereof.

Persons residing between 18 June, 1798, and 18 June, 1812.

Sixth. Any alien who was residing within the limits and under the jurisdiction of the United States, between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become such; but whenever any person, without a certificate of such declaration of intention, makes application to be admitted a citizen, it must be proved to the satisfaction of the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, must be proved by the oath of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place where the applicant has resided for at least five years, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States. [Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the declaration of intention to become a citizen of the United States, required by section two thousand one hundred and sixty-five of the revised statutes of the United States, may be made by an alien before the clerk of any of the courts named in said section two thousand one hundred and sixty-five; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts named in said section.]

Declaration for naturalization, how made.

Aliens honorably discharged from military service.

SEC. 2166. [U. S. Comp. Stat. 1901, p. 1331.] Any alien, of the age of twenty-one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any

previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such person's having been honorably discharged from the service of the United States.

Act of July 26, 1894. [28 Stat. at L. 124, Chap. 165.] Aliens honorably discharged from navy service.
Any alien of the age of twenty-one years and upward, who has enlisted or may enlist in the United States navy or marine corps, and has served or may hereafter serve five consecutive years in the United States navy or one enlistment in the United States marine corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States navy or marine corps.

SEC. 2167. [U. S. Comp. Stat. 1901, p. 1332.] Any alien, Minor residents.
being under the age of twenty-one years, who has resided in the United States three years next preceding his arriving at that age, and who has continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of section twenty-one hundred and sixty-five; but such alien shall make the declaration required therein at the time of his admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for two years next preceding, it has been his bona fide intention to become a citizen of the United States; and he shall in all other respects comply with the laws in regard to naturalization.

SEC. 2168. [U. S. Comp. Stat. 1901, p. 1332.] When any alien, who has complied with the first condition specified in section twenty-one hundred and sixty-five, dies before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law. Widow and children of declarants.

SEC. 2169. [U. S. Comp. Stat. 1901, p. 1333.] The provisions of this title shall apply to aliens [being free white persons, and to aliens] of African nativity and to persons of African descent. Aliens being free whites and of African nativity.

Act of May 6, 1882, [U. S. Comp. Stat. 1901, p. 1305.] Hereafter no state court or court of the United States shall Chinese.

admit Chinese to citizenship, and all laws in conflict with this act are hereby repealed.

Residence of
five years in
the United
States.

SEC. 2170. [U. S. Comp. Stat. 1901, p. 1333.] No alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States.

Alien enemies
not admitted.

SEC. 2171. [U. S. Comp. Stat. 1901, p. 1333.] No alien who is a native citizen or subject, or a denizen of any country, state, or sovereignty with which the United States are at war, at the time of his application, shall be then admitted to become a citizen of the United States; but persons resident within the United States, or the territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had before that day made a declaration, according to law, of their intention to become citizens of the United States, or who were on that day entitled to become citizens without making such declaration, may be admitted to become citizens thereof, notwithstanding they were alien enemies at the time and in the manner prescribed by the laws heretofore passed on that subject; nor shall anything herein contained be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

Persons who
disbelieve in
organized gov-
ernment not to
be naturalized.

Sec. 39, Act of March 3, 1903, [32 Stat. at L. 1222, Chap. 1012.] No person who disbelieves in, or who is opposed to, all organized government, or who is a member of, or affiliated with, any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the government of the United States, or of any other organized government, because of his or their official character, or who has violated any of the provisions of this act, shall be naturalized or be made a citizen of the United States. All courts and tribunals and all judges and officers thereof having jurisdiction of naturalization proceedings or duties to perform in regard thereto shall, on the final application for naturalization, make careful inquiry into such matters, and before issuing the final order or certificate of naturalization, cause to be entered of record the affidavit of the applicant and of his witnesses so far as applicable, reciting and affirming the truth of every material fact requisite for naturalization. All final orders and certificates of naturalization hereafter made shall show on their face specifically that said affidavits were duly made and recorded, and all orders and certificates that fail to show such facts shall be null and void.

Penalties.

