

KENTUCKY ELECTION LAWS.

COMPILED BY THE

SECRETARY OF STATE,

**WITH THE AID AND ADVICE
OF THE**

ATTORNEY-GENERAL.

FEBRUARY 15, 1901.

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KENTUCKY ELECTION LAWS.

Compiled by the Secretary of State, with the aid
and advice of the Attorney-General.

FEBRUARY 15, 1901.

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ARTICLE I.

General Provisions.

§ 1. MEANING OF THE WORD ELECTION.—When-
ever in this chapter the word "election," or an equivalent ex-
pression, is used in reference to a State, district, county or

Constitution,
sec. 147; Gen.
Stat., chap 33,
art. 1, sec. 1.

§ 1. ELECTION—MEANING OF TERM.
—The word "election," in its constitutional
sense is used to designate a selection by
the popular voice of a district, county, town
or city, or by some organized body, in con-

tradistinction to the appointment by some
single person or officer. Police Com'rs v.
City of Louisville, 3 Bush, 597; Speed v.
Crawford, 3 Met., 207.

municipal election, it shall be deemed to include the decision of questions submitted to the qualified voters as well as the choice of officers by them.

Gen. Stat.,
chap. 36, art. 1,
sec. 2.

§ 2. **POWERS OF SHERIFF, DEPUTIES AND ACTING OFFICERS.**—Whenever a duty is imposed upon or a power confided to a sheriff in reference to an election, the same shall apply to any other officer or person acting as such concerning an election, and to the deputies of the sheriff, such other officer or person, in the same manner as if the duty were imposed upon or the power confided expressly to such other officer, person or deputies, except that, in canvassing the returns or giving the casting vote in the election of a county judge to fill a vacancy, no deputy shall act without the express written authority of the principal.

Constitution,
sec. 145.

§ 3. **QUALIFICATION OF VOTERS.**—Every male citizen of the United States of the age of twenty-one years, who has resided in the State one year, and in the county six months, and in the precinct in which he offers to vote sixty days next preceding the election, is a voter in said precinct and not elsewhere; but the following persons are excepted, and shall not have the right to vote. (See Con., sec. 145.)

1. Persons convicted in any court of competent jurisdiction of treason or felony or bribery in an election, or of such high misdemeanor as the General Assembly may declare, shall operate as an exclusion from the right of suffrage; but persons hereby excluded may be restored to their civil rights by executive pardon. (Con., sec. 150.)

2. Persons who, at the time of the election, are in confinement under the judgment of a court for some penal offense.

3. Idiots and insane persons. (See U. S. naturalization law, page 32, Ky. Stat.)

Constitution,
sec. 146.

§ 4. **SOLDIERS, SEAMEN AND MARINES—NOT DEEMED RESIDENTS.**—No person in the military, naval or marine service of the United States shall be deemed a resi-

§ 3. (1) **NATURALIZATION.**—A person of foreign birth, who made his declaration of intention to become a citizen in 1870, and had resided in the State and exercised without question the right of suffrage, was held entitled to vote in 1890, although no order admitting him to citizenship was ever made. *Cowan v. Prowse*, 93 Ky., 156; and see *Morgan v. Dudley*, 18 B. M., 693.

(2) **PERSONS DISFRANCHISED BY CRIME.**—Under Constitution of 1849, persons convicted of bribery, perjury, forgery, or other crimes or high misdemeanors, were excluded from the right of suffrage. *Anderson v. Winfree*, 85 Ky., 597; *Cowan v. Prowse*, 93 Ky., 156; but, under present Constitution, persons convicted of any felony are excluded. Con., sec. 145.

dent of this State by reason of being stationed within the same; nor shall any such soldier, seamen or marine have the right to vote.

§ 5. MUNICIPAL ELECTIONS—PAYMENT OF POLL-TAX.—At all municipal elections, where the charter of a municipality requires the payment of a poll-tax as a prerequisite to vote, the payment of said tax shall be a condition precedent to said right. Act 1892.

§ 6. DEFINITION OF "OFFICERS OF ELECTION."—"Officer of election," as used in this chapter, means a judge, clerk or sheriff, or persons acting as sheriff at an election, also a member of the board for canvassing the returns. Gen. Stat.,
chap. 33, art. 1,
sec.

ARTICLE II.

Precincts.

§ 7.—ELECTION PRECINCTS—NUMBER OF VOTERS IN—REDIVISION—CHANGE OF VOTING PLACE.—The county court of each county in this State shall, on or before the August term of said courts, divide the justices' districts of each of said counties into election precincts, and establish the name or number and boundaries of same, and place of voting in each precinct. There shall be but one voting place in a precinct. Each precinct shall contain, as nearly as practicable, three hundred voters, based on the number of votes cast at the last election for Presidential electors; but no precinct shall contain more than three hundred and fifty voters. If at any election hereafter more than three hundred and fifty votes shall be cast at any voting place, it shall be the duty of the sheriff of the election in such precinct to report the same to the county court, which shall, at its next regular term, divide such precinct as equally as possible, so that the new precincts formed thereof shall each contain three hundred voters, as nearly as practicable. If for any good cause, an election can not be held at the house appointed as the place of voting, the judges of the election may, on the morning of the election, adjourn it to the most convenient place, after having publicly proclaimed the change and posted notice of the same on said house. Gen. Stat.,
chap. 33, art. 2,
secs. 1, 2.

Gen. Stat.,
chap. 33, art. 2,
sec. 3.

§ 8. POWER OF COUNTY COURT TO CHANGE BOUNDARIES OR DIVIDE PRECINCTS.—The County Court of any county may change the boundaries of any precinct within such county, or divide any precinct into two or more precincts, or consolidate two or more precincts into one, or change any place of holding elections whenever public convenience or the public good may require it: Provided, That no such change, division or consolidation shall be made after the June term of each court next preceding an election:

And provided further, That no such change, division, or consolidation shall be valid without giving due notice, at least one month before any election, by one publication in the newspaper published in said county having the largest circulation therein, or by posters put up in four of the most public places in said precinct: And provided further, That no precinct shall be enlarged so as to contain more than three hundred and fifty voters.

Act March
15, 1894.

§ 9. TOWNS OR CITIES WITH CORPORATE LIMITS IN SEVERAL COUNTIES—BALLOTS—MODE OF CONDUCTING AND CERTIFYING ELECTION.—In any town or city of of the fifth or sixth class, where corporate limits include parts of two or more counties, the clerk of the county court of each of such counties, in addition to the ballots prepared for the State, county, district or precinct elections, shall prepare a ballot-book of similar form and requisites, for the use of voters who reside in that part of such town or city that lies in his county, at every election at which municipal officers for such town or city are required to be chosen, or at which any question is to be submitted to the voters of such town or city. Only the names of such persons as are candidates for municipal offices in such town or city, or questions submitted to the voters of such town or city, shall be placed or printed on said ballots, and then only in conformity with, and in pursuance of, the regulations of this chapter, or other laws relating to the preparation of ballots and applicable to the election at which they are to be used. The officers of the election of the county precinct embracing

§ 8. CHANGING PRECINCT LINES.—The court may change the boundary of voting precincts, but can not change the voting place of a citizen from one precinct to

another without making any change in the boundary of the precincts. *Cowan v. Prowse*, 93 Ky., 156.

a part of the territory within the corporate limits of such town or city, in addition to the ballots for State, county, district or precinct, shall furnish to each voter residing in such town or city, and entitled to vote at the precinct for municipal officers, or upon a municipal question submitted to the voters of such town or city, a ballot prepared as herein provided for such municipal election, which ballot the voter will mark and fold in the same manner and at the same time, and deliver to the proper officer of the election in the same manner and at the same time as is required in respect to the State, county, district or precinct ballots, and the same shall be deposited by the officer in the ballot box with the other ballots. The officers of the election shall count and dispose of such municipal ballots at the same time, and shall certify and return the result thereof in the same manner as of the other ballots. It shall be the duty of the canvassing board of elections of the respective counties embracing parts of such town or city, to make duplicate written certificates over their signatures of the number of votes given in the county for municipal officers, or upon questions submitted to the voters of such town or city, one copy to be retained in the clerk's office of such county, and the other to be sent immediately by mail by said canvassing board to the canvassing board of the county, embracing a part of such town or city having the largest population, which last named board shall, between the hours of ten and twelve o'clock in the morning of the first Tuesday after the election, meet in the clerk's office of their county, compare the certificates of the canvassing boards of the several counties, and therefrom give triplicate certificates of election, in writing, over their signatures, of the persons who appear to have received the highest number of votes for offices of such town or city, one copy of the certificate to be retained in the clerk's office, another delivered to the clerk of the board of council of such town or city, and the other forwarded to the Secretary of State. The certificate of the votes on any question submitted to the voters of such town or city shall be delivered as provided by the law or ordinance under which the vote was taken. Such town or city shall pay the expenses of preparing the ballots for such municipal election.

ARTICLE III.

Ballots.

Constitution,
sec. 147.

§ 10. SECRET BALLOT, EXCEPT IN SCHOOL ELECTIONS.—In all elections hereafter held in this State on any subject which may by law be submitted to a vote of the people, and for all or any State, district, county or municipal officers, except school trustees and other common school district elections, the voting shall be by secret official ballots, printed and distributed as hereinafter provided, and no other ballots shall be used. (Election of School Trustees, sec. 153.)

Regulating
elections.

§ 11. The county clerk of each county shall cause to be printed on the respective ballots the name of the candidates nominated by the convention or primary election of any party that cast two per cent. of the total vote of the State at the last preceding general election, as certified to the said clerk by the presiding officer and secretary of said convention, or in the case of a primary election by the secretary and chairman of any district committee; and also the names of any candidates for any office, when petitioned so to do by electors qualified

Number of pe-
titions requir-
ed.

to vote for such candidates, as follows: For a State officer, or any officer for whom all the electors of the State are entitled to vote, one thousand petitioners; for a Representative in Congress from any congressional district, or any other district except as herein provided, four hundred petitioners; for a county officer or member of the General Assembly, one hundred petitioners; for an officer of a precinct, or any other ward, or other division less than a county, twenty petitioners. The signatures of such petition need not be appended to one paper, but no petitioner shall be counted except his residence and postoffice address be designated. Such petition shall state the name and residence of each of such candidates; that he is legally qualified to hold such office; that the subscribers desire, and are legally qualified, to vote for such candidate;

Act 1900.

§ 10. (1) SECRET BALLOT.—Voter is not competent witness to testify how he voted. Com. v. Barry, 98 Ky., 394, and this rule applies to contested election cases as well as prosecutions for violation of

election laws. Major v. Barker, 99 Ky., 305.
(2) SCHOOL TRUSTEES and the board of education in cities of the fourth-class must be elected by a viva-voce vote. Moss v. Riley, 19 R., 993.

and shall designate a brief name or title of the party or principle which said candidates represent, together with any simple figure or device by which they shall be designated on the ballot. The certificate of nomination by a convention or primary election shall be in writing, and shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle which such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the ballots; said certificate shall be signed by the presiding officer and secretary of such convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. If the certificate of nomination of any State Convention shall request that the figure or device selected by such convention be used to designate the candidates of such party on the ballots for all elections throughout the State such figure or device shall be used until changed by request of a subsequent State convention of the same party. Such device may be any appropriate symbol; but the coat of arms or seal of the State, or of the United States, the National flag, or any other emblem common to the people at large, shall not be used as such device. A certificate of such acknowledgment shall be appended to such instrument. In case of death, resignation or removal of any candidate subsequent to nomination, unless a supplemental certificate or petition of nomination be filed, the chairman of the State, county or city district committee shall fill such vacancy. Certificates and petitions of nominations of candidates for all offices to be filled by the electors of a county, or a division or district of the county, shall be filed with the county court clerk: Provided, however, That if any political party entitled to nominate by convention shall in any case fail to do so, the names of all nominees by petition for any office who shall be designated in their petition as members of, and candidates of, such party, shall be printed under the device and title on the ballots as if nominated by a convention. Certificates and petitions of nomination of candidates for offices to be voted for by the electors of the State, other than members of the General As-

Figure or device.

Certificate.

Death of candidate.

Chairman to fill vacancy.

sembly, or of any division or district of the State exclusively, shall be filed with the Secretary of State. In the event two or more persons who have filed certificates of nomination with the said Secretary of State or county clerk shall claim to be the nominee of the same political party the governing authority of said political party shall designate, in writing, to said Secretary of State and county court clerk which of said candidates shall be entitled to the party emblem: Provided, however, If there be two or more contending executive committees of the same party in the county or district, then that county or district executive committee which is recognized by the State governing authority of such party, by the written certificate of the chairman thereof, shall be recognized by the county court clerk and Secretary of State.

Contending
executive com-
mittees.

§ 12. Not less than twenty days before the election of such officers as are required to file their certificate of nomination with the Secretary of State, said Secretary of State shall certify to the respective county court clerks of the various counties which are entitled under the law to participate in the election of the respective candidates, the name and place of residence of each candidate for each respective office, as specified in the certificates and petitions of nomination filed with him, and shall designate therein, subject to the provisions of this act, the device under which the group or list of candidates, or candidate, of each party shall be printed, in the order in which they shall be arranged on the ballot: Provided, however, Should a vacancy occur in the General Assembly and a writ of election issued to fill said vacancy, the petition or certificate of nomination may be filed ten days before the day of election, and if filed with the Secretary of State shall be immediately certified to the proper county court clerks. No writ for the election of a member of the General Assembly shall be issued, except so as to enable the sheriff to give notice thereof, as now provided by law, at least fifteen days before the day of election.

Secretary of
State shall cer-
tify to clerks,
etc.

Act 1900.

Vacancy in
General As-
sembly.

Act 1900.

Failure of
county clerk to
perform duty—
penalty.

§ 13. If the county court clerk shall willfully and knowingly refuse or fail to have the name of any candidate printed upon the official ballot in the manner provided for in this act he shall forfeit his office and be guilty of a felony, and, upon conviction, be confined in the penitentiary for not less than one year nor more than three years.

§ 13a. **CERTIFICATES AND PETITIONS PRESERVED.**—The Secretary of State and county clerks shall cause to be preserved in their respective offices all certificates and petitions of nomination filed therein under the provisions of this act for six months after the election for which such nominations were made.

§ 13b. **CERTIFICATES AND PETITIONS TO BE FILED BEFORE ELECTION.**—Certificates and petitions of nomination filed with the Secretary of State shall be filed not more than sixty days, and not less than thirty days, before the day fixed by law for the election of the persons in nomination. Certificates and petitions of nomination herein directed to be filed with the clerk of a county shall be filed not more than sixty and not less than fifteen days before election.

§ 14. The county court clerks of the several counties shall cause the names of all candidates of their respective jurisdictions, where nominations for any office specified in the ballot have been duly made and not withdrawn, in accordance herewith, to be printed on one ballot all nominations of any party or group of petitioners, as designated by them in their certificate or petition; or if none be designated, under some suitable title and device. If the same device for designating candidates be selected by two parties or groups of petitioners it shall be given to the one which first selected it, and the clerk shall select a suitable device for the other. The arrangement of the ballot shall in general conform, as nearly as practicable, to the plan hereinafter given, and the devices named and lists of the candidates of the various parties shall be printed in parallel columns, in such order as the Secretary of State may direct, precedence, however, being given to the party which polled the higher number of votes for the head of the ticket in the last preceding election. The device of each party shall be placed at the head of the list of candidates of the party. The device shall not be enclosed in a square, but immediately under the device shall be placed a circle of one inch in diameter. Immediately under it shall be placed the name or title of the party ticket, and immediately under the name or title the list of candidates of the party, the name of each candidate having immediately on its right a small square large enough to contain the cross mark by which the

Duty of county clerk to have names printed.

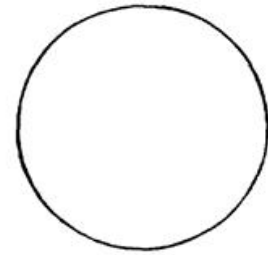
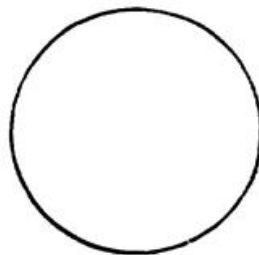
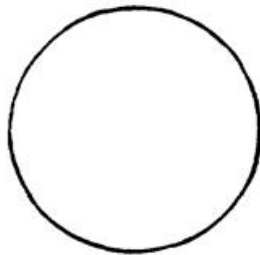
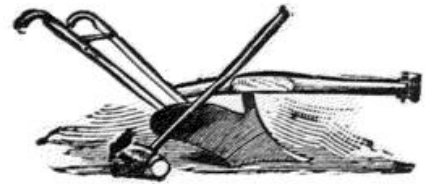
Arrangement of ballot.

Device.

voter is required to designate his vote. Underneath the name of each candidate shall be left a blank space large enough to contain a written name, and the general arrangement shall conform as nearly as possible to the following:

Act 1900.

Name of voter.....Consecutive number.....
Residence.....



DEMOCRATIC PARTY.	REPUBLICAN PARTY.	PEOPLE'S PARTY.
For Governor—	For Governor—	For Governor—
WM. GOEBEL <input type="checkbox"/>	W. S. TAYLOR..... <input type="checkbox"/>	JOHN G. BLAIR..... <input type="checkbox"/>
..... <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
For Lieutenant Governor—	For Lieutenant Governor—	For Lieutenant Governor—
J. C. W. BECKHAM <input type="checkbox"/>	JOHN MARSHALL.. <input type="checkbox"/> <input type="checkbox"/>
..... <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

(And continuing in like manner as to all candidates to be voted for at such elections.)

Name of voter.....Consecutive number.....
The secondary stub shall be on the end of the ballot opposite to that of the several party devices.

On the back shall be printed "official ballot," the date of the election and facsimile of the signature of the clerk who has

Manner of voting.

caused the ballot to be printed. Should any elector desire to vote for each and every candidate of one party he shall make a cross mark (X) in the circle under the device of said party, and the vote shall be counted for all the candidates under said device: Provided, however, If a cross mark (X) be made in the circle under a party device and a cross mark (X) be also made after one or more candidates of a different party, or parties, the vote shall be counted for the candidates so marked, and not for the candidates for the same offices of the party so marked, but the vote shall be counted for the other candidates of said party.