Any person who purposely procures naturalization in violation of the provisions of this section shall be fined not more than five thousand dollars, or shall be imprisoned not less

than one nor more than ten years, or both, and the court in which such conviction is had shall thereupon adjudge and declare the order or decree and all certificates admitting such person to citizenship null and void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

Any person who knowingly aids, advises, or encourages any such person to apply for or to secure naturalization, or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars, or imprisonment not less than one nor more than ten years, or both.

SEC. 2172. [U. S. Comp. Stat. 1901, p. 1334.] The children of persons who have been duly naturalized under any law of the United States, or who, previous to the passing of any law on that subject, by the government of the United States, may have become citizens of any one of the states, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof; but no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain during the revolutionary war, shall be admitted to become a citizen without the consent of the legislature of the state in which such person was proscribed.

Children of persons naturalized under certain laws, to be citizens.

SEC. 2173. [U. S. Comp. Stat. 1901, p. 1334.] The police court of the District of Columbia shall have no power to naturalize foreigners.

Police court of District of Columbia

SEC. 2174. [U. S. Comp. Stat. 1901, p. 1334.] Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of congress notwithstanding; but such seaman

Naturalization of seamen.

shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.

Penalty for
false oath, etc.

SEC. 5395. [U. S. Comp. Stat. 1901, p. 3654.] In all cases where any oath or affidavit is made or taken under or by virtue of any law relating to the naturalization of aliens, or in any proceedings under such laws, any person taking or making such oath or affidavit, who knowingly swears falsely, shall be punished by imprisonment not more than five years, nor less than one year, and by a fine of not more than one thousand dollars.

Penalty for
assuming fic-
titious name,
etc.

SEC. 5424. [U. S. Comp. Stat. 1901, p. 3668.] Every person applying to be admitted a citizen, or appearing as a witness for any such person, who knowingly personates any other person than himself, or falsely appears in the name of a deceased person, or in an assumed or fictitious name, or falsely makes, forges, or counterfeits any oath, notice, affidavit, certificate, order, record, signature, or other instrument, paper, or proceeding required or authorized by any law relating to or providing for the naturalization of aliens; or who utters, sells, disposes of, or uses as true or genuine, or for any unlawful purpose, any false, forged, antedated, or counterfeit oath, notice, certificate, order, record, signature, instrument, paper, or proceeding above specified; or sells or disposes of to any person other than the person for whom it was originally issued any certificate of citizenship, or certificate showing any person to be admitted a citizen, shall be punished by imprisonment at hard labor not less than one year, nor more than five years, or by a fine of not less than three hundred nor more than one thousand dollars, or by both such fine and imprisonment.

Penalty for
use of, or aid-
ing persons
using false
certificates.

SEC. 5425. [U. S. Comp. Stat. 1901, p. 3669.] Every person who uses, or attempts to use, or aids, or assists, or participates in the use of, any certificate of citizenship, knowing the same to be forged, or counterfeit, or antedated, or knowing the same to have been procured by fraud or otherwise unlawfully obtained; or who, without lawful excuse, knowingly is possessed of any false, forged, antedated, or counterfeit certificate of citizenship, purporting to have been issued under the provisions of any law of the United States relating to naturalization, knowing such certificate to be false, forged, antedated, or counterfeit, with intent unlawfully to use the same; or obtains, accepts, or receives any certificate of citizenship known to such person to have been procured by fraud or by the use of any false name, or by means of any false statement made with intent to procure, or to aid in procuring, the issue of such certificate, or known to such person to be fraudulently altered or antedated; and every person who has been or may be admitted to be a citizen who, on oath or by affidavit, knowingly denies that he has been so admitted, with intent to evade or avoid any duty or liability imposed

or required by law, shall be imprisoned at hard labor not less than one year, nor more than five years, or be fined not less than three hundred dollars, nor more than one thousand dollars, or both such punishments may be imposed.

SEC. 5426. [U. S. Comp. Stat. 1901, p. 3669.] Every person who in any manner uses, for the purpose of registering as a voter, or as evidence of a right to vote, or otherwise, unlawfully, any order, certificate of citizenship, or certificate, judgment, or exemplification, showing any person to be admitted to be a citizen, whether heretofore or hereafter issued or made, knowing that such order or certificate, judgment, or exemplification has been unlawfully issued or made; and every person who unlawfully uses, or attempts to use, any such order or certificate, issued to or in the name of any other person, or in a fictitious name, or the name of a deceased person, shall be punished by imprisonment at hard labor not less than one year nor more than five years, or by a fine of not less than three hundred nor more than one thousand dollars, or by both such fine and imprisonment.

Use of unlawful certificate.

SEC. 5427. [U. S. Comp. Stat. 1901, p. 3670.] Every person who knowingly and intentionally aids or abets any person in the commission of any felony denounced in the three preceding sections, or attempts to do any act therein made felony, or counsels, advises, or procures, or attempts to procure, the commission thereof, shall be punished in the same manner and to the same extent as the principal party.

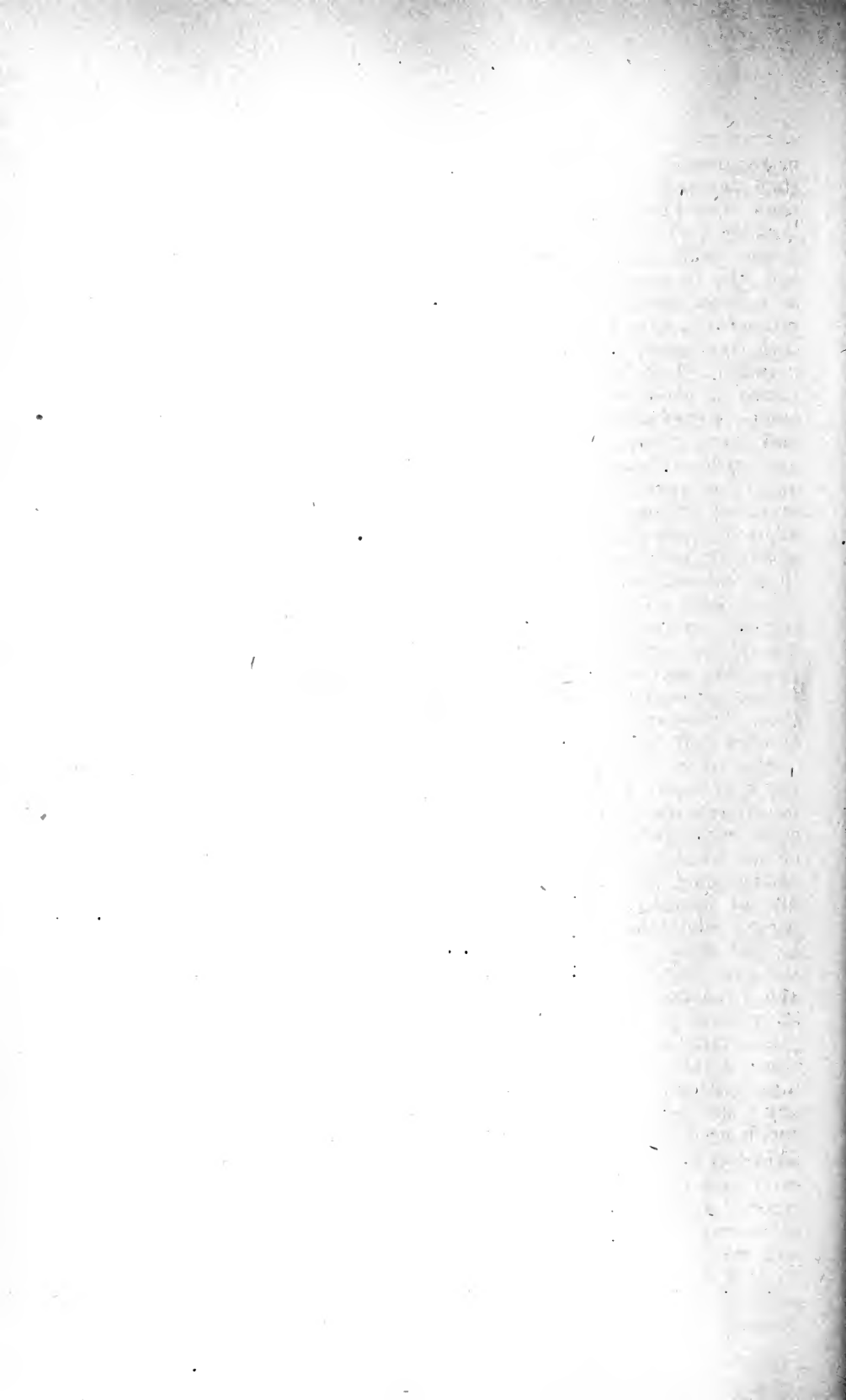
Aiding in commission of felony.