§ 15. All ballots shall be printed on plain white paper, sufficiently thick that the printing cannot be distinguished from the back, which paper shall be of number one white book paper, and when 26 by 40 inches shall weigh 80 pounds to the ream, or if double cap 40 pounds to the ream; and, except in elections for a municipal office, shall be furnished to the county court clerk by the Secretary of State, and it shall be the duty of the county court clerk to notify the Secretary of State thirty days before the day of election of the size and the number of ballots which shall be necessary for said county, estimating fifty per cent. more to the precinct than there were ballots cast at the last preceding State election, and the Secretary of State shall furnish the paper as herein provided within ten days after said notification by the county court clerk. If upon any ticket there be no candidate or candidates for a designated office a blank space equal to the space that would be occupied by such name or names, if they were printed thereon, with the blank spaces herein provided for, shall be left. Should the Secretary of State fail or refuse to so furnish said paper for the ballots he shall be guilty of a misdemeanor, and upon trial and conviction by indictment in the Franklin Circuit Court be fined not less than one thousand (\$1,000) dollars and not more than five thousand (\$5,000) dollars, in the discretion of the jury.

Provided, That in the year 1900 the notice herein provided for to be given to the Secretary of State by the county court clerk, shall not be given, but immediately after the passage of this act and at least fifteen (15) days before the day of the next ensuing election the Secretary of State shall furnish to the various county court clerks the paper upon which the bal-

Paper—qual-
ity of.

Secretary of
State to furn-
ish.

Penalty.

Exception for
1900.

lots shall be printed, which shall be of the quality as herein provided, and each county shall be furnished fifty per cent. more ballots than were cast in the respective counties at the last preceding State election.

Act 1900.

Provided, however, That the clerks of the various counties of the State shall furnish the paper of the kind and weight as herein provided for the ballots, in the year nineteen hundred if the Secretary of State does not furnish same twelve (12) days before the day of the next ensuing election.

Said clerk shall be subject to the same penalties prescribed for failure to print on paper furnished by the Secretary of State, if he fails to have ballots printed on the kind and quality of paper as set out herein.

§ 16. If any county court clerk shall refuse or fail to have ballots, which are herein required to be printed on paper furnished by the Secretary of State, printed upon paper so furnished by said Secretary, he shall be fined five hundred dollars, or imprisoned in the county jail for six months, or both so fined and imprisoned.

County Clerk.

Act 1900.

Penalty.

§ 17. If any election officer at any precinct shall refuse to permit any challenger or inspector of any regular political party having a ticket to be voted for at the election, who has been duly appointed and presents a certificate thereof duly attested, to perform his duties as challenger or inspector, as the case may be, he shall be fined not less than fifty nor more than five hundred dollars.

Election officer.

Act 1900.

Penalty.

§ 18. The officer who furnishes the ballots to the election officers of the precincts shall, at the time he delivers said ballots, furnish to the election officers aforesaid a number of copies of the following oath, equal to five per cent. of the ballots furnished said precinct, which shall be printed on paper suitable for writing with ink, to-wit:

Oath to be furnished.

State of Kentucky, }
 County of..... } ss.

Act 1900.

"I do solemnly swear that I am of the age of not less than twenty-one years; that I have resided in the State of Kentucky one year and in the county of.....six months, and in precinct No.....sixty days next preceding the.....

election, A. D. 19.... I reside at No.....street (if said person claims to reside in a city.) My two nearest neighbors are....., and that I have never been convicted in any court of treason, or of any felony or bribery and not pardoned therefor, and that I know of no legal disqualification which should prevent my vote from being cast and counted at this election. Oath.

“This the....day of....., A. D., 19....

.....
“Subscribed and sworn to before me this the....day of, A. D., 19....

.....
“Judge of the Election.”

Whenever the officers of election disagree as to the qualification of any one who offers to vote, one of the judges of the election shall administer the oath prescribed in the form set out in this section, and shall correctly fill out with ink the blanks in, and require the person offering to vote to subscribe his name thereto, with pen and ink, and upon his failure or refusal to take said oath and to subscribe his name thereto the person so offering to vote shall not be permitted to vote. Disagreement as to voter.

If the person offering does take said oath and subscribe his name thereto and no counter affidavit is filed, he shall be permitted to vote, and one of the judges shall certify the same, and the oath so subscribed and certified shall be returned to the county clerk of the county with the poll books, who shall safely keep the same and shall deliver the same to the foreman of the grand jury on the first day of the next term of circuit court held in said county, and for his failure to do so he shall be fined not less than ten nor more than one hundred dollars. Affidavits regarding voters.

It shall be the duty of the Commonwealth’s attorney and county attorney to investigate each of these certificates and cause to be summoned before the grand jury such witnesses as they, or either of them, shall determine proper, and it shall be the duty of the grand jury to make a thorough investigation of all votes so cast, and return indictments against all persons so illegally voting. Commonwealth Attorney to investigate.

- Penalty.** Any person who shall falsely take the oath prescribed in this section, or shall subscribe his name to the oath therein prescribed, if said oath shall be false and untrue as to any statement therein, shall be deemed guilty of felony, and shall on conviction, be confined in the penitentiary not less than two nor more than ten years.
- Foreman of grand jury—duty of.** It shall be the duty of the foreman of the grand jury to return all the certificates upon which no indictments shall be found to the county court clerk, who shall safely keep the same as a part of the records of the office, and shall produce them, or any of them, when required, to any subsequent grand jury.
- Election officer.** Any election officer who shall fail or refuse to perform any of the duties imposed by this section shall, upon conviction, be fined not less than fifty nor more than two hundred and fifty dollars, or be confined in the county jail not less than thirty days nor more than six months, or be both fined and imprisoned, in the discretion of the jury.
- Penalty.**
- Stubs and ballots.** § 19. It shall be the duty of the county court clerk to cause to be printed, bound and ready for distribution, one book of stubs and ballots for each voting precinct in his county, and shall furnish fifty per cent. more ballots for each precinct than there were votes cast in said precinct at the last State or National election. He shall also have made for each voting precinct in his county one metal stamp at least one inch in diameter, which shall be known as the county election seal. It shall have upon it the word "election" straight across the center; the name of his county around the circle inside the rim above the word "election," and the name of the precinct for which it is made around the circle inside the rim below the word "election," together with one stick of best sealing wax, such as is used by the United States Government and by express companies for sealing packages containing money. He shall also have made for each precinct in his county one adjustable linen envelope sufficiently large to hold all the ballots that may be voted at such precinct, with a gummed seal on the back thereof, and a place on the point of the seal for the county election seal. He shall also have made one linen envelope for the purpose of holding the tally sheet, with a gummed seal on the back thereof, and a place on the point of the seal for the county election seal. He shall also have made one adjustable linen envelope sufficiently large to hold all the ballots of which there is any doubt or difference of opinion in the minds of the judges concerning their legality
- Metal stamp.**
- Linen envelopes.**
- Act 1900.**

or regularity. He shall deliver said ballot book and ballots, together with the election seal for the different precincts and the two large and one small linen envelopes for holding the ballots and tally sheet, and all necessary black ink stencils, sample ballots and cards of instruction as herein provided, to the clerks of such precincts and take their receipts for the same. One of such ink stencils shall be safely placed in the booth, the other preserved by the clerk, to be used in case any are lost, stolen or destroyed. Should any person steal or wilfully destroy either of said stencils, or any of the election supplies required to be furnished herewith, he shall, upon conviction, be fined not less than fifty dollars nor more than two hundred dollars, and be confined in the county jail not less than one nor more than six months.

Stencils.

§ 20. As soon as the polls are closed on the day of the election, and without adjournment or separation of the officers, they shall, in the voting room, open the ballot box and immediately count the ballots and make a tally sheet of the count. When the result of the ballot is ascertained it shall be immediately announced by one of the judges in front of the voting room. All of the ballots which have been counted, and over which there is no question of regularity, shall consecutively be placed on a string, to be furnished by the county court clerk, as near as possible in the middle of the ballot, and when the count is completed the ballots so strung shall be wrapped twice around each way with the string upon which the ballots are strung, and tied in a hard bow knot, and the knot shall then be sealed with sealing wax and stamped with the county election seal by the judges of the election, in the presence of the clerk and sheriff, while the wax is hot, so as that the impression of the county election seal can be plainly read: Provided, That if there are any ballots cast and counted or left uncounted, concerning the legality or regularity of which there is any doubt or difference of opinion in the minds of the judges of the election, said ballots shall be placed in the large linen envelope furnished by the county clerk for that purpose and sealed up, and across the seal thereof the officers of the election shall plainly write their names, and at the point of the seal indicated for that purpose the judges of the election shall, in the presence of the clerk and sheriff, place the county election seal in hot wax, as above described,

After polls closed.

Act 1900.

Doubtful ballots.

Sealing envelopes, etc.

To be locked.

Compensation for returning ballots, etc.

so that it can be plainly read, and the same shall be returned to the clerk of the county court with the returns of the election, for such judicial or other investigation as may be necessary, with a true statement as to whether they have or have not been counted, and if counted what part and for whom. The tally sheet shall be placed in the linen envelope furnished for that purpose and sealed up separately, and across the seal thereof the judges of the election shall plainly write their names, and at the point of the seal indicated for that purpose, the judges of the election shall, in the presence of the clerk and the sheriff, place, with wax, as above required, the county election seal. After the certificates have been prepared and signed, and delivered as required by law, by the officers of the election, then the ballots that have been counted and tied and sealed, as above required, (and none other), together with the tally sheet, after it has been stamped and sealed, as above required, shall all be placed in the large adjustable linen envelope prepared and furnished for that purpose, then the said envelope shall be sealed and across the seal thereof the officers of the election shall each write his name in a plain and legible hand and the judges shall, in the presence of the clerk and sheriff, at the point on the seal of said envelope indicated for that purpose, place the county election seal in hot wax, as above described, so that it can be plainly read, and the envelope so sealed shall then be placed in the ballot box and securely locked with the two locks hereinbefore required to be furnished, and the keys to said ballot box and the county election seal shall then be placed in the possession of the judge of the opposite political faith to that of the sheriff of election, and the sheriff of the election shall then take possession of said ballot box containing the ballots and tally sheet, and also take possession of the stub books containing the certificate of election and the envelopes containing the spoiled and mutilated and uncounted and questioned ballots. And the judge of election holding the keys to the ballot box and county election seal shall go with and accompany the sheriff of election within two days thereafter, for which he shall receive the same compensation as the sheriff of election now receives by law for delivering the poll books and election returns to the county court clerk's office, and shall in the presence of each other, deliver to the county court clerk the ballot

box and the poll books, certificates, and the envelope containing the spoiled, mutilated and questioned ballots, and the keys to the ballot box together with county election seal, and the county court clerk shall then and there, in the presence of the said sheriff and judge, unlock the ballot box and ascertain if the package containing the ballots and tally sheet is properly sealed, according to the requirements herein, and if it is he shall then issue his receipt in duplicate for said ballot box and ballots, one to the sheriff and one to the judge, which shall be in form as follows, or as near as can be to conform to the facts:

Act 1900.

FORM OF RECEIPT.

Received of....., sheriff of election for..... precinct, the ballot box, and of....., judge of the election of said precinct, the keys to said ballot box and the county election seal for said precinct. I hereby certify that I find upon examination, in the presence of said officers, that the package in said box is properly sealed and stamped, according to law; that I have replaced said package in said ballot box and relocked the same, and delivered to each of them a key to said ballot box, and to the judge of the election, the county seal of election, and taken their receipt for same.

Receipt.

The clerk, after having satisfied himself as to the condition of said ballots, shall again replace said ballots in the ballot box and relock said box in the presence of the judge and sheriff, and then and there deliver to each of them a key to said box, and the seal of election to the judge who gave it to him, and take their receipt therefor. The form of receipt shall be, as near as can be to conform with the facts, as follows:

Clerk to examine ballots.

Received of....., clerk of.....county court, one key each to the ballot box that has been delivered to him this day....., by....., sheriff of election inprecinct,county, Kentucky, after having first seen him unlock said ballot box and examine the package therein, and finding it to be sealed and stamped according to law, and that we saw him replace said package in said ballot

Acts 1900.

Receipt.

box and relock the same, and....., judge of election, hereby acknowledges receipt of the county election seal for his precinct this.....day of....., 1900.

.....
Judge of.....Precinct.

.....
Sheriff of.....Precinct.

Keys retain-
ed by judge
and sheriff.

The judge and sheriff shall retain said keys for the period of six months, at which time, if there has not been a contest filed, then they shall deliver said keys to the county court clerk, together with the county election seal, and it shall be his duty to destroy said ballots: Provided, however, If there be a contest filed then the judge and sheriff of the different precincts, who hold the keys to the ballot box of their respective precincts, shall, upon notice of the filing of the contest, deliver the keys to the judge of the court having jurisdiction to try the contest, and the officer so holding the county election seal shall then deliver the same to the county court clerk.

Disposition
of keys in case
of contest.

Acts 1900.

§ 21. At the close of the polls and before the ballot box is open, the officers of election shall count the remaining ballots that have not been used and tear them from the book and destroy them by burning, and in their certificate of the result of the election they shall certify how many ballots were not used and destroyed.

Unused bal-
lots.

Acts 1900.

§ 22. Any officer of the election who shall knowingly and wilfully give or certify to an improper certificate of the election as herein required, or shall mutilate or tamper with any of the seals, or destroy or remove any of the ballots required to be preserved herein, shall be guilty of felony, and upon conviction thereof shall be confined in the penitentiary for a period of not less than one nor more than three years.

Penalty for
improper cer-
tificate, etc.

Acts 1900.

§ 23. Any county court clerk who shall knowingly and wilfully unlock or break open and remove or destroy, or in any way tamper with a ballot box and ballots left in his care and custody, or permit any other person to do so during the period of six months which they are so required to remain in his office, or until they are removed from his office by order of the

Penalty for
allowing bal-
lot box to be
tampered with.

court hearing any contest, shall forfeit his office and be deemed guilty of a felony, and upon conviction thereof shall be confined in the penitentiary not less than one nor more than three years.

§ 24. Any person or persons who shall in any way remove, mutilate or destroy, or add any new ballots to, the regular ballots that have been counted and prepared for preservation, or have already been preserved, as required herein, so that the result of the election in such precinct or county is changed thereby, shall, upon conviction, be deemed guilty of a felony and confined in the penitentiary for not less than one nor more than three years.

Penalty for adding new ballots.

Acts 1900.

§ 25. Any person or persons who shall unlawfully attempt to prevent, or prevent any voter from casting his ballot, or shall attempt to, or intimidate, any person or voter so as to prevent him from casting his ballot, or who shall unlawfully interfere with the officers of election in the discharge of their duties as such, shall be deemed guilty of a felony and, upon conviction, be confined in the penitentiary for a period of years, of not less than one nor more than five years, for each offense. The fact that the person or persons so offending may be an officer or officers of the Federal government, or of the State or any district, county, town or city thereof, or of election, shall not relieve them of the responsibility or penalty for the violation of this section.

Penalty for intimidating voters.

Act 1900.

§ 26. VACANCY IN OFFICE OF SHERIFF OR DISABILITY—WHO TO ACT.—If the office of sheriff is vacant, or if the sheriff, or his deputy, is a candidate at any election, all his duties pertaining to that election shall be performed by the coroner and such deputies as he may appoint for that purpose. If the coroner is absent, or his office vacant, or he is a candidate, then such duties of the sheriff shall be performed by some person appointed for that purpose by the presiding judge of the county court, and the deputies of such person.

Gen. Stat., chap. 33, art. 2, sec. 6.

§ 27. BALLOTS, PRINTING AND DELIVERY—HOW PAID FOR.—The printing and delivery of the ballots and cards of instruction to voters hereinafter described shall, in municipal elections, be paid for by the several cities respect-

Act 1892.

ively; and in all other elections the printing of the ballots and cards of instructions for the voters in each county, and the delivery of them to the several voting precincts, shall be paid for by the several counties respectively.

Act 1892.

§ 28. PUBLIC MEASURES — CONSTITUTIONAL AMENDMENT—HOW VOTED FOR.—Whenever a constitutional amendment or other public measure is proposed to be voted upon by the people, the substance of such amendment or other public measure shall be clearly indicated upon the ballot, and two spaces shall be left upon the right of the same, one for votes favoring the amendment or public measure, to be designated by the word "Yes," and one for votes opposing the amendment or measure, to be designated by the word "No." The elector shall designate his vote by a cross-mark thus (X), placed opposite the word "Yes," or the word "No." [Whenever an amendment to the Constitution has been adopted by the General Assembly, the Secretary of State shall cause such proposed amendment to be published at least four times in two papers of general circulation, published in the State, and shall also cause to be published at the same time and in the same manner the fact that said constitutional amendment will be submitted to the voters for their acceptance or their rejection at the next general election at which members of the General Assembly are to be voted for. Such publications shall be made so that the last publications shall be at least ninety days preceding the election at which said amendment is to be voted on, as provided in sections two hundred and fifty-six and two hundred and fifty-seven of the Constitution. It shall be the duty of the Secretary of State to certify not less than twenty days before the next general election at which members of the General Assembly are to be chosen, to the county clerk of each county, the substance of any constitutional amendment which is to be voted on, and it shall be the duty of each county clerk to have the substance of such amendment, as certified by the Secretary of State, indicated on the ballot, as provided in this section. The votes cast for and against such constitutional amendments shall be counted and canvassed and certified to the State Canvassing Board in the same manner as the votes cast for any officer elective by the

votes of the whole State. If it shall be found that a majority of the votes cast for and against said amendment are in favor thereof, then said amendment shall become a part of the Constitution. The result of such vote shall be published by the Secretary of State in two daily newspapers, of general circulation, published in this Commonwealth. The expenses the publications herein provided for shall be paid as are the expenses of other publications which the Secretary of State is required to make in connection with elections.] (Words in brackets added to this section by act of May 12, 1897.)