SEC. 5428. [U. S. Comp. Stat. 1901, p. 3670.] Every person who knowingly uses any certificate of naturalization heretofore granted by any court, or hereafter granted, which has been or may be procured through fraud or by false evidence, or has been or may be issued by the clerk, or any other officer of the court without any appearance and hearing of the applicant in court and without lawful authority; and every person who falsely represents himself to be a citizen of the United States, without having been duly admitted to citizenship, for any fraudulent purpose whatever, shall be punishable by a fine of not more than one thousand dollars, or be imprisoned not more than two years, or both.

Use of certificate secured through fraud.

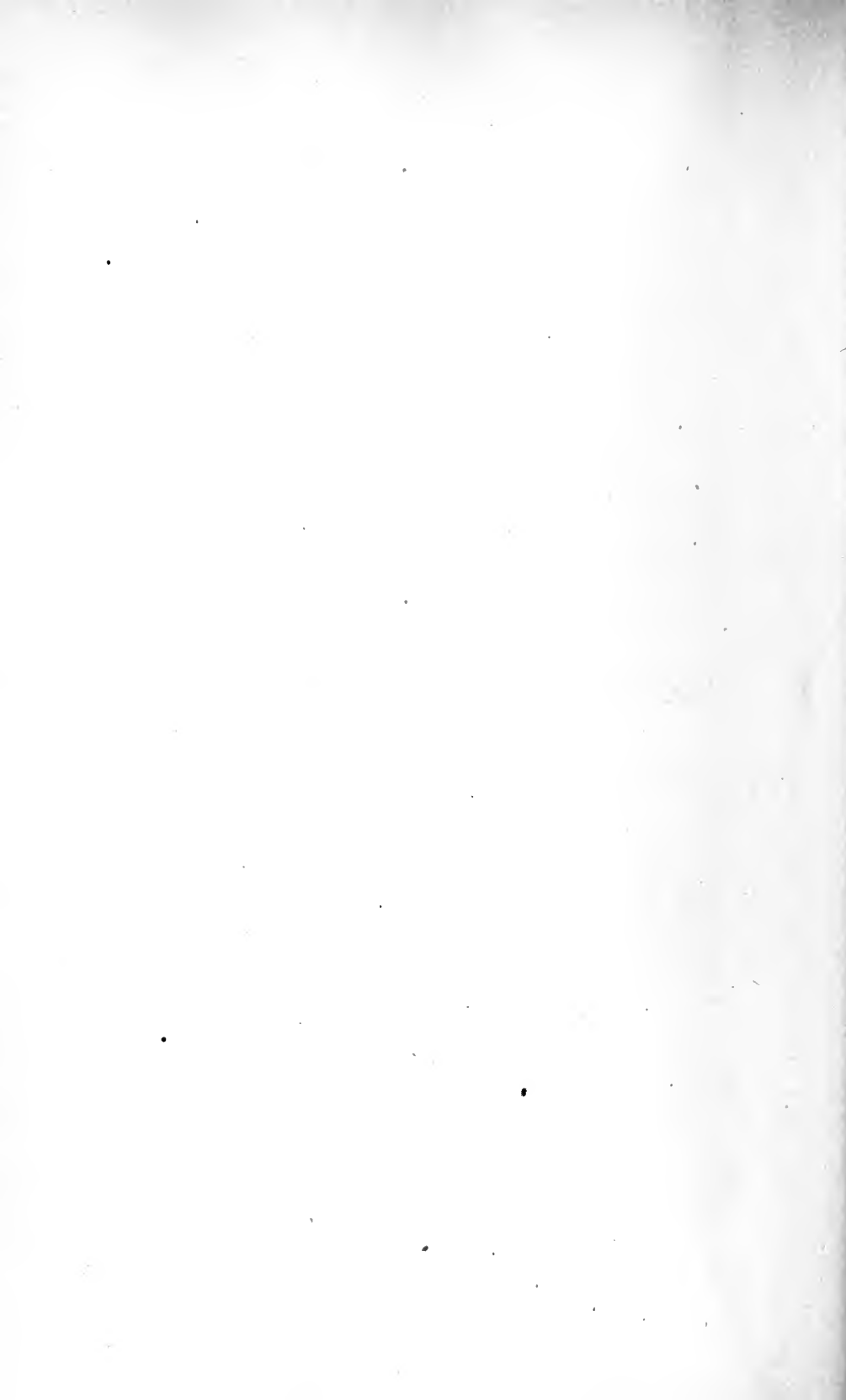
SEC. 5429. [U. S. Comp. Stat. 1901, p. 3670.] The provisions of the five preceding sections shall apply to all proceedings had or taken, or attempted to be had or taken, before any court in which any proceeding for naturalization may be commenced or attempted to be commenced. (See §§ 2165-2174 [U. S. Comp. Stat. 1901, pp. 1329-1334].)