§ 29. PENALTY FOR VIOLATIONS OF LAW BY PRINTER OF BALLOTS.—If the printer of such ballots, or any person employed in printing the same, shall give or deliver, or knowingly permit to be taken, any of said ballots, by any person other than the county clerk for whom such ballots are being printed, or shall print or cause or permit to be printed any ballot in any other form than the one prescribed herein, or with any other names thereon, or with the names spelled or the names and devices thereon arranged in any other way than that authorized and directed by the said clerk, he shall be guilty of felony, and, on conviction thereof, shall be imprisoned in the State penitentiary not less than three nor more than ten years. Act 1892.

§ 30. COUNTY CLERKS TO SUPPLY BALLOTS, STUBS, STENCILS, AND CARDS OF INSTRUCTION—PENALTY.—It shall be the duty of the county clerk in each county to cause to be printed, bound and ready for distribution not less than three days before an election, one book of stubs and ballots for each voting precinct in his county, and within such three days to distribute these books, together with all necessary black ink stencils, sample ballots and cards of instruction, as herein provided, among the clerks of such precincts. One of said ink stencils shall be safely placed in the booth, the others preserved by the clerk to be used in case any are lost, stolen or destroyed. Should any person steal or wilfully destroy either of said stencils he shall, upon conviction, be fined not less than fifty dollars nor more than two hundred dollars, and be confined in the county jail not less than one month nor more than six months. Act 1892.

Act 1892.

§ 31. CARDS OF INSTRUCTION—DUTY OF COUNTY CLERK AND ATTORNEY.—The county clerk and county attorney of each county shall cause to be printed in large type on cards, instructions for the guidance of electors in preparing their ballots. They shall furnish eight of such cards to each of the election clerks at the same time they deliver to him the ballots for his precinct. Each clerk shall cause to be posted one of each of said cards in each place or booth provided for the preparation of ballots, and not less than three of each of such cards and three sample ballots about the polling place, and not nearer thereto than fifty feet, at the opening of the polls on the day of election, which sample ballots shall be printed on different colored paper than the genuine ballots. Said cards shall contain full instructions to the voters as to what must be done:

1. To obtain ballots for voting.
2. To prepare the ballots for voting.
3. To obtain a new ballot in place of one accidentally defaced, mutilated or spoiled, and the method of obtaining assistance; also copies of section one thousand four hundred and eighty-two, and sections one thousand five hundred and sixty-six, one thousand five hundred and sixty-seven and one thousand five hundred and sixty-eight.

Act 1892.

§ 32. VOTING PLACES — BOOTHS — DUTIES OF SHERIFF.—It shall be the duty of the sheriff in each county, before each election, to secure in each precinct of the county a suitable room in which to hold the election, and to have placed therein sufficient number of booths or compartments in which electors shall mark their ballots, screened from observation. The number of such booths shall not be less than one to every one hundred voters, and one for every fraction of one hundred voters exceeding fifty who voted at the last preceding election in such precinct. Each booth shall have three sides inclosed, one side in front to open and shut by a door, swinging outward, or to be closed with a curtain; and each booth shall be about six feet high and about three feet square, and shall contain a shelf at least one foot wide at a convenient height for writing, and the door or curtain shall extend to within two feet of the floor, which shall be closed while the voter is preparing his ballot, and such booths shall be well lighted. Booths shall be so

arranged that all the officers of election can see whether more than one voter enters any of such booths at one time; and the sheriff of election, in each precinct, shall have the care and custody of said booths, and may direct in whose custody they shall remain after an election. No person, other than the election officers and the challengers allowed by law, and those admitted for the purpose of voting, as hereinafter provided, shall be permitted within said room while the vote is being polled, except by authority of the election officers to keep order and enforce the law. The expense of rooms and booths shall be paid in the same manner as other election expenses.

§ 33. **BALLOT BOXES—CHARACTER OF—DUTIES OF SHERIFF.**—It shall be the duty of the sheriff of each county, or the officer acting for him when, for any cause, the sheriff can not act, to provide for each precinct or voting place in the county, and at the expense of the county, to be paid out of the county funds upon order of the county court and allowed by the fiscal court, a strong and well-made ballot box, sufficiently large to contain all the ballots to be cast at the precinct or voting place to which it is sent; such box to have on it a lid, working on hinges, and provided with two locks of different kinds and combination, so that the key of the one will not unlock the other. An aperture sufficient only for the insertion of a single ballot, shall be made in each box. Such box shall, not less than three days before the day for holding an election, be, by the sheriff or other officer acting for him, delivered to the officers of the election in each precinct or voting place. The officers of the election, before the voting begins, shall see that no ballots are in the box, and shall thereupon securely lock the box and give one key to each of the judges; and the box shall not be again opened until the polls are closed, and the officers are ready to immediately proceed with the counting.

Act 1892.

§ 34. **HOURS OF ELECTION.**—The polls shall be opened at six o'clock in the forenoon, and kept open continuously

Constitution,
sec. 143, Con.,
1850, art. 8, sec.
16.

§ 34. **HOURS OF ELECTION.** Votes received after the hour for closing the polls can not be counted; and where one candidate had received a majority of the votes at the time when the polls should have been closed, and the officers of election permitted votes to be recorded for his opponent after that hour, thereby giving him a majority in a contest about the office, the

candidate who had a majority when polls should have been closed was entitled to the office. *Varney v. Justice*, 86 Ky., 596; but votes received a few minutes after polls should have been closed will not be thrown out, unless there has been a palpable disregard of the law by the officers. *Cowan v. Prowse*, 93 Ky., 156; *Anderson v. Winfree*, 85 Ky., 597.

up to and closed at four o'clock in the afternoon of the same day; and before receiving the ballots of any elector, the officers of election shall cause to be proclaimed that such election is opened. (Con., sec. 148.)

§ 35. PERSONS NOT VOTING TO KEEP FROM POLLS—OATH OF CHALLENGER.—No person, other than the election officers, shall remain within fifty feet of the polls, except when voting: Provided, That each political party may appoint one challenger for each precinct, who shall be entitled to stay in the room or at the door thereof. Such challenger shall be appointed in writing by the chairman of the county or other local committee of their political party, and shall produce written appointments on demand of any of the officers of election. Each challenger shall take the following oath: "You do solemnly swear (or affirm) that you will faithfully and impartially discharge the duties as official challenger, assigned by law; that you will not cause any delay to persons offering to vote, further than is necessary to procure satisfactory information of the qualification of such person as an elector, and that you will use no means to influence any voter, and that you will not disclose or communicate to any person how any elector has voted at such election."

§ 36. MANNER OF VOTING—DUTIES OF OFFICERS—VOTING FOR PERSON NOT ON BALLOT.—Any person desiring to vote and legally entitled to vote at such election shall give his name and residence to the clerk holding the ballots, who shall write the same upon the main stub of the ticket in the blank places provided therefor. Such officer shall then mark upon the secondary stub the elector's registered number in all precincts in which a registration law is in force, and in all other precincts the elector's full name, and the stub book for this purpose shall take the place of a poll book. The clerk shall then detach the ballot, with the secondary stub attached, from the main stub, and write his own name on the back thereof, and hand it, thus indorsed, to the elector. The clerk shall give him one, and

§ 35. CHALLENGER. The offices of challenger and inspector are entirely distinct, and each party is entitled to a challenger as well as an inspector, under sec. 1481. Com. v. Miller, 98 Ky., 446.

§ 36. MANNER OF VOTING. In *Houston v. Steele*, 98 Ky., 596, the court discusses at length the matter of voting, marking and validity of ballots.

only one, ballot, and on request of voter shall give explanation of the manner of voting. On receipt of his ballot the elector shall forthwith and without leaving the room, retire alone to one of the voting booths, as provided, and shall prepare his ballot. There shall be kept in each booth the necessary stencils and pencils, to be securely fastened by a string or cord of sufficient length to enable voters to use the same.

§ 37. DELIVERY OF BALLOT BY VOTER TO JUDGE—SECONDARY STUB RETAINED.—Before leaving the voting booth the elector shall fold his ballot without displaying the marks thereon, except the indorsements and the fac simile of the signature of county clerk and the signature of election clerk must be disclosed. He shall deliver to one of the judges the ballot, who shall detach the secondary stub bearing the elector's registered number or name, and deposit the ballot in the ballot box. The secondary stubs shall be preserved until the polls are closed, and shall then be destroyed before the ballot box is opened. He shall mark and vote his ballot without undue delay, and shall leave said room as soon as he has voted. No such elector shall be allowed to occupy a voting booth already occupied by another, or to occupy a voting booth for more than three minutes, in case all such booths are in use and electors are waiting to occupy the same, or to speak to or converse with any one, except as herein provided, while within such room. No elector, not an officer of elections, shall be allowed to re-enter said room during said election. No more electors shall be allowed to enter within said room at any one time than there are voting booths provided. It shall be the duty of the judges and sheriff of election to secure the observance of the provisions of this section.

§ 38. BALLOT NOT VOTED TO BE RETURNED—PENALTY FOR LEAVING ROOM WITH BALLOT—DEFACED BALLOTS.—Every elector who does not vote a ballot delivered to him by the clerk shall, before leaving the polling room, return such ballot to such clerk; and any voter who shall attempt to leave the room with a ballot in his possession shall at once be arrested on demand of either of the judges and shall be fined therefor not less than twenty-five nor more than one hundred dollars. If any elector spoil or

Act 1892.

deface a ballot by mistake, so that it can not be used, he may return it, and receive in place thereof one other ballot; and the fact shall be noted by the clerk by writing the word "spoiled" on the stub and spoiled ballot. (See further, as to penalty, sec. 128.)

Act 1892.

§ 39. **BALLOT SHOWN NOT TO BE DEPOSITED—NOTE ON STUB BOOK—FOLDING BALLOT.**—If any elector shall show his ballot, or any part thereof, to any other person, after the same shall have been marked so as to disclose any of the candidates voted for, such ballot shall not be deposited in the ballot box. A minute of such occurrence shall be made on the stub book, and such persons shall not be allowed to vote thereafter. If a voter shall offer to vote a ballot so folded as not to disclose the indorsements thereon, including the signature of the election clerk, the judges shall direct him to return to the booth and fold his ballot properly.

Constitution,
sec. 147.

§ 40. **ILLITERATE, BLIND AND DISABLED PERSONS—PENALTY FOR FALSE DECLARATION.**—Any elector who declares, on oath, that, by reason of inability to read the English language, he is unable to mark his ballot, may declare his choice of candidates or party ticket to the clerk, who, in the presence of the judges, sheriff and challengers and the elector, shall, with his pencil, mark a dot in the appropriate place for the cross mark, to indicate the choice of the elector. The clerk shall then fold and deliver the ballot to the elector, and instruct him to retire to the booth and there mark his ballot by making a cross mark either in the squares showing dots or any other squares he may desire. In all other respects he shall vote as is required of other electors. In case any person applying to vote is blind, and shall so declare on oath, the clerk shall be allowed to mark his ballot for him in the presence of the other officers of election, and the challengers allowed by law; or, in case any person shall be so physically disabled as to be unable to mark his ballot, and shall so declare, on

§ 39. **ILLITERATE VOTER — OATH.** The provision, that the voter shall be sworn before his ballot is marked, is mandatory, and a ballot marked before the requisite oath is taken should not be counted. *Major v. Barker, 99 Ky., 305.*

§ 40. **BALLOTS SHOWN TO ANOTHER.** Ballots marked in the voting booths, either by the clerk of election or in his presence, were ballots "shown to another person" in the meaning of this section, and should not have been deposited in the box. *Major v. Barker, 99 Ky., 305.*

oath, the clerk shall have the right to mark his ballot as in the case of a blind person applying to vote. Any one making a false declaration under this provision of this section shall, upon conviction, be fined in any sum not exceeding fifty dollars, and be disfranchised for a period of two years; and any clerk who shall willfully deceive any elector in marking any ballot, or willfully mark the same in any other way than as requested by said elector, shall be guilty of felony, and, upon conviction, shall be imprisoned in the penitentiary for not less than two nor more than five years.

§ 41. OFFICER SHALL NOT DEPOSIT BALLOTS—PENALTY FOR DEFACING OR MARKING.—No judge or other officer of election shall deposit any ballot upon which the fac simile signature of the county clerk, and the name of the election clerk, as hereinbefore provided, do not appear, or any ballot on which appears externally any distinguishing mark, defacement or mutilation. If any officer of election, or other person entrusted with the custody or control of any ballot or ballots, either before or after they have been voted, shall in any way mark, mutilate or deface any ballot or place any distinguishing mark thereon, either for the purpose of identifying the same (except by numbering protested ballots for future reference) or for the purpose of vitiating the same, he shall be guilty of a felony, and, on conviction, shall be imprisoned in the State penitentiary not more than ten nor less than five years, and fined in any sum not exceeding two thousand dollars. (See sec. 134.) Act 1892.

§ 42. CHALLENGES.—Any voter of the precinct may send a written notification, over his own signature, of challenge to the right of any person or persons to vote, setting forth the reasons thereof to the judges of election, and such person or persons may be challenged as herein provided. Act 1892.

§ 43. RESIDENCE OF VOTER—RULES FOR DETERMINING.—The following rules shall be observed in determining the residence of a person offering to vote, so far as may be applicable: Gen. Stat.,
chap. 33, art. 2,
sec. 2.

§ 42. LIABILITY OF JUDGE FOR REFUSING VOTE. An action may be maintained against a judge of election for refusing to permit a qualified voter to vote, but to sustain action it is necessary that the judge should have knowingly acted wrongfully, and that his action should have been

prompted by corrupt motives. An honest mistake as to the voter's right of suffrage will not render him liable for refusing his vote. *Caulfield v. Bullock*, 18 B. M., 494; *Morgan v. Dudley*, 18 B. M., 633; *Chrisman v. Bruce*, 1 Duv., 63; *Miller v. Rucker*, 1 Bush, 135.

1. That shall be deemed his residence where his habitation is, and to which, when absent, he has the intention of returning.

2. He shall not lose his residence by absence for temporary purposes merely; nor shall he obtain a residence by being in a county or precinct for such temporary purposes, without the intention of making the county or precinct his home.

3. By removal to another State or county, with intention to make his permanent residence there, he loses his former residence.

4. So, also, he loses his residence here by removal to and residence in another State, with intention to reside there an indefinite time, or by voting there, even though he may have had the intention to return here at some future period.

5. The place where the family of a married man resides shall generally be considered his residence, unless the family so resides for a temporary purpose. If his family is permanently in one place, and he transacts his business in another, the former shall be his residence.

Gen. Stat.,
chap. 33, art. 2,
sec. 9.

§ 44. CITIZENSHIP—QUESTIONS BY JUDGES.—If a person is objected to as not being a citizen, in addition to any questions the judges may think proper to ask, the following shall be put to him:

1. Have you resided in this State one year and in this county six months immediately preceding this election? And have you resided in this precinct sixty days next preceding this election?

2. Have you been absent from this State within the year immediately preceding this election? And if so, did you, while absent, consider this State as your home, or did you, while absent, vote in another State?

Gen. Stat.,
chap. 33, art. 2,
sec. 10.

§ 45. RESIDENCE IN COUNTY OR PRECINCT.—If the person is objected to as not a resident of the county or precinct in which he offers to vote, then, in like manner, the following questions shall be put to him:

1. When did you last come into county (or precinct)?

2. When you came into this county (or precinct), did you come for a temporary purpose merely, or for the purpose of making it your home?

3. Did you come into this county (or precinct) for the purpose of voting in it?

§ 46. REPRESENTATIVE OF PARTY MAY BE PRESENT AT COUNT OF VOTES.—The county executive committee of each party having a ticket to be voted at an election may designate a suitable person to be present at, witness and inspect the counting of the vote in each precinct, who shall be admitted to said voting place; but no other person except the election officers shall be admitted to the said polling place before or after the count begins, except as provided by law.

Act 1892,

§ 47. CERTIFICATE OF OFFICERS ON STUB BOOK—DUPLICATES—DUTY OF OFFICERS.—The form of the return to be made on the inside of the cover of the stub book shall be substantially as follows: State of Kentucky, _____ county, election held on the _____ day of _____, eighteen _____, in _____ precinct. Number of ballots counted as valid, _____; number of ballots questioned or rejected, _____; number of ballots marked "spoiled, _____; whole number of ballots cast, _____; number of votes received for Governor, _____ by _____; number of votes received for Lieutenant-Governor, _____ by _____ (and so for other State and county offices); number of votes on question of _____, voted yes, _____; voted no, _____.

Gen. Stat., chap. 33, art. 3, sec. 5.

Act 1892.

We, the judges, sheriff and clerk of election, at the precinct above mentioned, certify that the above is a correct return of the election held therein on the day aforesaid.

_____, Judge,
 _____, Judge,
 _____, Clerk,
 _____, Sheriff.

§ 46. INSPECTORS. The offices of challenger and inspector are entirely distinct. Each political party is entitled to an inspector, who has the right to be present when the vote is counted, and the executive committee of a party may authorize its chairman to appoint the inspectors. Com. v. Miller, 98 Ky., 446.

§ 47. (1) IRREGULARITY ON PART OF OFFICERS. It was held that the requirement of chap. 33, art. 3, sec. 5, Gen. Stat.,

directing the clerk to sign his name at the foot of every page, was merely directory, and that the failure of the clerk to so sign his name to a page did not authorize its rejection. Clark v. McKenzie, 7 Bush, 523.

(2) Mere irregularity on the part of officers of election, or their omission to observe some directory provision of the law, will not vitiate the poll. Anderson v. Winfree, 85 Ky., 597; Cowan v. Prowse, 93 Ky., 156; and see Struss v. Johnson, 100 Ky., 319.

Any witness to the count or inspector, as provided in section one thousand four hundred and eighty-one, may demand from the officers a duplicate, to be signed in like manner, and each judge shall retain another duplicate, which may be used as proof in case of loss or destruction of the original; and for this purpose each precinct clerk shall be furnished with a sufficient number of blank returns by the county clerk. When the foregoing requirements have been complied with, the judges shall deliver the stub book containing the foregoing returns, together with the undestroyed ballots, inclosed in an envelope, to the sheriff of election before they separate.

Gen. Stat.,
chap. 33, art. 3,
secs. 5, 6.

§ 48. SHERIFF TO PRESERVE ORDER AND ACT AS UMPIRE.—In addition to the other duties provided herein, it shall also be the duty of the sheriff of each precinct to preserve order at the polls and enforce the provisions of the election law, under the direction of the judges; and when the judges disagree, the sheriff shall act as umpire between them.