Application of certain sections.



INDEX TO THE
PRIMARY ELECTION LAW.

THE INDEX TO THE GENERAL ELECTION LAWS IMMEDIATELY FOLLOWS.



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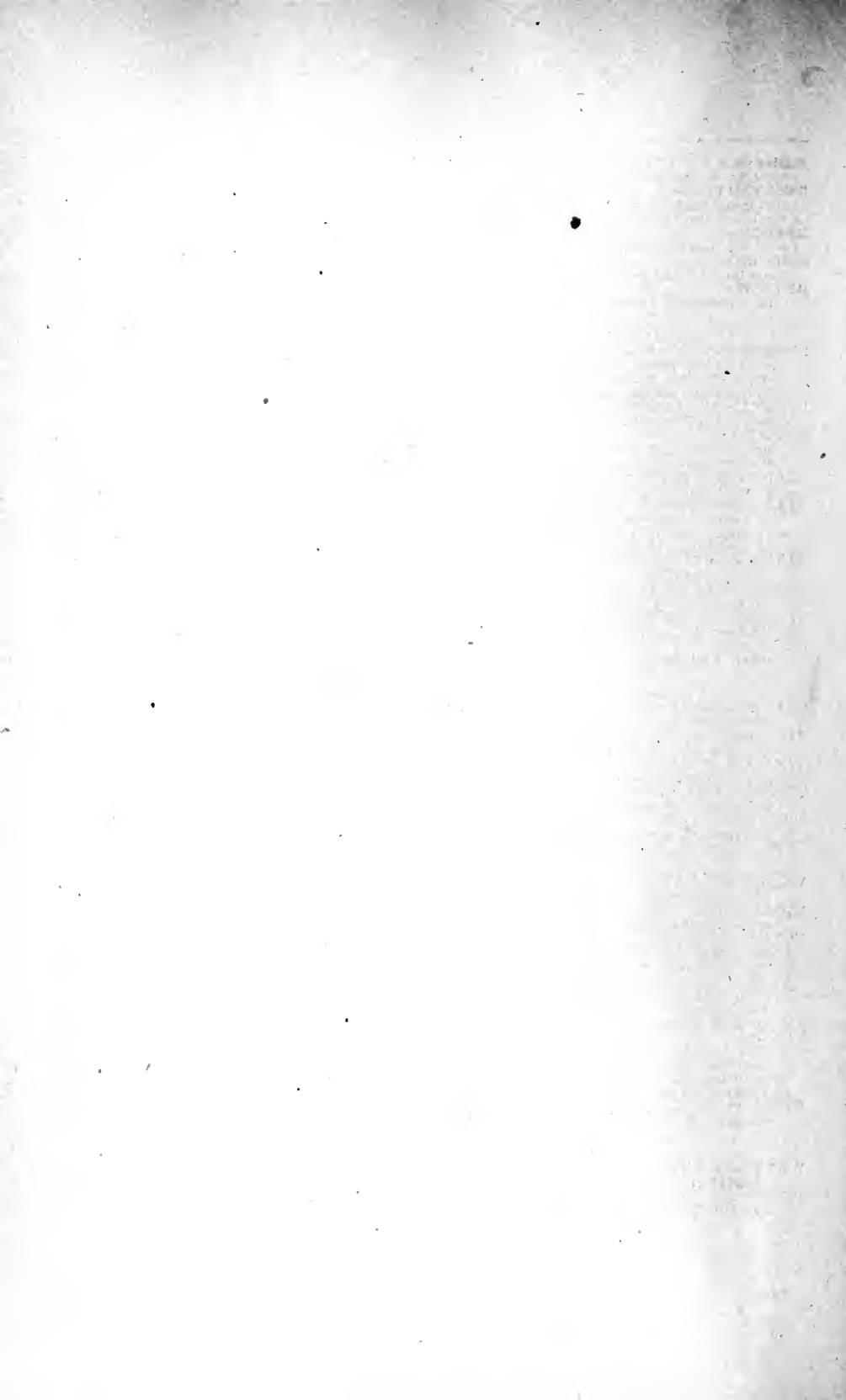
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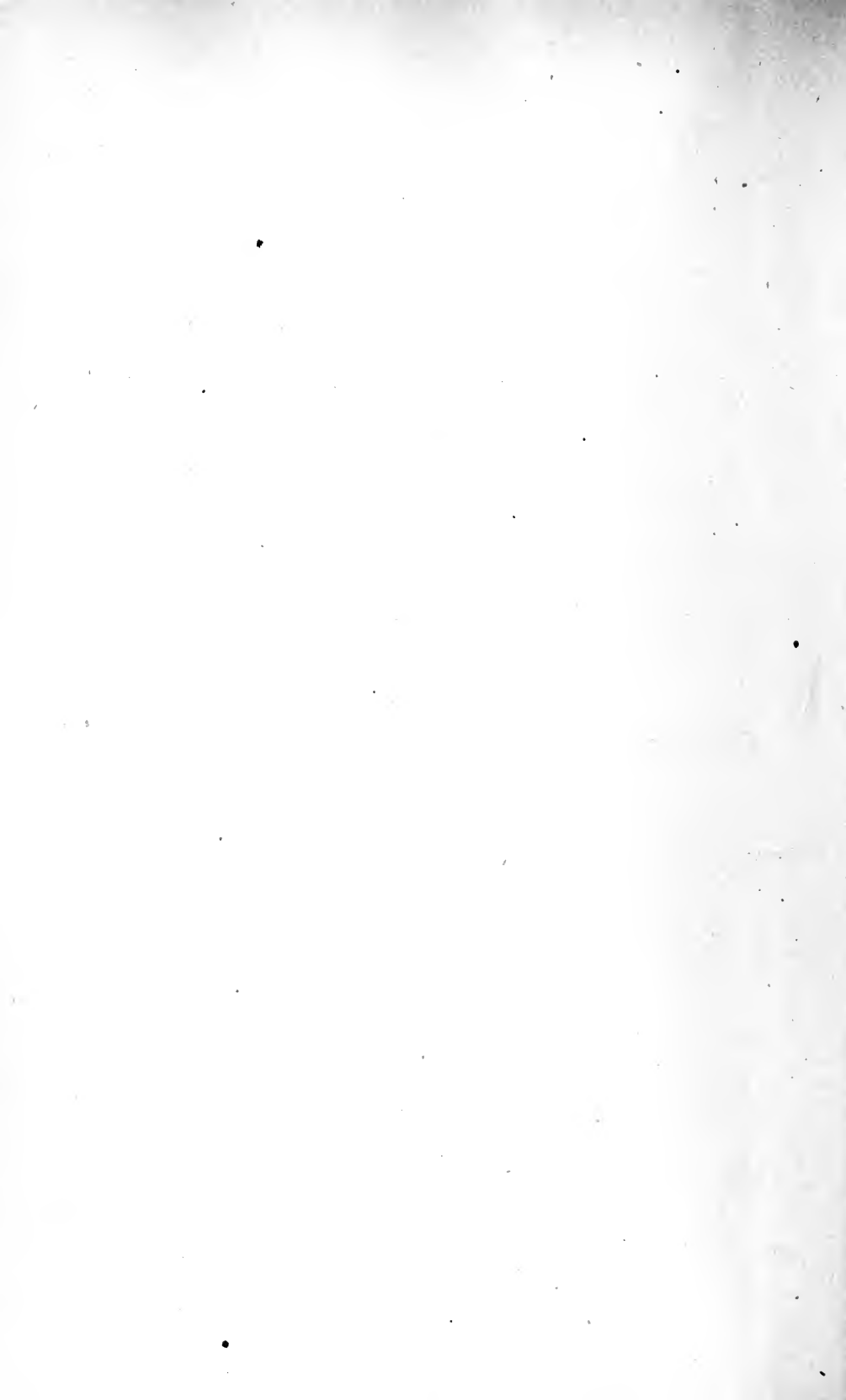
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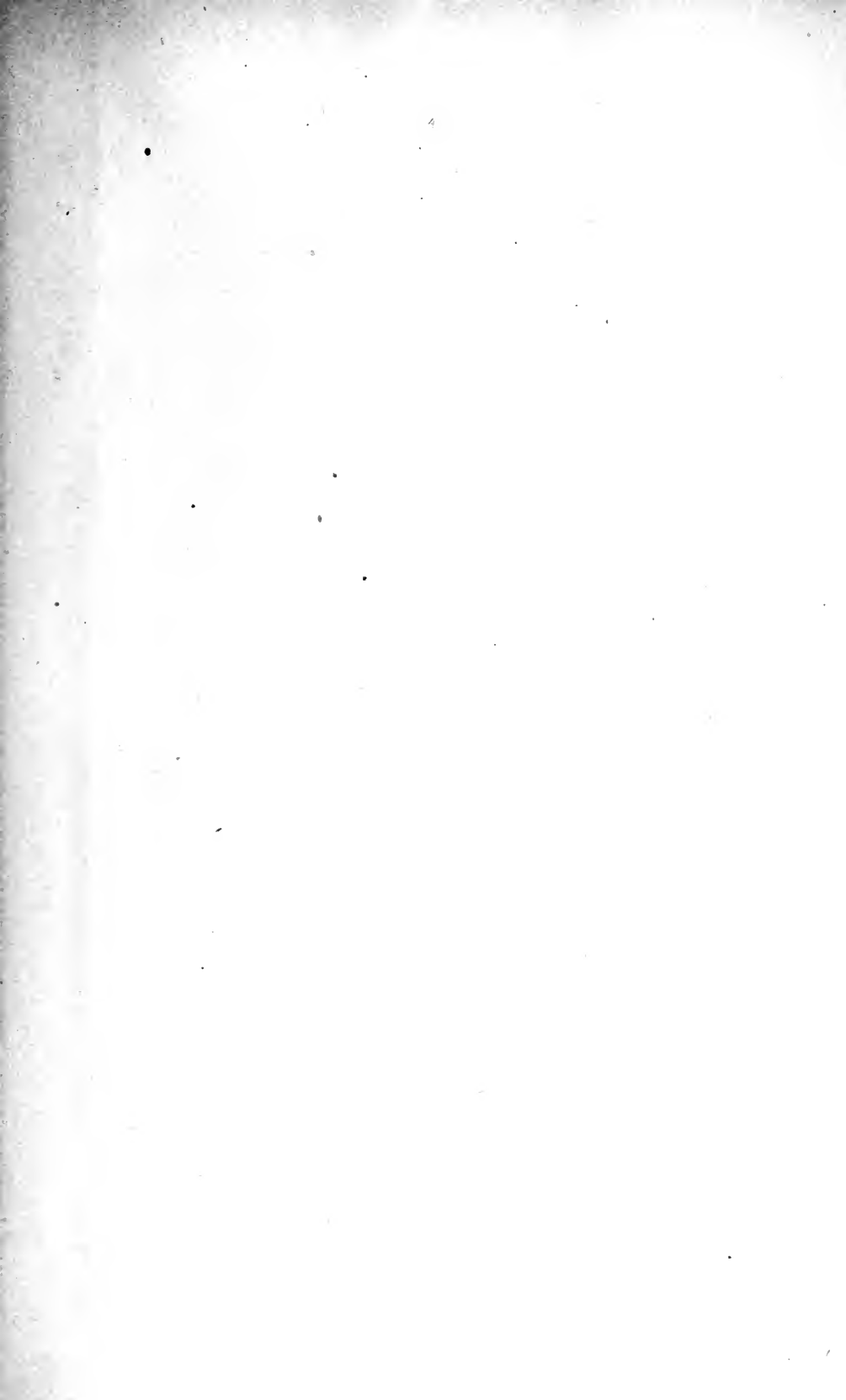