Act 1892.

§ 49. PRINTING AND DISTRIBUTION OF LAW.—It shall be the duty of the Secretary of State, with the aid and advice of the Attorney-General, to cause twenty thousand copies of this chapter to be printed immediately in pamphlet form, with all necessary forms and instructions, to assist election officers to carry it into effect and distribute through the county clerks of the several counties of the State.

ARTICLE IV.

Registration in Certain Cities and Towns.

Act 1892.

§ 50. CITIES AND TOWNS OF FIRST, SECOND, THIRD AND FOURTH CLASS.—In all cities and towns of the first, second, third and fourth class there shall be a registration of all the qualified voters of the respective cities and towns, which registration shall be held and conducted as herein provided. (Con., sec. 147.)

§ 50a. OFFICERS OF REGISTRATION—TERM AND OATH OF OFFICE—NON-ATTENDANCE OR VACANCY

SUPPLIED.—The officers of election in the several election precincts of the respective cities and towns mentioned in the preceding section shall be the officers of registration in such precincts, and shall serve as such for one year from the time of their appointment as officers of election; and each officer of registration, before entering upon the discharge of his duties, shall take an oath, before some person duly authorized to administer same, to faithfully discharge the duties of his office. Should the county court fail to appoint such officers of election as provided in section one thousand four hundred and forty-seven, or should all the officers appointed in any precinct fail to attend at the place of registration for one hour after the time for commencing the registration, or refuse to act, then the county judge, sheriff or county clerk, or either of them that can be found, shall appoint officers to act in their stead for that registration; but should one or two officers be in attendance, he or they may fill vacancies for the purpose of conducting that registration, and may administer the necessary oaths of office.

§ 51. **OFFICERS TO PRESERVE ORDER—CHALLENGING RIGHT TO REGISTER.**—Officers of registration shall have the same power to preserve order at the places of registration as is exercised by the officers of election at the polls. If the officers of registration entertain any doubt as to whether or not any person offering for registration is entitled to such registration, or if any one's right to register is challenged, citizens may be called in, not exceeding three in number, who shall be examined touching the qualifications of such person or persons who offer to register. Act 1892.

§ 52. **REGISTRATION BOOK—DUTIES OF COUNTY CLERK.**—It shall be the duty of the county clerk of each county containing any city or town of either of said classes mentioned in section one thousand four hundred and eighty-six to prepare the proper forms, and cause to be printed two registration books for each precinct in said city or town. In cities where additional days are required for registration, he shall prepare an additional registration book for each additional day, one of which shall be kept in his office, to be used as provided in section one thousand four Act 1892.

hundred and ninety-four, and the other furnished to the clerks of registration and election before each registration or election day, as hereinafter provided. Said books shall be so arranged as that the names of voters may be registered alphabetically, and shall be ruled and headed as follows:

Am'd March,
15, 1894.

NAME.	Residence.....	No. of Precinct..	No. of Ward.....	Color.....	Nov. Election ..	Special Election .	REMARKS.

§ 53. TIME OF REGISTRATION—DETAILS—ADDITIONAL DAYS.—The officers of registration shall attend at the voting places of their respective precincts on the first Tuesday in October in each year, from the hours of six in the morning until nine in the evening, and on such other days as the city councils of said cities may deem necessary and provide for by ordinance: Provided, however, That the last day of registration shall be fixed by said ordinance not later than the third Tuesday in October, and shall record in the registration book, which shall be furnished by the county clerk to each registration clerk, a list of such qualified voters of the precinct and ward as may apply for registration. Said list of voters shall be in alphabetical order [the number of the precinct and the number of the ward, if the city be warded off], the name of the street or alley, and number of house, lodging or tenement in which he lives, and whether he be white or colored; and if said house, lodging or tenement be not numbered, the location thereof shall be described in the registration book as accurately as is practicable, giving the street, and between what streets. No person shall be registered who does not personally appear before the officers of registration; and if he be not personally

§ 53. (1) REGISTRATION. Where a person is legally entitled to vote the fact that he obtained by fraud a certificate of registration will not authorize his vote to be stricken from the polls in an election contest. The penalty imposed for such an act is imprisonment, but not disfranchisement.

Cowan v. Prowse, 93 Ky., 156; and see Anderson v. Winfree, 85 Ky., 597; Com. v. McClelland, 83 Ky., 636.

(2) The fact that a voter registers at the wrong voting place in his precinct will not disfranchise him if he votes at the proper place. 93 Ky., 156.

known to one of the officers, or if any bystander shall demand it, he shall be sworn by one of the officers, and interrogated by him or by such bystander touching his qualifications as provided by law. Opposite the name of each person so sworn the clerk shall write the word "Sworn," which entry shall be prima facie evidence of such swearing in any prosecution under this law. Said registration in October shall be known as the general registration, and any person then registered may vote at all elections until the next general registration, unless he becomes disqualified after registering. Every person shall be entitled to be registered who would be entitled to vote at the next succeeding November election, as now provided by law.

§ 54. **ADDITIONAL REGISTRATION—EXPENSE OF.**—Where any city shall provide for additional registration day or days, said city shall pay all expense of same, at the same rate as provided for herein by the county.

Act 1892.

§ 55. **ALIEN MAY REGISTER—RIGHTS AFTER REGISTRATION.**—Any alien possessing all the qualifications of a voter named in section one thousand four hundred and thirty-nine of article one of this chapter, except citizenship, shall be entitled to be registered; but the clerk shall write opposite to his name, in the column headed "Remarks," the words "Not naturalized," and such alien will not be entitled to vote at any election held under that registration, unless he shall produce to the officers of election his naturalization papers in due form of law.

Act 1892.

§ 56. **DUTIES OF RESPECTIVE OFFICERS.**—In making the registration, the clerk shall act as the recording officer, and the judges shall decide all questions relating to the qualifications of persons offering to be registered, except that, in case of a difference of opinion between the judges, the clerk shall have the casting vote. It shall be the duty of the clerk to number, consecutively, the names recorded under each letter of the alphabet as they are taken down; and at the close of the registration each day he shall sign his name as clerk after the last name recorded under each letter, as aforesaid, in such manner as that no more names can be recorded above his, and shall foot up and certify, in the back of the registration book, the whole number of names record-

Act, 1892.

ed at that registration on said day, and this certificate shall be signed by all the officers of registration before leaving the place of registration, and in the presence of bystanders, any two of whom may, if they desire, sign their names as witnesses thereto. In addition to the requirements above, the clerk shall sign his name, as such clerk, at the foot of each page.

Act 1902.

§ 57. CUSTODY OF REGISTRATION BOOKS—COPIES.—On the day following the close of each registration day each clerk shall deliver the registration book into the hands of the clerk of the county court, or one of his deputies, and shall take his receipt therefor. It shall be the duty of such county clerk to keep said books safely in his office; and not to suffer the same to be taken therefrom except as provided herein. When additional registration days are provided in any city, a new registration book shall be furnished by the county clerk for each and every day of such registration, and on return to him he shall copy the same in his blank book as soon as returned, marking distinctly each day's registration. He shall also cause to be made one copy of each registration book in the blank book retained by him, as provided in section one thousand four hundred and eighty-nine of this article, which shall be kept in his office, and not to be taken therefrom for any purpose. In case of loss of any registration book a copy shall be made by the county clerk from the copy retained in his office, which copy shall be used in registrations and elections with the same effect as the original. The clerk shall permit any citizen at any time to copy any registration book without fee or charge, and he shall also furnish copies at the same rate as provided in section one thousand five hundred and six for copying the book kept in his office. Copies furnished to citizens under this section shall be paid for in cash by the person ordering them.

Act 1892.

§ 58. SPECIAL REGISTRATION—ELECTION ORDERED.—When an election or vote is ordered to be held or taken in any county containing any city or town belonging to either of said classes, at any other time than the regular November election, then the county judge, or other officer so ordering said election or vote, shall, at the same time,

fix a day for the registration of those persons entitled to vote thereat whose names have not been recorded on the registration books of that year, and shall require the same to be published in like manner as the time and place of said election or vote are required to be published. Registrations under this section shall be known as Special Registrations, and any person so registered shall be entitled to vote at all elections held prior to the next general registration. Registrations prior to special elections shall be held not less than five days prior to the election.

§ 59. SPECIAL REGISTRATION—DUTY OF CLERK AND OFFICERS.—On the day prior to each registration provided for in the previous section, the county clerk shall deliver to the registration clerks the registration books for their several precincts; and on the day of such registration, the registration officers shall attend at their several places of registration, and shall register the names of all persons appearing before them who may be entitled to vote at the election for which the registration is held, and whose names are not already on the registry for that year. The names shall be recorded immediately following the names recorded at the previous registration, and the registration shall be conducted and the books returned as provided in sections one thousand four hundred and ninety-three and one thousand four hundred and ninety-four of this article. Immediately after the books are so returned, the county clerk shall cause the names recorded at that registration to be copied into the book retained in his office, as provided in section one thousand four hundred and ninety-four herein.

Act 1892.

§ 60. REMOVAL FROM PRECINCT—CERTIFICATE AND RE-REGISTRATION.—Any person removing from one precinct to another, after having been registered for that year, may apply to the clerk of registration of the precinct from which he removes, on a registration day, and have his name canceled off by writing opposite to it the word "Removed," and thereupon said clerk shall give him a certificate in the following form:

Act 1892.

This is to certify that _____ has removed from the _____ precinct, _____ ward, to the _____ precinct, _____ ward, and that his registration has been cancelled.

(Signed)

_____, Clerk.

Upon presenting said certificate to the officers of registration of the precinct to which he has removed, he shall be entitled to be there registered if he possesses the other qualifications named in section one thousand four hundred and ninety of this article; and no person so removing, after being registered, shall be registered in another precinct without the production of such a certificate.

Act 1892.

§ 61. ABSENCE OR SICKNESS DURING TIME FOR REGISTRATION—REGISTRATION BY AFFIDAVIT.—Any person entitled to register who was necessarily absent from the city of his residence during the days allowed for registration herein, or who was ill during said time, or who was unable to attend the place of registration on account of sickness of some named member of his family, may have his name placed upon the registry for the precinct in which he lives, by attending the county clerk's office at the times specified in the next section, and making the affidavit before the clerk showing the facts required to be stated in the registry by section one thousand four hundred and eighty-nine herein, and showing the absence or sickness referred to above.

Act 1892.

§ 62. COUNTY CLERK TO REGISTER PERSONS—DUTIES OF CLERK—CHALLENGES.—On Monday, Tuesday and Wednesday preceding the November election in each year, such county clerk shall receive in a bound book, to be kept by him for that purpose, the affidavits provided in the preceding section, and shall place the names of persons making such affidavits upon the proper registration book, and shall write his name as clerk and date of registry, after the name of the person so registered, in the column headed "Remarks." Any person present in the county clerk's office may challenge the right of any voter to register under this section, and thereupon the county clerk shall examine such voter and any witness who may be offered, under oath, and shall hear and determine the question of his right to register. The duties herein imposed upon the county clerk may be performed by his deputy, and he or his deputy may administer oaths under this law.

§ 63. PENALTY FOR FALSE REGISTRATION BY CLERK.—Any county clerk, or deputy thereof, who falsely or fraudulently registers the name of any person, knowing that such person is not entitled to be registered, or who registers a name at a time other than that provided in this article, shall, on indictment, be deemed guilty of a felony, and punished by confinement in the penitentiary not less than one nor more than five years. Act 1892.

§ 64. COUNTY COURT MAY STRIKE NAME FROM REGISTER—NOTICE—MARKING NAME “DOUBTFUL.” Any voter, may, by giving five days’ notice, in writing, to any person whose name has been registered, move the county court to strike his name from the register, and both parties may introduce witnesses, not exceeding two in number, on each side. Said notice must be served personally. If, at the hearing, the court shall be of the opinion that the person registered is not lawfully entitled to register, it shall direct the clerk to strike his name from the register, by inserting opposite to it the words: “Stricken off by order of the county court.” If the person upon whom notice is attempted to be served can not be found, the clerk shall write opposite such name, on the registration book, the word “doubtful,” and when, at an election, such person, whose name is marked “doubtful,” shall offer to vote, he shall be sworn, and his right to vote investigated fully. Act 1892.

§ 65. DELIVERY OF REGISTRATION AND STUB AND BALLOT BOOKS TO ELECTION OFFICERS.—On the day previous to the November election in each year, and on the juridical day previous to every election to be held, or vote of the people to be taken, in any county containing a city or town belonging to either of said classes mentioned in section one thousand four hundred and eighty-six herein, the county clerks shall deliver to the clerks of election the registration books for their several precincts, together with the book of stubs and ballots, and furnish sample ballots and cards of instruction, all of which shall be produced by said clerks at their several precincts when the polls are opened one the day of the election. No vote shall be received by the officers of election in any city or town belonging to either of said classes, unless the name of the person offering to vote Act 1892.

is on the registry herein provided. The officers of election shall, when a vote is cast, mark opposite to the name of the person voting, in the column of the registration book provided for that election, the word "Voted," and at the close of the election, and before closing or leaving the voting place, shall mark opposite the name of each person who has not voted at that election the words "Not voted." The registration book shall be returned to the county clerk by the clerk of the election the day next succeeding the election.

Act 1892.

§ 66. PENALTY FOR ILLEGAL OR DOUBLE REGISTRATION.—Any person who shall cause himself to be registered in more than one election precinct [or give a false number of the ward of his residence], otherwise than is provided in section one thousand four hundred and ninety-seven of this article, or more than once in the same precinct, or who shall cause himself to be registered, knowing that he is not lawfully entitled to registration, and any person who shall aid or abet in the commission of any of said acts, shall be deemed guilty of a misdemeanor, and shall be imprisoned in the county jail not less than one nor more than twelve months.

Act 1892.

§ 66a. PENALTY FOR ALTERING, SECRETING OR DESTROYING REGISTRATION BOOK.—Any officer of registration, or other person, who shall unlawfully alter any registration book, or add any name thereto, or who shall willfully secrete, suppress or destroy any such book, or who shall make or aid in making any false or fraudulent registration book, shall be deemed guilty of felony, and shall be confined in the penitentiary not less than one nor more than five years, and shall forfeit any office he then holds, and shall forever be disqualified from holding office.

Act 1892.

§ 67. PENALTY FOR FORCIBLY INTERFERING WITH REGISTRATION.—Any person who, by himself or in aid of others, shall forcibly break or attempt to break, up a registration held as provided in this article, or shall forcibly prevent, or attempt to prevent, any person from approaching or entering a place of registration for the purpose of registering, shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned not less

than six nor more than twelve months in the county jail, or both.

§ 68. COMPENSATION OF REGISTRATION OFFICERS AND COUNTY CLERK.—Officers of registration shall receive two dollars per day for each day employed in attending at the place of registration. The county clerk, for his services under this article, shall receive the following fees, and no other: For copying the registry lists required to be kept in his office, or to be used in supplying lost books, the sum of two cents for each voter whose name is so copied; for his services under section one thousand five hundred and one, the sum of ten cents for the name of each voter stricken off the lists, and a like sum for each name registered by him under section one thousand four hundred and ninety-nine. All fees and expenses incurred under this article shall be paid as other election expenses.

Act 1392.

ARTICLE V.

§ 69. A State Board of Election Commissioners is hereby created, which shall consist of two commissioners, who shall hold their office for the term of one year and until their successors are appointed and qualified. They shall be citizens and electors of Kentucky, and not less than twenty-five years old. They shall be appointed by the Governor of the State from names designated in writing, if any are so designated, by each of the State Central Committees of the two political parties that polled the largest vote at the last preceding election for a State officer or presidential electors; one commissioner to be appointed from each of the two said parties. Said appointment of the Governor shall, be made annually in the month of July. Said commissioners shall qualify by taking, before the clerk of the Court of Appeals, an oath faithfully to perform their duties according to law. Of such qualification said clerk shall make a certificate which shall be noted upon the record of the proceedings of said board and preserved among its records. The clerk of the Court of Appeals, by virtue of his office, shall be a member of said board, and preside at its meetings; and in case of disagreement between the other members of said board, acting as um-

Election commissioners.

Qualification—term of office.

How appointed.

Act 1900.

Clerk Court of Appeals—member of.

Secretary of board.

Quorum.

**Vacancy—
How filled.**

pire, he shall be permitted to vote. The board shall appoint a secretary, who shall hold office during the pleasure of the board; and the board shall prescribe the duties of the secretary and fix his compensation, which shall not exceed two hundred and fifty dollars per annum. The board shall keep a record of its acts, orders, findings, and all its proceedings. A majority of said board, consisting of the two members appointed by the Governor, or one of said appointive members and the Clerk of the Court of Appeals, shall constitute a quorum for the transaction of all the business of the board, and a majority of said board may make any order or do any act the board is authorized or empowered to do. The secretary of said board shall mail written notice of the time and place of meeting to each member of said board before any meeting thereof for the transaction of any business shall be held, and any action of said board at any meeting thereof held without such notice having been given shall be null and void. If a vacancy shall occur in said board it shall be filled by appointment by the Governor in the same manner as hereinbefore provided for appointment to said board, and the member so appointed shall be of the same political party as his predecessor. Resignations from said board shall be in writing, directed to the Governor and filed with the Secretary of State.

County commissioners.

Qualifications.

§ 70. A County Board of Election Commissioners is hereby created, which shall consist of two commissioners, who shall hold their office for one year and until their successors are appointed and qualified. They shall be citizens and electors of the county from which they are appointed, and not less than twenty-five years old. They shall be appointed by the State Board of Election Commissioners.

The two members of said County Board of Commissioners shall be appointed, one each from five names designated in writing, if any are so designated, by each of the County Executive Committees of the two political parties that polled the largest number of votes in the State at the last preceding election for State officers or presidential electors, one of said two commissioners to be appointed from each of the two said parties: Provided, If there be two or more contending executive committees of the same party in the county, then that

County Executive Committee which is recognized by the State Central Committee, by written certificate of the chairman thereof, shall be recognized by the State Commission in making their appointments. The sheriff of the county by virtue of his office shall be a member of said board, and shall preside at its meetings, and in case of disagreement between the other members of said board, acting as umpire, he shall be permitted to vote. Said appointment by the State Board shall be made annually in the month of August. Said county commissioners shall qualify by taking before the clerk of the county court an oath faithfully to perform their duties according to law. Said clerk shall make a certificate thereof, which shall be filed in his office. The board shall choose one of its members secretary, who shall keep a record of its proceedings, which shall be a public record and kept in the office of the county court clerk. A majority of said board, consisting of the two members appointed as aforesaid from said two political parties, or one of said two members and the sheriff of the county shall constitute a quorum for the transaction of the business of the board. A majority of said board shall make any order or do any act the board is authorized or empowered to do. If a vacancy shall occur in the board it shall be filled by appointment by the State Board from names already designated to the State Board as hereinbefore provided; and the member so appointed shall be of the same political party as his predecessor in counties where there is no sheriff or where from other causes the sheriff cannot act, the circuit court clerk shall act in his place. Resignations from said board shall be in writing, directed to the State Board and filed with the secretary thereof. Due notice, in writing, of every meeting of said board shall be given to each member thereof.

Manner of appointing.

Act 1900.

Sheriff member of.

Secretary—Duties of.

Vacancy—how filled.

§ 71. Said county board shall, annually, not later than September the twentieth, appoint for each election precinct in the county two judges, one clerk, and one sheriff of election, to act as such in their precincts; all of whom shall be discreet qualified voters of the precinct for which they are appointed, and shall hold their offices for one year and until their successors are appointed and qualified. The County Executive Committees of the two political parties having representation on the State Board and County Boards of Election Com-

Precinct officers.

Qualifications.

Term of office.

Manner of
selecting.

Act 1900.

missioners may, annually, on or before the fifteenth of September, designate in writing for each precinct a list of not less than eight names to the County Board of Election Commissioners: Provided, If in any precinct there be not as many as eight electors possessing the qualifications of an election officer belonging to the political party filing said list of names, then a less number may be designated. And from these names, if any are so designated, the officers of election shall be selected from said lists as follows: One judge at each voting place shall be selected from each of said lists, and in like manner the sheriff shall be chosen from one of said lists and the clerk from the other. If no lists are submitted to the said county board, then the officers of election shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party and the other judge of a different political party, and there shall be a like difference at each voting place between the sheriff and clerk of election. No person shall be eligible as an officer of election who has not resided in the precinct for twelve months, next, preceding the day of election, or who has committed a homicide, or who has been convicted of a felony or is under indictment therefor, or who is not sober, temperate, discreet and of good demeanor, or who has anything of value wagered on the result of such election, or who is a candidate to be voted for at such election, and who is not capable of reading the Constitution of the Commonwealth in English and of writing a plain and legible hand. It shall be the duty of said County Board of Election Commissioners to determine the qualification of all election officers before appointment. The County Board of Election Commissioners shall have the power to remove all election officers who are disqualified under the provisions of this act, but no such removal shall be made within five days of the election; nor shall any such removal be made at any time without cause, and the grounds therefor shall be reduced to writing by said board and made a part of its records. If a vacancy shall occur, by removal or otherwise, it shall be filled by the County Board of Election Commissioners from the list already submitted, if any, from which the officer was selected, and in conformity with the provisions of this act. The County Board of Election Commissioners shall give due notice of said appointment of election officers to the

sheriff of the county, who shall, before the day of the next ensuing election and within ten days next after said appointments, give each officer of election written notice of his appointment. If there be two or more contending executive committees of the same party in the county, then that county executive committee which is recognized by the State Central Committee, by the written certificate of the chairman thereof, shall be recognized by the county board in making the appointment of election officers.

§ 72. Should the County Board of Election Commissioners fail to appoint such officers of election, or if any of such officers fail to attend for thirty minutes after the time for commencing the election, or refuse to act, the officer in attendance representing the same political party of the absentee shall appoint a suitable person to act in his stead for that election; or if both representatives of the same political party are absent, qualified voters present affiliating with the party of said two absentees shall elect, viva voce, suitable persons to act in their stead. Each officer of election shall, before entering upon the duties of his office, take an oath faithfully to discharge his duties as such officer before some person authorized to administer an oath, or if no such officer be present it may be administered by the clerk of the election, who shall in turn be sworn by one of the judges of election.

Manner of
filling vacancies.

Acts 1900.

§ 73. Said County Board of Election Commissioners shall constitute a board for examining and canvassing the election returns of each county and awarding and issuing certificates of election. Any two of the members of said board may constitute the board, but if either be a candidate he shall have no voice in the decision of his own case. If from any cause two of the members of the board cannot act, in whole or in part, in examining and canvassing the returns their places shall be supplied as in case of vacancies in such board. Within two days next after an election the sheriff shall deposit with the clerk of the county court the returns from the different precincts. On the next day the said County Board of Election Commissioners shall meet in the county court clerk's office between ten and twelve o'clock in the morning, open and canvass the returns of such election, and give triplicate or more written certificates of election, over their

County canvassing board.

Time of canvassing returns.

signatures, of those who have received the highest number of votes for any office exclusively within the gift of the voters of the county, one copy of the certificate to be retained in the clerk's office, another delivered to each of the persons elected, and the other forwarded by the county clerk to the Secretary of State at the seat of government. For offices not within such gift they shall give duplicate or more written certificates over their signatures, of the number of votes given in the county, city, town, district, or precinct, particularizing therein the precinct at which the votes were given, one copy to be retained in the clerk's office, one delivered to the sheriff, and one, in case of municipal or district election, to the common council of said municipality or governing authority of such district. The poll books and "questioned ballots" shall thereafter remain in the clerk's office as parts of its records. So, also, shall the certificates of any precinct judges which may have been used in the absence of the poll books of that precinct.

Acts 1901.

Certificate of votes.

Two or more counties voting together.

§ 73½. Where two or more counties vote together in the choice of a Representative or Senator the canvassing board of election of the respective counties shall make duplicate written certificates, over their signatures, of the number of votes given in the counties for such Representative or Senator, one copy to be retained in the clerk's office of such county, and the other to be sent immediately by mail by said board to the canvassing board of the county in such district having the largest population, which last-named board shall, between ten and twelve o'clock in the morning of the second Monday after the election, meet in the clerk's office of their county, compare the certificates of the canvassing boards of the several counties, and therefrom give triplicate certificates of election, in writing, over their signatures, of the persons who appear to have received the largest number of votes, one copy of the certificate to be retained in the clerk's office, another delivered to the person elected, and the other forwarded to the Secretary of State at the seat of government.

Form of certificate.

§ 74. The certificate of election of a county officer shall be in substance in the following form: "Commonwealth of Kentucky, sct. We, A, B, and C, duly authorized to canvass the returns of the county of....., do certify that an elec-

tion held in said county, on the....day of....., E F was duly elected to fill the office of.....” The certificate of election of a justice of the peace or constable shall be altered to show that the election was held in a named district.

Act 1900.

§ 75. When the election of a Governor or Lieutenant-Governor is contested a board for determining the contest shall be formed in the manner following: First. On the third day after the organization of the General Assembly which meets next after the election the Senate shall select, by lot, three of its members, and the House of Representatives shall select, by lot, eight of its members, and the eleven so selected shall constitute a board, seven of whom shall have power to act. Second. In making the selection, by lot, the name of each member present shall be written on a separate piece of paper, every such piece being as nearly similar to the other as may be. Each piece shall be rolled up, so that the names thereon cannot be seen, nor any particular piece ascertained or selected by feeling. The whole, so prepared, shall be placed by the clerk in a box on his table, and after it has been well shaken, and the papers therein well intermixed, the clerk shall draw out one paper, which shall be opened and read aloud by the presiding officer, and so on until the required number is obtained. The persons whose names are so drawn shall be members of the board. Third. The members of the board so chosen by the two houses shall be sworn by the Speaker of the House of Representatives to try the contested election, and give true judgment thereon according to the evidence unless dissolved before rendering judgment. Fourth. The board shall, within twenty-four hours after its selection, meet, appoint its chairman, and assign a day for hearing the contest and adjourn from day to day as its business may require. Fifth. If any person so selected shall swear that he cannot, without great personal inconvenience, serve on the board, or that he feels an undue bias for or against either of the parties, he may be excused by the House from which he was chosen from serving on the board; and if it appears that a person so selected is related to either party, or is liable to any other proper objection on the score of his partiality, he shall be excused. Sixth. Any deficiency in the proper number so created shall be supplied by another draw from the

Governor or Lieutenant-Governor.

Act 1900.

Manner of determining contest.

Act 1900.

Power to issue attachments, etc.

box. Seventh. The board shall have the power to send for persons, papers and records, to issue attachments therefor signed by its chairman or clerk and issue commissions for taking proof. Eighth. Where it shall appear that the candidates receiving the highest number of votes given have received an equal number, the right to the office shall be determined by lot, under the direction of the board. Where the person returned is found not to have been legally qualified to receive the office at the time of his election a new election shall be ordered to fill the vacancy: Provided, That the first two years of his term shall not have expired. When another than the person returned shall be found to have received the highest number of legal votes given, such other shall be adjudged to be the person elected and entitled to the office. Ninth. No decision shall be made but by the vote of six members. The decision of the board shall not be final nor conclusive. Such decision shall be reported to the two houses of the General Assembly in joint session for the further action of the General Assembly, over which the Speaker of the House shall preside, and the General Assembly shall then determine such contest. Tenth. If a new election is required, it shall be immediately ordered by proclamation of the Speaker of the House of Representatives, to take place within six weeks thereafter, and on a day not sooner than thirty days thereafter. Eleventh. When a new election is ordered or the incumbent is adjudged not to be entitled to the office, his power shall immediately cease, and if the office is not adjudged to another, it shall be deemed to be vacant. Twelfth. If any member of the board wilfully fails to attend its sessions he shall be reported to the House to which he belongs, and thereupon such House shall, in its discretion, punish him by fine or imprisonment, or both. Thirteenth. If no decision of the board is given during the then session of the General Assembly, it shall be dissolved, unless by joint resolution of the two Houses it is empowered to continue longer.

New elections.

Election of President, members of congress, etc.

§ 76. After an election for Presidential electors, Representatives in Congress, or for any State or district officer other than a member of the General Assembly, or for or upon questions or constitutional amendments submitted to the vote of the people, it shall be the duty of the board of canvassers

of returns for each county immediately after examination of such returns, to make out two or more certificates in writing, over their signatures, of the number of votes given in the county for each of the candidates for any of said offices and the number of votes for or against any such questions or constitutional amendments. One of the certificates shall be retained in the clerk's office, another the clerk shall send, by next mail, under cover, to the Secretary of State at the seat of government.

Act 1900.

§ 77. Said State Board of Election Commissioners, or any two of them, in the absence of a member, shall be a board for examining and canvassing the returns of election for any of the offices named in the last preceding section of this act. First, it shall be the duty of said board when the returns are all in, or on the third Monday after the election, whether they are in or not, to make out in the office of the Secretary of State, from the returns made, duplicate certificates in writing, over their signatures, of the election of those having the highest number of votes, one certificate to be retained in the office and the other sent, by mail, to the person elected. If all the returns are not made the right to contest an election shall not be impaired. Second. In the case of the election of a Representative in Congress there shall be three certificates, one to be retained in the office, another sent, by mail, to the clerk of the House of Representatives at the seat of Federal government, and another sent, by mail, to the person elected. Third. It shall be the duty of the Secretary of State, immediately after the comparison of the returns, to cause a statement therefrom of the votes given in every county for each candidate to be published in two newspapers. Fourth. If two or more persons shall be found to have received the highest and an equal number of votes for the same office, so that the election cannot be determined among the candidates by a plurality of votes, it shall be determined by lot in such manner as the board may direct, and in the presence of not less than three other persons. Fifth. If one or more of the persons voted for as electors for President is elected, then he or they, when convened to vote for President, shall determine which of the candidates having an equal number of votes shall be deemed to be elected without casting any lot

State board—
to examine and
canvass.

Act 1900.

Equal num-
ber of votes.Determined
by lot.

therefor. But if none is elected, then the board shall determine the election, by lot, between those having the highest and equal number of votes, except that they shall be arranged and drawn for in classes, according to their known pledges to vote for the different candidates, so that the whole vote of the State shall be given to the same person.

Ties in counties—determined by lot.

Act 1900.

§ 78. Where the canvassing board of two or more counties on comparison of the returns, or the board of canvassers for a county, find that two or more have received the highest and equal number of votes for the same office, they shall, by lot, determine which of the candidates is elected.

Contest for State offices—How determined.

Act 1900.

§ 79. In case there shall be a contest of the election of Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Public Instruction, Commissioner of Agriculture or other State officer, or in case there shall be a contest of the election of a judge or a clerk of the Court of Appeals, Circuit Judge, Commonwealth's Attorney, or Railroad Commissioner, or of any officers elected by the voters of a county or any district therein, excepting members of the General Assembly, or of any police judge, clerk, marshal or other elective municipal officer, where there is no other provision by law for determining the contested election of such municipal officer, the contest shall be made by the filing of a petition in the circuit court of the county where the contestee resides, except where the officer is one elective by the voters of the whole State, in which event the petition shall be filed in the Franklin Circuit Court. Such petition shall be filed and process issued in the case of an officer elective by the voters of the whole State or any district comprising more than one county, within thirty days after the final action of the board of canvassers, and in case of any other office, within ten days after such action; and shall state the grounds of the contest relied on, and no other grounds shall afterwards be relied upon.

Within twenty days after the service of summons upon him the contestee shall file his answer, which may consist of a denial of the averments of the petition and may also set up grounds of contest against the contestant, and if grounds are so set up they shall be especially pointed out and none other

shall thereafterward be relied upon by said party. A reply may be filed within ten days after the answer or answers are filed, but its affirmative allegations shall be treated as controverted, and no subsequent pleading allowed, and the action shall proceed as an equity action.

The evidence in chief for the contestant shall be completed within thirty days after the issues are made up and the evidence of the contestee completed within twenty days thereafter, and the evidence for contestant, in rebuttal in fifteen days after the contestee has concluded. The action shall have precedence on the trial docket over all other cases. All ballots, poll books, stubs or other papers concerning which there is any ground for contest may be removed to the court in which the action is pending. Either party may appeal from the judgment of the circuit court to the Court of Appeals by giving bond to the clerk of the circuit court, with good surety, conditioned for the payment of all costs and damages the other party may sustain by reason of the appeal and by filing the record in the clerk's office of the Court of Appeals, within thirty days after final judgment in the circuit court. And in the Court of Appeals the case shall be heard and determined as speedily as possible, and shall have precedence over all other cases.

Evidence—
time of.

Right of ap-
peal.

In case it shall appear from an inspection of the whole record that there has been such fraud, intimidation, bribery or violence in the conduct of the election that neither contestant or contestee can be adjudged to have been fairly elected, the circuit court, subject to revision by appeal, or the Court of Appeals finally may adjudge that there has been no election. In such event the office shall be deemed vacant, with the same legal effect as if the person elected had refused to qualify.

Fraud, in-
timidation.

On the production of a copy of the final judgment, the successful party shall be permitted to qualify or be commissioned, or a writ of new election shall be issued as the judgment may require. The unsuccessful party shall pay all costs in both courts.

§ 80. Said State Board of Election Commissioners shall hold its sessions at the seat of government at Frankfort, where a suitable room for them shall be provided in some of the State buildings. The members of the board shall be

State elec-
tion commis-
sioners com-
pensation.

- Act 1900. paid for all their services under this act five dollars per day while so in session: Provided, That no member of said board shall be paid more than one hundred dollars for his services in any year. Said board shall provide itself with necessary books, material and postage to enable it to perform the duties with which it is charged by this act. The chairman of said board shall certify to the Auditor of Public Accounts the money so expended by said board, and the sums that the members of said board and its secretary are entitled to be paid under this act, and thereupon the Auditor shall draw his warrant upon the Treasurer for the sum so certified, to the end that the same may be paid out of the treasury.
- County election commissioners compensation. Act 1900. § 81. The County Board of Election Commissioners shall be paid for all services they may render under this act two dollars per day while actually in session; but no member of such board shall be paid more than twenty dollars for his services during any year. Said board may provide itself with necessary books and stationery to enable it to perform its duties under this act. The amount of such expenditure and the number of days the members of said board were actually in session shall be certified by the chairman of the board to the fiscal court of the county, and paid out of the county funds.
- Penalty. § 82. If any member of either the State Board or the County Boards of Election Commissioners herein provided for shall wilfully and knowingly violate any of the provisions of this act, or fail to execute faithfully any of the duties imposed upon said members under the provisions of this act, he shall be fined not less than one hundred nor more than one thousand dollars and imprisoned in the county jail not exceeding sixty days.
- Penalty for intimidating election officers, etc. Act 1900. § 83. Any person or persons who shall, by threat of violence, or in any other manner, intimidate, or attempt to intimidate, the election officers, or the County or State Canvassing Boards, as herein named, in the performance of their duty, or shall conspire together and go forth armed for the purpose of intimidating said officers, shall be guilty of a felony and, on conviction, be confined in the State penitentiary for not less than one year or more than five years.

ARTICLE VI.

Time of Holding Elections.

§ 84. **PRESIDENTIAL ELECTORS.**—The election of electors of President and Vice President shall be held on the Tuesday next after the first Monday in November, one thousand eight hundred and ninety-two, and on the same day in every fourth year thereafter; but the Governor may, by his proclamation, appoint the same day in any other year, pursuant to the act of Congress, for holding the election, in the event of a vacancy in the offices of President and Vice President.

Constitution,
sec. 148; Gen.
Stat., chap. 33,
art. 4, sec. 1.

§ 84a. **CONGRESSIONAL.**—The election of representatives in Congress shall be held on the Tuesday next after the first Monday in November, one thousand eight hundred and ninety-two, and on the same day in every second year thereafter.

Constitution,
sec. 148; Gen.
Stat., chap. 33,
art. 4, sec. 2.

§ 85. **STATE OFFICERS.**—The election for Governor, Lieutenant-Governor, Treasurer, Auditor of Public Accounts, Register of the Land Office, Attorney-General, Secretary of State, Superintendent of Public Instruction, and Commissioner of Agriculture, Labor and Statistics shall be held on the first Tuesday after the first Monday in November, one thousand eight hundred and ninety-five, and the same day every four years thereafter.