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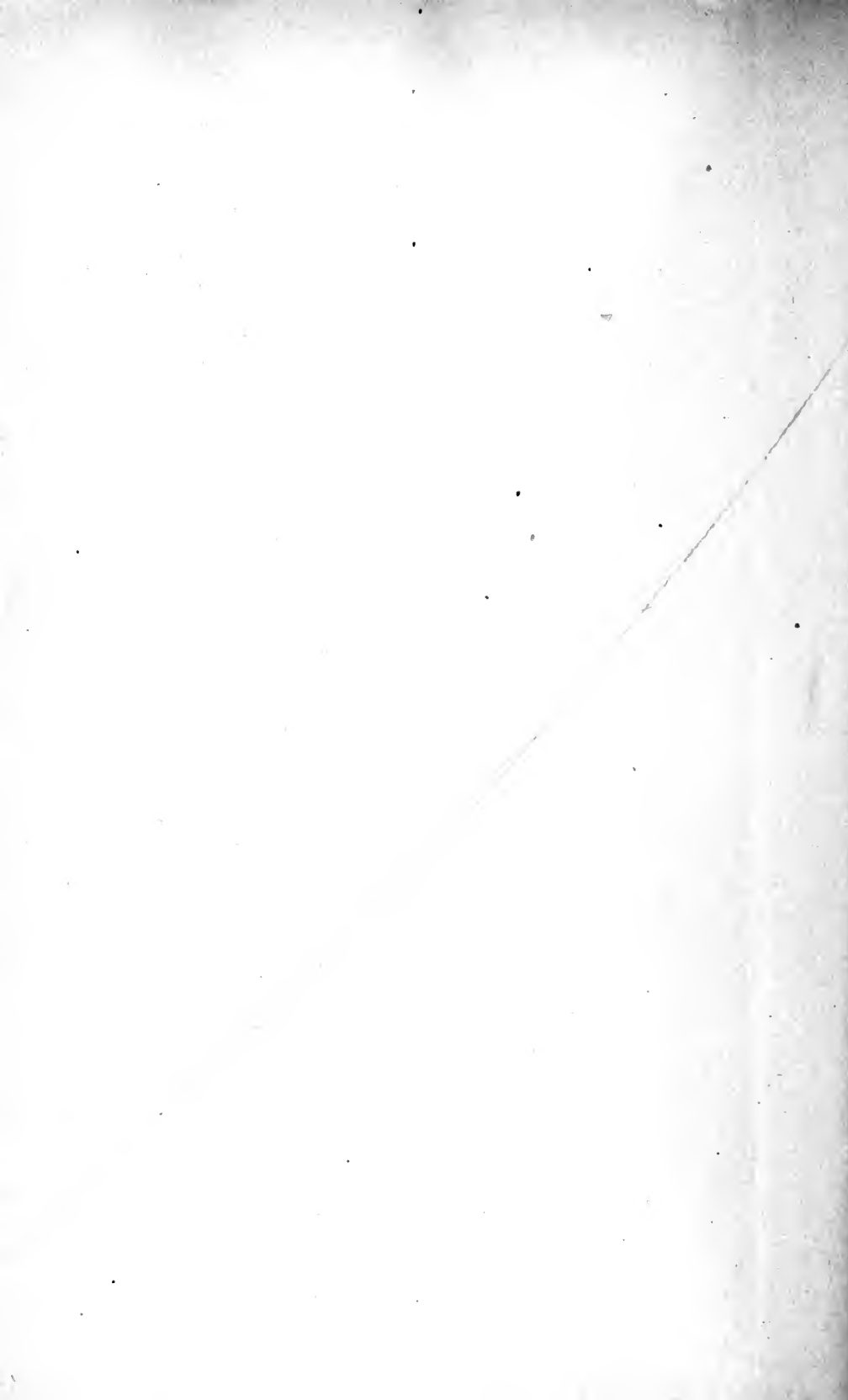
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