Constitution,
sec. 148; Gen.
Stat., chap. 33,
art. 4, sec. 3.

§ 86. **CLERK OF COURT OF APPEALS.**—At the annual election in the year one thousand eight hundred and ninety-seven there shall be elected by the qualified voters of the State a clerk of the Court of Appeals, who shall take his office the first Monday in September, one thousand eight hundred and ninety-eight, and shall hold his office until the regular election in one thousand nine hundred and three; and on the same day every four years thereafter an election shall be held for the clerk of the Court of Appeals.

Constitution,
sec. 148; Gen.
Stat., chap. 33,
art. 4, sec. 3.

§ 87. **CIRCUIT JUDGE—COMMONWEALTH'S ATTORNEY—CIRCUIT COURT CLERK.**—At the general election in one thousand eight hundred and ninety-two, there shall be elected in each circuit court district a judge thereof, and

Constitution,
sec. 148; Gen.
Stat., chap. 33,
art. 4, sec. 3.

a Commonwealth's attorney, and in each county a clerk of the circuit court, who shall enter upon the discharge of the duties of their respective offices on the first Monday in January after their election, and shall hold their offices five years, and until their successors are elected and qualified. An election shall be held in each county, in each circuit court district, for a circuit court judge, Commonwealth's attorney and circuit court clerk, on the first Tuesday after the first Monday in November, in the year one thousand eight hundred and ninety-seven, and on the same day every six years thereafter.

Constitution,
sec. 148; Gen.
Stat., chap. 33,
art. 4, sec. 3.

§ 88. COUNTY OFFICERS—JUSTICES OF PEACE—CONSTABLES.—An election shall be held in each county on the first Tuesday after the first Monday in November, one thousand eight hundred and ninety-four, for judge of the county court, county court clerk, county attorney, sheriff, county superintendent of common schools, members of the fiscal court, jailer, coroner, surveyor and assessor, and in each justice's district for one justice of the peace and one constable, who shall hold their respective offices for the period of three years, and until the election and qualification of their successors; and in eighteen hundred and ninety-seven, and every four years thereafter, there shall be held an election in each county for the officers herein mentioned. The first election for sheriff shall be held in each county at the regular election in one thousand eight hundred and ninety-two, and the sheriffs elected at this time shall hold their respective offices for the period of two years, and until the election and qualification of their respective successors.

Constitution,
sec. 148; Gen.
Stat., chap. 33,
art. 4, sec. 3.

§ 89. OFFICERS NOT OTHERWISE PROVIDED FOR.—The election of all other officers not otherwise provided for shall be held on the first Tuesday after the first Monday in November, and thereafter on the same day of each year as the terms of office regularly expire.

§ 89. TIME WHEN ELECTION SHALL BE HELD. To make an election legal there must be a time fixed for holding such

election, either by law or by the officer empowered to do so. *Toney v. Harris*, 85 Ky., 453; and see *McGee v. Gill*, 79 Ky., 106.

ARTICLE VII.

Vacancies—How Filled.

§ 90. VACANCY IN OFFICE—MEANING AND APPLICATION OF TERM.—The term “vacancy in office,” or any equivalent phrase as used in this article, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law. It applies whether the vacancy is occasioned by death, resignation, removal from the State, county or district, or otherwise.

Gen. Stat.,
chap. 33, art. 6,
sec. 1.

§ 91. APPOINTMENT OR ELECTION—WHEN FILLED BY.—If the unexpired term will end at the next succeeding annual election at which either city, town, county, district or State officers are to be elected, the office shall be filled by appointment for the remainder of the term. If the unexpired term will not end at the next succeeding annual election at which either city, town, county, district or State officers are to be elected, and if three months intervene before said succeeding annual election at which either city, town, county, district or State officers are to be elected, the office shall be filled by appointment until said election, and then said vacancy shall be filled by election for the remainder of the term. If three months do not intervene between the happening of said vacancy and the next succeeding election at which city, town, county, district or State officers are to be elected, the office shall be filled by appointment until the second succeeding annual election at which city, town, county, district or State officers are to be elected; and then, if any part of the term remains unexpired, the office shall be filled by election until the regular time for the election of officers

Constitution,
sec. 152.

§ 90. (1) VACANCY.—As to filling vacancy in office of judge of law and equity court in Jefferson county prior to adoption of present Constitution, see 85 Ky., 453. Election to fill vacancy in office of clerk of county court prior to present Constitution. *Loran v. Webb*, 82 Ky., 246.

(2) VACANCY—INSANITY.—The confinement of a public officer in an asylum under judgment declaring him insane creates a vacancy, and after his return from the asylum he can not have the office restored to him as against the person holding it. *Long v. Bowen*, 94 Ky., 540.

to fill said offices. Vacancies in all offices for the State at large, or for districts larger than a county, shall be filled by appointment of the Governor. No person shall ever be appointed a member of the General Assembly.

Gen. Stat.,
chap. 33, art. 6,
sec. 2.

§ 92. WRITS OF ELECTION—PROCLAMATION—PUBLICATION—DUTY OF SHERIFF AND CLERK.—A writ of election shall be signed by the officer on attested by the clerk of the court issuing the same, shall designate the day for holding the election, and be directed to the proper sheriff or sheriffs.

1. When an election is to be held to fill a vacancy in any office by the voters of the whole State, or of a congressional or judicial district, or other district composed of more than one county, a proclamation, signed by the officer authorized to order the same, shall be used and stand in lieu of a writ of election.

2. Such proclamation, when for the whole State, shall be published, at least thirty days before the election, in two newspapers printed at the seat of government; and when for such district, at least twenty days before the election, in two newspapers printed in the district—if there are such papers printed at the seat of government or in the district. A copy of a proclamation for a district election shall also be forwarded by mail to the sheriff of each county in the district twenty days before the election.

3. Immediately on receipt of a writ of election or proclamation of election, or other sufficient information thereof, the sheriff shall give notice thereof by advertisements, posted at the court house door and the several places of voting, and published in some newspaper printed in the county, if any such there be.

4. No writ for the election of a county officer, a representative or senator, shall be issued, except so as to enable the sheriff to give such notice at least eight days before the election.

5. A writ of election from the county court shall be delivered to the sheriff by the clerk thereof immediately after it

§ 92. NOTICE OF ELECTION is not essential to its validity, when the time for holding it is fixed by the Constitution or statute. *Berry v. McCullough*, 94 Ky., 247; *Board of Trustees v. Maysville*, 97 Ky., 145;

but where the time and place for holding an election must be designated by the person authorized to call it the rule is different. *Sterritt v. McAdams*, 99 Ky., 37.

is ordered. Other writs of election or proclamations shall be forwarded by the officer issuing them to the sheriff by mail. If, from any cause, the sheriff can not properly act, he shall immediately hand the writ or proclamation to the person authorized to act in his place.

§ 93. GENERAL ASSEMBLY—WHO TO ISSUE WRIT.

—When a vacancy happens in either branch of the General Assembly during its session, the presiding officer of the house in which the vacancy occurs shall issue the writ of election; if the General Assembly is not in session, the writ shall be issued by the Governor.

Gen. Stat.,
chap. 33, art. 6,
sec. 3.

§ 94. GOVERNOR—OFFICE OF—WHO TO ISSUE WRIT.

—When a vacancy happens in the office of Governor, requiring an election, the proclamation shall be issued by the chief justice; or if he is absent from the State or unable to act, by one of the associate justices.

Gen. Stat.,
chap. 33, art. 6,
sec. 4.

§ 95. COUNTY OFFICERS—WHO TO ISSUE WRIT.

—A vacancy in the office of sheriff, coroner, surveyor, county court clerk, county attorney, jailer, county superintendent of common schools, county treasurer, constable, assessor, or members of the fiscal court shall be temporarily filled by the county court until the successor shall have been elected as provided in section ninety-one, and shall have qualified. A writ of election to fill the vacancy shall be issued by the county judge; or, if he is absent from the county, by the county clerk; but if the vacancy be in his office, then by the circuit clerk, if the county judge be absent from the county.

Gen. Stat.,
chap. 33, art. 6,
sec. 5.

§ 96. JUSTICE OF THE PEACE—WHO TO ISSUE WRIT.

—A vacancy in the office of justice of the peace shall be filled by the appointment of the county court temporarily, until the successor shall have been elected, as provided in section ninety-one, and shall have qualified; and a writ of election shall be issued as provided in the preceding section.

Gen. Stat.,
chap. 33, art. 6,
sec. 6.

§ 97. COMMONWEALTH'S ATTORNEY AND CIRCUIT CLERK—WHO TO ISSUE WRIT.

—A vacancy in the office

Gen. Stat.,
chap. 33, art. 6,
sec. 7.

§ 97. NOTICE OF ELECTION to fill a vacancy in the office of circuit clerk is not essential, when the election is held at the

time fixed by law. *Sterritt v. McAdams*, 99 Ky., 337.

of Commonwealth's attorney or circuit court clerk shall, in like manner, be temporarily filled for the same time by the circuit judge of the district, who shall also issue the writ of proclamation for an election to fill the remaining vacancies.

Gen. Stat.,
chap. 33, art. 6,
sec. 8.

§ 98. COUNTY JUDGE—VACANCY FILLED BY JUSTICES.—When a vacancy shall occur in the office of a county judge, it shall be the duty of the clerk of the county court to issue a summons directed to the sheriff or any constable of the county, commanding him to summon the justices of the peace of said county to convene at the court house on a day to be named in the summons, which day shall not be less than ten nor more than twenty days after issuing of said summons; and a majority of the justices of said county being present, shall proceed to fill said vacancy until his successor shall have been elected, as provided in section one thousand five hundred and twenty-two of this article, and shall have qualified. If a majority of the justices are not present on the day named in the summons, then those present shall adjourn from day to day until a majority can be had. A writ of election, as provided in section one thousand five hundred and twenty-three, shall be issued by the clerk of the county, directed to the sheriff of the county, who shall give notice, as provided in section one thousand five hundred and twenty-three, and hold an election at the next annual election.

1. The justices shall convene at ten o'clock in the morning of the day named, or as soon thereafter as may be, and at the same hour every succeeding day, Sunday excepted, until the vacancy is filled.

§ 2. A majority of the justices shall be a quorum to fill the vacancy, and their written certificate thereof shall be handed to and preserved by the clerk of the court.

§ 3. In case of a tie, after ten ballots, the sheriff shall give the casting vote.

Gen. Stat.,
chap. 33, art. 6,
sec. 9.

§ 99. RESIGNATIONS—HOW AND TO WHOM TENDERED.—All resignations of office shall be tendered to the court or officer who is required to fill the vacancy. All such resignations shall be in writing, and received and recorded by said court or officer. When it is required to be filled by the circuit judge he shall cause a record to be made of the

resignation in the court of that county in which the officer lives; and when by the county court it shall cause a record of the fact to be made; and when by the Governor he shall cause the same to be recorded in the executive journal.

§ 100. MEMBER OF GENERAL ASSEMBLY—CONTESTING BOARD.—When the election of a member of the General Assembly is contested, that branch thereof to which he belongs, within three days after its organization, shall in like manner select a board of not more than nine nor less than five of its members for determining the contest, which board shall be governed by the same rules, have the same power, and be subject to the same penalties, as would the board to determine the contested election of Governor, and shall report its decision to that branch of the General Assembly by which it was appointed for its further action. (Con., sec. 38.)

Gen. Stat.,
chap. 33, art. 7,
sec. 2.

ARTICLE IX.

Compensation of Officers of Elections.

§ 101. COST ALLOWED BY FISCAL COURT OF COUNTY.—The cost of all elections held in any county shall be allowed by the fiscal court of such county and paid by the county treasurer, except as otherwise provided by law.

Gen. Stat.,
chap. 33, art. 8,
sec. 1.

§ 102. PAY OF OFFICERS OF ELECTION.—Officers of elections shall receive pay as follows: Judges, two dollars each; sheriffs, two dollars, each; clerks, two dollars, each; in all elections to fill vacancies, the same fees. For delivering election returns, the sheriff shall also receive eight cents for each mile necessarily traveled from the place of voting to the place of delivery.

Gen. Stat.,
chap. 33, art. 8,
sec. 2.

§ 103. The compensation to witnesses and officers taking depositions, and their powers and duties, in cases of contested elections, shall be the same as in actions in equity.

Gen. Stat.,
chap. 33, art. 8,
secs. 3. 4.

ARTICLE X.

Electors of President.

Gen. Stat.,
chap. 33, art. 10,
sec. 1. § 104. MEETING AT CAPITOL—TIME OF.—The electors of President and Vice President of the United States shall convene in the Capitol, at the seat of government, at ten o'clock in the morning of the second Monday in January after their election, give their votes at or after twelve o'clock, and make return thereof according to law.

Gen. Stat.,
chap. 33, art. 10,
sec. 2. § 105. ELECTOR NOT ATTENDING—PLACE FILLED.—If, from any cause, one or more of the electors elected fails to attend, as before directed, by twelve o'clock of that day, those in attendance shall fill the place of those absent by the election of another person or persons, who shall have the same powers as if originally elected by the people for that purpose.

Gen. Stat.,
chap. 15, art. 1,
sec. 4. § 106. COMPENSATION AND MILEAGE.—Each elector of President and Vice President of the United States, for each day he attends at the seat of government as an elector, shall receive the same per diem and mileage as may at the time be allowed to a member of the General Assembly, to be paid as other claims upon the treasury. (Compensation, see sec. 370, Ky. Statutes.)

ARTICLE XI.

United States Senator—How and when Elected—when Governor may Appoint.

Gen. Stat.,
chap. 33, art. 9,
sec. 1. § 107. ELECTION OF SENATOR BY GENERAL ASSEMBLY.—The Legislature which shall be chosen next preceding the expiration of the time for which any senator was elected to represent this Commonwealth in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a senator in Congress, in place of such senator going out of office, in the following manner: Each House shall openly, by a viva voce vote of each member

§ 104. PRESIDENTIAL ELECTORS are State officers. *Todd v. Johnson*, 99 Ky., 548.

present, name one person for senator in Congress from said State; 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 fail to give such majority to any person on said 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 assembly, and the journal of each House shall 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 senator to represent said State in the Congress of the United States; 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 section, the joint assembly shall then proceed to choose, by viva voce vote of each member present, a person for the purpose aforesaid; and the person having a majority of all the votes of said joint assembly, a majority of all the members elected to each House being present and voting, shall be declared duly elected; and in case no person shall receive any such majority on the first day, the joint assembly 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.

§ 108. VACANCY—WHEN FILLED BY GENERAL ASSEMBLY.—Whenever, on the meeting of a Legislature of this State, a vacancy shall exist in the representation of said State in the Senate of the United States, said 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 herein provided for the election of a senator for the 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 the vacancy.

Gen. Stat.,
chap. 33, art. 9,
sec. 2.

§ 109. VACANCY—WHEN FILLED BY APPOINTMENT OF GOVERNOR.—If a vacancy in the representation of this Commonwealth in the Senate of the United

Gen. Stat.,
chap. 33, art. 9,
sec. 2.

States shall, by resignation or otherwise, happen during the recess of the General Assembly, the Governor of the Commonwealth may fill such vacancy by the appointment of some person qualified and eligible to the office, who shall be the senator for the Commonwealth of Kentucky in the Congress of the United States until the General Assembly shall again meet and elect a senator to fill such vacancy.

Gen. Stat.,
chap. 33, art. 9,
sec. 4.

§ 110. CERTIFICATE OF ELECTION.—It shall be the duty of the Governor to certify the election of the person so chosen or appointed, under the seal of the State, to the President of the Senate of the United States, which certificate shall be countersigned by the Secretary of State.

ARTICLE XII.

Primary Elections.

Act 1892.

§ 111. DEFINITION OF PRIMARY ELECTION.—A primary election, within the meaning of this article, and as used in this chapter, is an election held within the State, county, city, district, or subdivision thereof, as the case may be, by the members of any political party, or by the voters of some political faith, for the purpose of nominating candidates for office.

Act 1892.

§ 112. HOW ELECTIONS CONDUCTED.—All primary elections held in this Commonwealth by the various political parties shall be held and conducted in the same form and manner and under the same requirements as are or shall be provided by law for the holding of regular State elections, except in such particulars as are herein excepted.

Act 1892.

§ 113. OFFENSES AGAINST—PENALTIES.—Any act or deed denounced an offense by the general laws of the State concerning elections shall also be an offense in all primary elections, and shall be punished in the same form and

§ 111. PRIMARY ELECTIONS.—When the supreme party authority has acted and declared who constitute the committees the courts will not revise or go behind its action. *Cain v. Page*, 19 R., 977.

(2) Indictment against election officer for violating the law should charge that the

primary was called and held after the forty days' notice, required, and that the officer was appointed by the regularly organized and constituted committee of the party calling the election. *Com. v. Maddox*, 17 R., 557.

manner as is provided for the punishment of similar offenses by the general laws; and all the penalties and provisions of the general laws shall apply in such cases with equal force, and shall be as effective as though fully set out in this article.

§ 114. HOW ELECTION ORDERED BY COMMITTEE. Whenever it shall be desired by the committee or governing authority of any political party to hold a primary election under the provisions of this article, said committee or governing authority shall, at least forty days prior to such primary election, give public notice thereof, by posting such notice at the court house door and at least twenty other public places in the county or district. Such notice shall state the date of such proposed primary election, the hours between which it will be held, the offices for which candidates are to be nominated, and the places at which polls will be opened at such primary elections.

Act 1892.

§ 115. QUALIFICATION OF VOTERS.—That all persons who are legal voters shall have the right to participate in such primary elections, subject to such additional political qualifications as may be prescribed by the committee.

Act 1892.

§ 116. PARTY AFFILIATION—PROVISIONS FOR REGISTERING.—In order that none but those affiliating with and being members of any political party shall participate in any primary election held by such political party, a system for the registration of such persons is hereby provided, and such registration shall be conducted in form and manner as follows, to wit: In all cities and towns, of whatever class, in which a registration law is in force under the provisions of the general law governing the regular State elections, there shall be set aside on the regular registration books used for the purpose of registering persons who are qualified to vote at the next regular State election, space for the registration of all persons who may desire to take part in any primary election held by any political party. Such space shall be provided on the regular State registration books, immediately following the last perpendicularly ruled column in such books, and shall be headed as follows: "Party Affiliation." It shall be the duty of the judges of such regular State registration to ask each person who ap-

Act 1892.

plies to be registered the question, "What political party do you desire to affiliate with?" And the name of the political party given by such person so applying to be registered shall be recorded in the column provided on the books of registration for that purpose. In case any person applying to be registered does not desire to state his party affiliation, he shall not be required so to do, nor shall his failure so to do act as a bar to his registration for the purpose of voting at any election held under the provisions of the general election law. The committee or governing authority of any political party desiring to hold a primary election under the provisions hereof, or any person authorized by such committee or governing authority, shall have the right to copy into books provided by the committee or governing authority the names of all persons registered on the regular State registration books as affiliating with such political party, a book being provided for each precinct of the city or town in which it is proposed to hold such primary election; and the names of all persons registered in each precinct on the regular State registration book or books, shall be copied into the book or books provided by the committee or governing authority for such precinct, together with the residence of each person so registered. In case the committee or governing authority of any political party, desiring to hold a primary election under the provisions hereof, should decide to hold such primary election previous to the time set for the registration of voters for that year, under the provisions of the general law, the party registration for the previous year shall govern at such primary election. Any person or persons who were necessarily absent from the city or town of their residence during the entire time of such regular State registration, or any person or persons who were too ill to attend such registration, or who were prevented therefrom by sickness or death or other calamity in their family, or any person or persons who moved into such city or town since the date of the last preceding registration, and who have resided continuously in the precinct in which they apply to vote for sixty days next preceding such election, shall be allowed an opportunity to register at the time and in the manner set forth herein, as follows, to wit: Any person who was prevented from registering at the regularly appointed time

for any of the above-named causes, may apply at the polls of the precinct in which he resides at the primary election, and make affidavit before the officers of such primary election, who are hereby authorized to administer oath or affirmation thereto, and certify the same that he was prevented from registering at the regularly appointed time, and the cause for such failure shall be set forth in such affidavit. In all such cases the person so applying to the officers of the primary election for registration shall, in addition to his own affidavit, produce the affidavits of at least two well-known and reputable residents of the precinct, setting forth reason or reasons for the failure of such person to attend the regular registration. In all cases where illness is given as the cause for failure to so register, the affidavit of some reputable physician setting forth the fact shall also be produced. The officers of such primary election shall then register the name of the person so applying in the registration book for the precinct on the page immediately following the last page containing the names of those regularly registered; and opposite each name so registered at such primary election shall be marked the words "Specially registered," and such person shall thereupon be allowed to vote. In case the name of any person who was registered at the regularly appointed time for registration, as affiliating with any political party, is from any cause omitted from the list of names copied from the regular registration books into the primary registration books, such person shall be allowed to vote upon producing a certificate from the custodian of the regular registration books setting forth the fact that the name of such person does appear upon such registration book.

§ 117. REGISTRATION BOOKS—PENALTY FOR MUTILATING, OR ADDING, OR ERASING NAMES.—Upon the completion of the copying of the names of all persons entitled to vote at any primary election from the regular State registration books into the primary election registration books, the person or persons copying such names shall sign his or their name or names to the primary election registration book or books immediately following the last name registered therein, and any one who shall thereafter add any name or names to the list of names contained in such

Act 1908

book or books, or who shall erase therefrom any name or names, or who shall otherwise change or mutilate such book or books, shall be guilty of a misdemeanor, and shall, upon indictment and conviction in the circuit court, be fined not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than sixty days nor more than one year.

Act 1892.

§ 118. REGISTRATION BOOK—PERSON WILFULLY MISCOPYING—PENALTY.—The person or persons appointed by the committee or governing authority of any political party to copy the names of those persons entitled to vote at any primary election from the regular State registration books into the primary registration books shall, before entering upon the discharge of such duty, be sworn by some officer authorized by law to administer an oath, to faithfully and honestly discharge such duty, and any person so appointed by the committee or governing authority of any political party to copy such names who shall register any name or names in such primary registration book or books not registered in the regular State registration book or books, or who shall wilfully refuse to copy any name or names entitled to be so copied from the regular State registration book or books, into the primary registration book or books, shall be guilty of a misdemeanor, and shall, upon indictment and conviction in the circuit court, be fined not less than one hundred dollars nor more than five hundred dollars, and imprisoned in the county jail not less than sixty days nor more than one year.

Act 1893.

§ 119. REGISTRATION BOOKS—DELIVERY OF.—The person or persons appointed by the committee or governing authority of any political party to copy the names of those persons entitled to vote at any primary election to be held by such political party from the State registration book or books into the primary registration book or books shall, upon the completion of that work, deliver to the duly authorized committee or governing authority under whose direction and control such copying was done, the book or books containing the names which were so copied, which book or books shall, previous to the day set for holding such primary election, be delivered by such committee or govern-

ing authority to the officers named, appointed and qualified to have charge of the primary election in the several precincts; and as each person shall apply to vote at such primary election, the officers thereof shall examine such registration book or books, and if they find thereon the name of the person applying to vote, and be satisfied that he is the person whose name is so registered, they shall enter the word "Voted," after his name, and he shall then be allowed to vote. No person whose name is not contained in such registration book or books, except those hereinbefore mentioned who were specially registered, shall be allowed to vote or participate in such primary election.

§ 120. PROVISION WHERE NO REGISTRATION REQUIRED.—In all counties, districts or precincts in which no registration is held under the provisions of general law, all legal electors shall have the right to vote at any primary election held by any political party, if they conform to the conditions and qualifications prescribed by the committee or governing authority of the political party having direction and control of such primary, by applying at the polls of the precinct in which they reside, and making known the fact that they conform to such conditions and qualifications as have been so prescribed. In case the officers of such primary election be in doubt as to the right of any person to vote, such person shall be sworn by the judges of election, and if, after examination as to his right to vote, he be allowed to vote, the word "Sworn" shall be marked on the stub of the ballot containing such person's name. Any bystander may also challenge the right of any person to vote, and in all such cases, such person whose right to vote is so challenged, shall be sworn and examined as hereinbefore set forth. (See sections 18 and 127.)

Act 1893.

§ 121. ELECTION OFFICERS — APPOINTMENT — OATH—POWERS—DUTIES AND PENALTIES.—The officers for each election precinct, in all primary elections held under the provisions hereof, shall be of the same number as is required and designated by law to hold regular State elections, and their duties and responsibilities shall be precisely the same as those of legally appointed and regularly qualified officers of regular State elections. They shall be

Act 1892.

appointed by the regularly organized and constituted committee or governing authority of the political party holding such primary election, and shall, before entering upon the discharge of their respective duties, take the same oath required to be taken by officers of regular State elections. The officers in each primary election precinct shall be selected from lists furnished by the various candidates, such lists to be furnished by the respective candidates to the committee or governing authority at least ten days before such primary election, and shall be as nearly equally divided as possible as to judges, clerks and sheriffs among the various candidates. The officers of all primary elections, held under the provisions hereof, shall have the same powers and privileges as officers of regular State elections, and shall be subject to the same restrictions, limitations and conditions. Any act or deed denounced by general law as an offense in the case of officers of regular State elections, is hereby declared to be an offense in the case of officers of such primary elections, and shall be punished in the same form and manner as is prescribed by general law. (See sec. 113.)

Act 1892.

§ 122. CANDIDATE—HOW NAME TO BE SUBMITTED.—Any person desiring to submit his name to the voters in a primary election shall, not later than fifteen days next preceding the holding of such primary election, apprise the committee or governing authority of the political party holding such primary of the fact that he is a candidate, and, upon complying with the conditions prescribed by the committee or governing authority for the regulations of candidates, shall be declared to be a candidate by the committee or governing authority of such political party; and any person who has not given such notice to the committee or governing authority, or who has not complied with the conditions prescribed by the committee or governing authority for the government of candidates, shall not have his name printed on the ballots used in such primary election; but any person desiring to vote for one other than the persons whose names are printed on such ballots shall have the right to do so by writing the name of the person for whom he desires to vote in the space on the ballot set apart for the names of the candidates for such office as he may desire such person so voted for to hold.

§ 123. RETURNS OF ELECTION — ALTERATION—PENALTY.—Within such time as is provided by law in the case of State elections, and in the same manner, the election returns of all primary elections shall be deposited with the committee or governing authority of the political party under whose direction and control such primary election was held, at such place as the committee or governing authority shall designate at which to receive such returns, and any person who shall change or in anywise alter such returns shall be punished in the same form and manner as is provided by general law for the punishment of any person who changes or in anywise alters the returns of a regular State election.

Act 1892.

§ 124. COUNTING VOTE—OATH AND DUTY OF COMMITTEE—DECISION IN CASE OF TIE—PENALTY.—The duly authorized and constituted committee or governing authority in the county or district in which a primary election may be held hereunder is hereby empowered to count the votes received by all candidates in such primary elections, and to declare the candidate or candidates, in cases where candidates for more than one office are to be nominated, receiving the highest number of votes the nominee of such political party for the office for which he was voted for at such primary election. In all cases of a tie vote or contest, the committee or governing authority of the political party holding such primary election shall have the power to hear and determine such contest, and decide who shall be entitled to the nomination. The proceedings in such cases shall be in such form and manner as the committee or governing authority shall determine upon. Before entering upon the discharge of the duties set forth in this article, the committee or governing authority shall be sworn by some officer authorized by law to administer an oath to faithfully and honestly discharge the duties herein imposed; and the failure upon the part of any member of the committee or governing authority to discharge such duties faithfully and honestly shall be deemed a misdemeanor, and the persons so offending shall, upon indictment and conviction in the circuit court of the county or district, be fined not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than sixty days nor more than one year.

Act 1892.

§ 125. EXPENSES OF ELECTION—BALLOTS PRINTED BY ORDER OF COMMITTEE.—All expenses for holding such primary elections shall be borne and paid by the political party holding same, and the pay of officers, cost of publishing and circulating notices of elections and all other expenses, shall be defrayed in such manner as may be provided for by the committee or governing authority of the political party holding such primaries. The ballots used in such primary elections shall be printed by order of the committee or governing authority having direction and control of such primaries, under the same restrictions and limitations as is provided by general law for the printing of ballots used in regular State elections.

Act 1892.

§ 126. GENERAL APPLICATION.—The provisions of this article shall apply to all primary elections held for the purpose of nominating candidates for State, county, district or municipal offices hereafter held in this Commonwealth, except those held in the year one thousand eight hundred and ninety-two.

Primary elections, challengers of.

“§ 127. In all primary elections hereafter held in this Commonwealth, at which the whole number of candidates to be voted for does not exceed five, each candidate shall be entitled to designate, by written notice to the chairman of the county committee or governing body of the party, holding such primary election, not less than five days before the day fixed for holding such election the name of one person for each voting precinct in the county, to act as challenger and inspector for said candidate at the primary election at which he is a candidate. If there be more than five candidates to be voted for at the primary election, one-fourth of the entire number of such candidates may unite and designate, by written notice to the chairman of the county committee or governing body of the party holding such primary election, not less than five days before the day fixed for holding such primary election, the name of one person for each voting precinct of the county, to act as challenger and inspector for all of the candidates so uniting: Provided, That no candidates shall be entitled to participate or unite in designating more than one inspector and challenger for each voting precinct. Such written notice shall be served upon the chairman of the county

Act 1900.

committee or governing body of the party holding the primary election, by any officer authorized to serve a summons. Such officer shall certify upon such written notice the day he receives it and the day he serves it, and shall be allowed for serving same a fee of fifty cents, to be paid by the candidate giving such notice. If there be no such chairman, or if such written notice be placed in the hands of an officer authorized to serve same eight days before the day for holding such election, and be returned by such officer "not found," or if served and the chairman refuses to issue the certificate, then the person designated as challenger and inspector for any candidate or candidates may present to the officers of election of the precinct for which he is designated as challenger and inspector the written notice herein provided for, and the person so designated shall have all the rights and powers as if appointed and certified by the chairman of the county committee or governing body of the party as herein provided.

Notice.

Upon the designation of challengers and inspectors to the chairman of the county committee or governing body of the party, as herein provided, the said chairman shall issue to each person so designated a certificate, signed by him as chairman of the county committee or governing body of the party, of appointment as challenger and inspector for the candidate or candidates so designating him, in the voting precinct for which he shall have been designated. The person so appointed as challenger and inspector shall, upon presentation of his certificate of appointment to the officers of the election of the precinct for which he shall have been appointed, be entitled to stay in the room where the election is being held during the time of voting and the counting of the votes. He shall be entitled to challenge the right of persons to vote, and to be present at, witness and inspect the counting of the votes, and shall have all other rights and powers conferred by law upon challengers and inspectors at regular elections.

Certificate
to challengers.

Before acting as such the challenger and inspector so designated shall take the oath, to be administered by the clerk or one of the judges of the election, prescribed by law for challengers at regular elections.

Challengers
to take oath.

Any chairman of any county committee or governing body of the party who shall refuse to issue the certificate of appointment to any person so designated as challenger and in-

spector, as herein provided, and any precinct election officer who shall refuse to admit any person so designated as challenger and inspector to the room at any time during the voting or the counting of the votes, or shall wilfully hinder or prevent such person from witnessing and inspecting the counting of the votes, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than one hundred dollars nor more than five hundred dollars, or shall be confined in the county jail not less than thirty days nor more than six months, or may be both so fined and imprisoned.

Act 1900.

Penalty.

ARTICLE XIII.

Penalties Against Frauds in Elections—Limitation to Prosecutions.

§ 128. REMOVING OR HAVING BALLOT OUTSIDE ELECTION ROOM—WHEN A FELONY.—Any person who shall knowingly and wilfully remove or attempt to remove a ballot from the election room, or have in his possession outside the election room any ballot, either genuine or counterfeit, during the election, shall be guilty of felony, and, on conviction, shall be imprisoned in the penitentiary not less than two nor more than five years. (See sec. 1473.)

Act 1892.

§ 128a. WRONGFUL REMOVAL OR POSSESSION OF BALLOT—PENALTIES.—If any person shall take or remove in any manner, feloniously or with the consent or permission of the custodian for the time, any official ballot or ballots, from any place where they may lawfully be under this law, or shall knowingly and wilfully have in his custody or possession such ballots, except as an official or custodian under the law, or while within the polling place for the purpose of voting; or if any such custodian or official shall consent to, or permit any of such ballots to be removed or carried away from the place where they may lawfully be, by any person except such official or custodian whose duty it is to receive the same, such person, custodian or official shall be deemed guilty of a felony, and, on conviction, shall be punished by imprisonment in the penitentiary for not less than three nor more than ten years.

§ 129. REMOVING OR DESTROYING BOOTH OR OTHER CONVENIENCE—OR ATTEMPT.—Any person who shall, during the election, knowingly and wilfully remove or destroy any of the supplies or other conveniences placed in the booths for the purpose of enabling the voter to prepare his ballot, or shall, during an election, remove, tear down or deface the cards printed for the instruction of the voters, or shall, during an election, destroy or remove any booth or other convenience provided for such election, or shall induce or attempt to induce any person to commit any of such acts, whether or not any of such acts are committed or attempted to be committed, shall be guilty of a misdemeanor, and on conviction, shall be punished by imprisonment in the county jail for not less than six months nor more than one year.

Act 1892.

§ 130. ELECTIONEERING—WRONGFUL OBTENTION, EXHIBITION, MARKING OR DELIVERY OF BALLOT.—No officer of election shall do any electioneering on election day, nor disclose at any time, to any person, the name of any candidate for whom any elector has voted. No person whatever shall do any electioneering on election day within any polling place, or within fifty feet thereof. No person shall apply for or receive any ballot in any polling place other than that in which he is entitled to vote. No person shall show his ballot, after it is marked, to any person in such a way as to reveal the contents thereof or the name of any candidate or candidates for whom he has marked his vote; nor shall any person examine a ballot which any elector has prepared for voting, or solicit the elector to show the same. No voter shall deliver any ballot to the judges of the election to be voted, except the one he receives from the clerk. No voter shall place any mark upon his ballot, or suffer or permit any other person to do so, by which it may be afterward identified as the one voted by him. Whoever shall violate any provision of this section shall, on conviction, be fined not less than twenty (20) nor more than five hundred (500) dollars, or imprisoned not less than ten (10) days or more than (6) months, or both so fined and imprisoned, at the discretion of the jury. (See sec. 41.)

Act 1892.

Act 1892. § 131. INDUCING ANOTHER TO MARK BALLOT—FELONY—MARKED BALLOTS NOT COUNTED.—If any person shall induce, or attempt to induce, any elector to write, paste, or otherwise place on his ballot the name of any person or any sign or device of any kind, as a distinguishing mark by which to indicate to any other person how such elector has voted, such person so offending shall be guilty of felony, and, on conviction, be imprisoned in the penitentiary not less than two nor more than five years. Any ballot having any of the distinguishing marks mentioned in this section shall not be counted for any candidate voted for at that election.

Act 1892. § 132. PERSON ENTITLED TO INSPECT BALLOT—REVEALING INFORMATION—FELONY.—If any person, being an officer of election or otherwise entitled to the inspection of the ballots, or challengers, shall reveal to any other person how any elector has voted, or what other candidates were voted for on any ballot bearing a name not printed thereon, or give any information concerning the appearance of any ballot voted, such a person so offending shall be guilty of a felony, and, on conviction, shall be imprisoned in the penitentiary not less than two nor more than five years.

Act 1892. § 133. PERSONATING REGISTERED VOTER—PENALTIES.—Any person who falsely personates a registered voter, in any precinct where registration is required, and receives a ballot under the provisions of section one thousand four hundred and seventy-one, by means of such personation, and casts said ballot, shall be deemed guilty of a felony, and shall, upon conviction thereof, be sentenced to imprisonment in the penitentiary for not less than one nor more than two years, and forfeits his right to vote forever after. The attempt at such personation shall be punished as a misdemeanor, with a fine of not exceeding two hundred dollars, and imprisonment not exceeding six months in the county jail.

Act 1892. § 134. DESTROYING OR OBTAINING BALLOT OR BOX—OR ATTEMPT.—Whoever unlawfully destroys, or attempts to destroy, any ballot box used, any ballot deposited at any election, or whoever at any election unlawfully,

either by force, fraud or other improper means, obtains or attempts to obtain possession of any ballot box or any ballots therein deposited, while the voting at such election is going on, or before the ballots are duly taken out and counted according to law, shall be punished by confinement in the penitentiary for not less than one nor more than five years, and be fined not less than fifty nor more than one thousand dollars.

§ 135. RIGHT OF EMPLOYEE—EMPLOYER REFUSING LEAVE.—Any person entitled to a vote at any election in this State shall, on the day of such election, be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of four hours, between time of opening and closing the polls; and such voter shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages: Provided, however, That application for such leave of absence shall be made prior to the day of election. The employer may specify the hours during which said employe may absent himself as aforesaid. Any person or corporation who shall refuse to an employe the privilege hereby conferred, or shall discharge or threaten to discharge an employe for absenting himself for the purpose of said election from his work, or shall subject an employe to a penalty or deduction of wages because of the exercise of such privilege, or who shall, directly or indirectly, violate the provisions of this section shall be deemed guilty of a misdemeanor, and be fined in any sum not less than fifty nor more than five hundred dollars. (See Con., sec. 148.)

Constitution,
sec. 148, Act
1892.

§ 136. SELLING OR FURNISHING INTOXICATING LIQUORS.—Whoever sells, loans, gives or furnishes to any person or persons, either directly or indirectly, spirituous, vinous or malt liquors, or any other intoxicating drink, in any precinct, town, city or county of this Commonwealth, upon the day of any general or primary election therein, shall be guilty of a misdemeanor, and, upon conviction thereof,

Constitution,
sec. 154.

§ 136. (1) SELLING LIQUOR ON ELECTION DAY.—Person charged with selling can not be convicted upon the testimony of a single witness. Com. v. Hart, 98 Ky., 7.

(2) A sale at any time during the twenty-four hours of the election day is a violation of this section. Com. v. Murphy, 95 Ky., 38.

shall be fined the sum of not less than twenty-five nor more than fifty dollars for each offense, which may be recovered by proceedings in any court of competent jurisdiction, or by indictment in the circuit court. It shall be the duty of the circuit judges throughout this Commonwealth to make special mention of this section in charge to the grand juries of said courts. (See sec. 2565, Ky. Statutes.)

Act 1892.

§ 137. **DISOBEDIENCE OF ELECTION OFFICER'S COMMANDS.**—Any person who shall willfully disobey any lawful command of any officer of an election held under this chapter, given in the execution of his or their duty as such at any such election, shall be deemed guilty of a misdemeanor, and, on conviction, be fined not less than twenty-five nor more than five hundred dollars.

Act 1892.

§ 138. **OFFICERS VIOLATING DUTIES.**—Any public officer upon whom a duty is imposed under this chapter, and no penalty provided for the violation thereof, who shall willfully neglect to perform such duty, or who shall willfully perform it in such a way as to hinder the objects of this law, shall be punished by a fine of fifty dollars and imprisonment in the county jail for two months.

Gen. Stat.,
chap. 33, art.
12, sec. 1.

§ 139. **SHERIFF FAILING TO PERFORM DUTY.**—Any sheriff who willfully fails to cause an election to be held as required by law shall be fined from one hundred to five hundred dollars. If he willfully fails to perform any other duty concerning an election, for which there is no penalty specifically prescribed, he shall be fined from twenty to two hundred dollars.

Gen. Stat.,
chap. 33, art.
12, sec. 2.

§ 140. **OFFICER APPOINTED FAILING TO PERFORM DUTY.**—Any officer of election or of registration, in any precinct where registration is required, who, after due notice of his appointment, shall fail to perform his duty as such in holding any election or registration, unless for good cause, shall be fined from twenty-five to five hundred dollars.

Gen. Stat.,
chap. 33, art.
12, sec. 3.

§ 141. **OFFICER OF CANVASSING OR CONTESTING BOARD—NEGLECT OR CORRUPT ACT.**—Any officer who, without sufficient excuse, fails to discharge his duty after an election, as one of a board for canvassing the election returns, shall be fined from one hundred to one thousand dollars, and

imprisoned in the county jail not exceeding sixty days. Any officer who shall act corruptly or with partiality in the discharge of such duty shall be fined from one hundred to five hundred dollars, and shall also, in addition, forfeit any office he then holds, and be disqualified from ever holding any office.

§ 142. ALTERING, SECRETING, DESTROYING POLL-BOOK, RETURN OR CERTIFICATE.—Any officer or other person who shall willfully alter, obliterate, or willfully secrete, suppress or destroy the certified poll-book, return or certificate of an election, willfully and unlawfully alter the poll-book before it is certified; or any officer who shall make, or aid in making, or authorize the making up of any false or fraudulent poll-book, or certificate of an election or election return, shall be deemed guilty of forgery, be confined in the penitentiary from one to five years, forfeit any office he then holds, and be disqualified from ever holding any office.

Gen. Stat.,
chap 33, art.
12, secs. 4, 5.

§ 143. REFUSAL TO GIVE CERTIFICATE OF ELECTION.—Any officer whose duty it is to give or aid in giving a certificate of election, or of the returns of an election, or to forward the same, who shall willfully refuse or fail to give the same, or to send the same to the Secretary of State, as required by law, shall be fined not more than a thousand dollars, forfeit any office he may then hold, and be disqualified from ever holding any office.

Gen. Stat.,
chap. 33, art.
12, sec. 6.

§ 144. RECEIVING OR RECORDING ILLEGAL VOTE.—Any officer of election who shall receive, or assent to receive, or record a vote at an election at a time or place known by him not to be the time and place lawfully appointed, or who shall knowingly receive the vote of any other than a qualified voter, or so refuse to receive the vote of a qualified voter, shall, for every such offense, be fined from fifty to five hundred dollars, forfeit any office he then holds, and be disqualified from ever holding any office.

Gen. Stat.,
chap. 33, art.
12, sec. 8.

§ 142. (1) FALSE ENTRY IN POLL BOOK.—Making up a fraudulent poll book is a single offense, whether consisting of the false entry of one or more votes, or of votes for one or more candidates for office. *Com. v. Duff*, 87 Ky., 586; and see *Com. v. Eckert*, 14 Law Rep., 250.

(2) FALSE RETURN.—Sufficiency of indictment for. *Com. v. Barry*, 98 Ky., 394.

§ 144. LIABILITY OF JUDGE FOR REFUSING VOTE.—To render a judge liable for refusing to permit a qualified voter to vote it must appear that the refusal was knowingly wrongful, and that the judge was prompted by impure and corrupt motives. *Caulfield v. Bullock*, 18 B. M., 494; *Morgan v. Dudley*, 18 B. M., 693; *Chrisman v. Bruce*, 1 Duv., 63; *Miller v. Rucker*, 1 Bush, 125.

Gen. Stat.,
chap. 33, art.
12, sec. 9.

§ 145. PERSON NOT QUALIFIED VOTING.—Any resident of this State who shall vote at any election before he has resided one year in the State, or in the county and precinct where the election is held, the time required by law, or before he has attained full age, or before he has been duly naturalized, shall be fined from fifty to one hundred dollars, or imprisoned from ten to ninety days, or both.

Gen. Stat.,
chap. 33, art.
12, sec. 10.

§ 146. NON-RESIDENT—REPEATING—FALSE PERSONATION—FELONY.—Any resident of another State or country who shall vote at, or any person who shall vote more than once at an election, or knowingly vote, or offer to vote, in any precinct except the one in which he resides; any person who shall vote by means of a false personation, or use of the naturalization papers of another person, dead or living, and any person who shall lend or hire his or another's naturalization papers to be used for such purpose, shall be imprisoned in the penitentiary not less than one nor more than five years.

Gen. Stat.,
chap. 33, art.
12, sec. 11.
Gen. Stat.,

§ 147. BRIBERY—RECEIVING BRIBE—WHAT IS BRIBERY.—Any person guilty of receiving a bribe for his vote at an election, or for services or influence in procuring a vote or votes at an election, shall be fined from fifty to five hundred dollars, and be excluded from office and suffrage.

1. "Bribe" or "bribery" means any reward, benefit or advantage, present or future, to the party influenced or intended to be influenced, or to another at his instance, or the promise of such reward, benefit or advantage.

2. Money or other thing of value given or lent in whole or in part, to betted on the result of election, or the promise thereof, for a bet with another that such other will vote for a named candidate, and the gift or promise of a share on any such bet made or to be made, shall be deemed a bribe.

3. Whoever shall receive money or other thing of value to be used for the purpose of procuring or influencing a vote or votes shall be deemed to have been bribed. (See Constitution, sec. 151.)

§ 147. (1) BRIBERY.—As to sufficiency of indictment for, and what is necessary to constitute the offense, see *Johnson v. Com.*, 90 Ky., 53; *Cheek v. Com.*, 87 Ky., 42; *Com. v. Selby*, 87 Ky., 594; *Curran v. Taylor*, 92 Ky., 537; *Com. v. Stephenson*, 3 Met., 226;

Hall v. Marshall, 80 Ky., 552; *Com. v. Root*, 96 Ky., 533; *Com. v. Steele*, 97 Ky., 27.

(2) Person who bribes another to vote at an election under the local option law is guilty of bribery. *Com. v. Steele*, 97 Ky., 27.

§ 148. BRIBERY—BRIBING ANOTHER.—Whoever shall bribe another shall, on conviction, be fined from fifty to one hundred dollars, or imprisoned from ten to ninety days, or both so fined and imprisoned, and be excluded from office and suffrage.

§ 149. UNLAWFUL INTERFERENCE WITH ELECTION.—Any person who, by himself or in aid of others, shall forcibly break up or prevent, or attempt to break up or prevent, the lawful holding of an election, or so obstruct or attempt to obstruct the same, or so prevent or attempt to prevent any qualified voter from giving his vote, shall be fined from fifty to five hundred dollars, or imprisoned not more than one year.

Gen. Stat.,
chap. 33, art.
12, sec. 13.

§ 150. MAKING OR PROCURING ANOTHER TO MAKE FALSE OATH.—Any person who shall make any willfully false statement, under an oath duly administered at an election, shall be confined in the penitentiary from one to five years. Any person who shall willfully procure another to make such false statement shall be confined in the penitentiary one year.

Gen. Stat.,
chap. 33, art.
10, sec. 14.

§ 151. COUNSELING OR PROCURING ONE TO MAKE FALSE OATH.—Any person who shall counsel, advise or procure the commission, or aid in the commission, of either of the offenses named in this article, shall incur thereby the penalty therefor, as therein named.

Gen. Stat.,
chap. 33, art.
12, sec. 7.

§ 152. LIBERAL CONSTRUCTION OF CHAPTER—CHARGE TO GRAND JURY.—This chapter shall be liberally construed, so as to prevent any evasion of its prohibitions and penalties by shift or device. Irregularities or defects in the mode of convening or conducting an election under this law shall constitute no defense to a prosecution for a violation of its provisions. It shall also be given specially in charge to the grand jury of every county first convened after any general election.

Gen. Stat.,
chap. 33, art.
12, sec. 17.

§ 153. OFFICERS TO GIVE INFORMATION—ARREST—BAIL. It shall be the special duty of any officer of an

Gen. Stat.,
chap. 33, art.
12, sec. 16.

§ 150. FALSE SWEARING.—Where the oath was administered by the judge of an election who had not himself taken the prescribed oath he was not authorized to ad-

minister an oath, and a person sworn by him can not be convicted of perjury. *Biggerstaff v. Com.*, 11 Bush., 169.

election to give information of all infractions of this law to the grand jury or Commonwealth's attorney; and when there is reason to fear that an offender will make his escape out of the county before indictment, any such election officer may procure his immediate apprehension. The officer before whom such offender is brought, if satisfied of his guilt, shall require from his surety, in adequate penalty, for his appearance at the next circuit court, to answer the charge; and on his failure to give it, commit him to jail till such surety is given.

Gen. Stat.,
chap. 33, art.
12, sec. 18.

§ 154. WITNESSES BEFORE GRAND JURY—REFUSAL TO TESTIFY.—A grand jury may cause any person to be summoned before them as a witness, who shall be compelled to testify as to any knowledge he may possess touching any violation of law in relation to elections in the county during the preceding eighteen months; and if he refuses to testify on oath, he shall be committed to prison until he submits, and be fined from ten to thirty dollars by the court, and a like sum for each daily repetition of the contempt.

Gen. Stat.,
chap. 33, art.
12, sec. 19.

§ 155. SELF-CRIMINATING TESTIMONY—SINGLE WITNESS INSUFFICIENT.—In any prosecution under this chapter, it shall be no exemption for a witness that his testimony may criminate himself; but no such testimony given by a witness shall be used against him in any prosecution, except for perjury; and if used on behalf of the Commonwealth, he shall stand discharged from all penalty for any violation of this chapter, so necessarily disclosed in his testimony, as tending to convict the accused. But the jury shall never convict any one, under the provisions of this chapter, upon the testimony of a single witness, unless sustained by strong corroborating circumstances.

Gen. Stat.,
chap. 33, art.
12, sec. 20.

§ 156. LIMITATION—TWO YEARS EXCEPT IN CASE OF FELONY.—No prosecution shall be had under this chapter where the penalty is less than confinement in the penitentiary, unless the same is commenced within two years from the time of the commission of the offense.

§ 155. EVIDENCE SUFFICIENT TO CONVICT.—Person charged with selling liquor on election day can not be convicted on the testimony of a single witness. *Com. v. Hart*, 93 Ky., 7; nor is it competent for

a voter to testify how he voted, in a prosecution against an election officer. *Com. v. Barry*, 98 Ky., 394; *Major v. Barker*, 99 Ky., 306.

Article XIV.

LOCAL OPTION.

§ 157. TIME OF HOLDING ELECTIONS ON LIQUOR QUESTIONS.—All elections to take the sense of the people of any town, city, county, district or precinct as to whether or not spirituous, vinous or malt liquors shall be sold, bartered or loaned therein, or the sale thereof regulated, shall be held as hereinbefore provided for the elections of county, town, city, district or precinct officers, except that a vote on such questions shall be held on a day other than the regular election day. All laws or parts of laws, general or special, now in force, inconsistent with this act, or any part of its provisions, are hereby repealed. (See sec. 2554 Ky. Statutes.)

Article XV.

DISTRICT TRUSTEES.

§ 158. NUMBER — QUALIFICATION — ELECTION — TERM OF OFFICE—CHAIRMAN OF BOARD—PENALTY —VOTERS.—Each school district shall be under the control of three trustees, who shall be of good moral character, at least twenty-one years of age, and for white schools, able to read and write, and for colored schools, able to read and write, if practicable, one of whom shall be elected each year for the term of three years, to fill the place of the trustee going out of office. No person holding the office of trustee of any private school shall be eligible to hold the office of trustee of any common school. The vote in electing a trus-

Act 1888.

§ 158. (1) LIABILITY OF SCHOOL TRUSTEE.—The promise by a trustee to pay a contractor a certain amount to assist in building the school house, when the amount is collected from the district, does not render him personally liable. *Goodin v. Trustees*, 15 R., 481.

(2) TRUSTEES—ELECTION—APPOINTMENT.—Where the superintendent appointed two trustees to fill vacancies, and the two trustees elected at the next election failed to qualify, the trustees appointed had the right to act in conjunction with the old trustee in levying a tax. *Bishop v. Route*, 7 R., 361.

(3) SCHOOL TRUSTEES must be elected

by a viva voce vote. *Moss v. Riley*, 19 R., 993.

(4) Contested election of trustee can not be determined by the county superintendent, even by consent of the interested parties—the jurisdiction to decide such contest is in the county board created by section 1534, now section 1596a, subsection 13. *Hopkins v. Swift*, 100 Ky., 14.

(5) When a voter has cast his vote for a trustee he can not afterwards, and when other votes have been cast, have his vote changed to another candidate upon the ground that his vote was cast by mistake. *Hopkins v. Swift*, 100 Ky., 14.

tee shall be taken *viva voce*, and the election shall be held at the schoolhouse, and if no schoolhouse be in the district, at such convenient place as the trustee may select, from one o'clock till six o'clock in the afternoon on the first Saturday of October each year, notice thereof having been posted by the trustees at three of the most public places in the district for ten days immediately preceding the day of election. At this election the qualified voters of the district shall be the electors; and any widow having a child between six and twenty years of age, and any widow or spinster having a ward between the ages of six and twenty years, may also vote. The officers of the election shall be a judge and a clerk, who shall be residents of the district, and be chosen by the voters at the opening of the polls. The judge of the election shall give the casting vote in case of a tie, provided he has not heretofore voted, and give a certificate of election to the person elected, signed by himself, and report the trustees thus elected, in writing, to the county superintendent of the county within five days after the day of election. In case of a tie, in which the judge has voted, then he shall certify the fact to the county superintendent, and the county superintendent shall appoint the trustee, and give him a certificate, and the trustee so selected shall act until his successor is duly qualified. The trustee so elected shall hold office for three years, from the first day of July succeeding his election, and until his successor is duly elected or appointed and qualified. Any two of the trustees may constitute a quorum to transact the business pertaining to their office at a meeting of which all shall have had reasonable notice. The trustee having the shortest time to serve shall be chairman of the board of trustees, whose duty it shall be to preside at all its meetings and to make the reports, and to perform all other such acts and duties as required by law of trustees; and in case of neglect or non-performance of duty, the one so remiss of duty shall be subject to like fines and penalties as imposed by law on trustees for neglect of duty or other violations of law. This law shall in no wise impair the tenure of office of trustees who have been duly elected or appointed under the present school law. (Section as amended by act of March 17, 1898; the amendment inserted October in place of June.)

§ 159. PENALTY IMPOSED ON OFFICER OF ELECTION FOR FRAUD.—Any person who may be chosen to preside over the election of a school trustee in any school district in this Commonwealth who shall knowingly, and with intent to commit a fraud, receive and count any illegal vote or issue a certificate of election to any person not entitled thereto, or shall refuse to issue such certificate to any one duly elected, or who shall fail for five days after the election to report the name of the person elected, or who shall, with fraudulent intent, deface, mutilate or destroy the records of any such election, shall be fined not less than fifty nor more than two hundred dollars for every such offense, and it shall be the duty of the county superintendent to report such offenses to the grand jury.

Act 1888.