

TITLE XXVI.

THE ELECTIVE FRANCHISE.

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Bringing armed troops to places of election. 25 Feb., 1865, c. 52, s. 1, v. 13, p. 437.

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls. [See §§ 5528, 5529, 5532.]

Interference with freedom of elections by officers of Army or Navy. 25 Feb., 1865, c. 52, s. 1, v. 13, p. 437.

SEC. 2003. No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. [See §§ 5530-5532.]

Race, color, or previous condition not to affect the right to vote. 31 May, 1870, c. 114, s. 1, v. 16, p. 140.

SEC. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding. 2 Abb. U. S., 120; McKay v. Campbell, 1 Saw., 374; U. S. v. Reese et al., 92 U. S., 214; U. S. v. Cruikshank et al., 92 U. S., 542.

Nor the performance of any prerequisite. 31 May, 1870, c. 114, s. 2, v. 16, p. 140.

SEC. 2005. When, under the authority of the constitution or laws of any State, or the laws of any Territory, any act is required to be done as a prerequisite or qualification for voting, and by such constitution or laws persons or officers are charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States the same and equal opportunity to perform such prerequisite, and to become qualified to vote.

Penalty for refusing to give full effect to preceding section. 31 May, 1870, c. 114, s. 2, v. 16, p. 140.

SEC. 2006. Every person or officer charged with the duty specified in the preceding section, who refuses or knowingly omits to give full effect to that section, shall forfeit the sum of five hundred dollars to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2007. Whenever under the authority of the constitution or laws of any State, or the laws of any Territory, any act is required to be done by a citizen as a prerequisite to qualify or entitle him to vote, the offer of such citizen to perform the act required to be done shall, if it fail to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing to vote, and being otherwise qualified, shall be entitled to vote in the same manner and to the same extent as if he had in fact performed such act.

SEC. 2008. Every judge, inspector, or other officer of election whose duty it is to receive, count, certify, register, report, or give effect to the vote of such citizen, who wrongfully refuses or omits to receive, count, certify, register, report, or give effect to the vote of such citizen upon the presentation by him of his affidavit, stating such offer and the time and place thereof, and the name of the officer or person whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall forfeit the sum of five hundred dollars to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2009. Every officer or other person, having powers or duties of an official character to discharge under any of the provisions of this Title, who by threats, or any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall forfeit the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2010. Whenever any person is defeated or deprived of his election to any office, except elector of President or Vice-President, Representative or Delegate in Congress, or member of a State legislature, by reason of the denial to any citizen who may offer to vote, of the right to vote, on account of race, color, or previous condition of servitude, his right to hold and enjoy such office, and the emoluments thereof, shall not be impaired by such denial; and the person so defeated or deprived may bring any appropriate suit or proceeding to recover possession of such office, and in cases where it appears that the sole question touching the title to such office arises out of the denial of the right to vote to citizens who so offered to vote, on account of race, color, or previous condition of servitude, such suit or proceeding may be instituted in the circuit or district court of the United States of the circuit or district in which such person resides. And the circuit or district court shall have, concurrently with the State courts, jurisdiction thereof, so far as to determine the rights of the parties to such office by reason of the denial of the right guaranteed by the fifteenth article of amendment to the Constitution of the United States, and secured herein. [See §§ 568, 629.]

SEC. 2011. Whenever, in any city or town having upward of twenty thousand inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any congressional district, there are ten citizens thereof, of good standing, who, prior to any registration of voters for an election for Representative or Delegate in the Congress of the United States, or prior to any election at which a Representative or Delegate in Congress is to be voted for, may make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town, county or parish, is situated, their desire to have such registration, or such election, or both, guarded and scrutinized, the judge, within not less than ten days prior to the registration, if one there be, or, if no

What shall entitle a person to vote.

31 May, 1870, c. 114, s. 3, v. 16, p. 140.

Penalty for wrongfully refusing to receive a vote.

31 May, 1870, c. 114, s. 3, v. 16, p. 140.

For unlawfully hindering a person from voting.

31 May, 1870, c. 114, s. 4, v. 16, p. 141.

10 June, 1872, c. 415, s. 1, v. 17, p. 349.

Seeley v. Koox, 2, Woods, 368.

Remedy for deprivation of office.

31 May, 1870, c. 114, s. 23, v. 16, p. 146.

Ex parte War-mouth, 17 Wall., 64.

In cities or towns of over 20,000 inhabitants, &c., upon written application of two citizens, the circuit judge to open court.

28 Feb., 1871, c. 99, s. 2, v. 16, p. 433.

10 June, 1872, c. 415, s. 1, v. 17, p. 348.

registration be required, within not less than ten days prior to the election, shall open the circuit court at the most convenient point in the circuit.

Supervisors of election.

Ibid.

SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and commission, from day to day and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting precinct in such city or town, or for such election district or voting precinct in the congressional district, as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting precinct in the county or parish, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election. [See §§ 5521, 5522.]

Court to be kept open.

Ibid.

SEC. 2013. The circuit court, when opened by the judge as required in the two preceding sections, shall therefrom and thereafter, and up to and including the day following the day of election, be always open for the transaction of business under this Title, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time; and a judge sitting at chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court.

District judge may perform duties of circuit judge.

28 Feb., 1871, c. 99, s. 3, v. 16, p. 434.

SEC. 2014. Whenever, from any cause, the judge of the circuit court in any judicial circuit is unable to perform and discharge the duties herein imposed, he is required to select and assign to the performance thereof, in his place, such one of the judges of the district courts within his circuit as he may deem best; and upon such selection and assignment being made, the district judge so designated shall perform and discharge, in the place of the circuit judge, all the duties, powers, and obligations imposed and conferred upon the circuit judge by the provisions hereof.

Construction of preceding section.

10 June, 1872, c. 415, s. 1, v. 17, p. 349.

Duties of supervisors of elections.

28 Feb., 1871, c. 99, s. 4, v. 16, p. 434.

SEC. 2015. The preceding section shall be construed to authorize each of the judges of the circuit courts of the United States to designate one or more of the judges of the district courts within his circuit to discharge the duties arising under this Title.

SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section two thousand and twenty-six, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name.

Attendance at elections.

28 Feb., 1871, c. 99, s. 5, v. 16, p. 434.

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, territorial, or municipal law, and to personally inspect any scrutinize, from time to time, and at all times, on the day of election, the manner in which the

voting is done, and the way and method in which the poll-books, registry-lists, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section two thousand and twenty-five, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry-list, and any and all copies thereof and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

To personally
scrutinize and
count each ballot.

28 Feb., 1871, c.
99, s. 5, v. 16, p. 434.

SEC. 2019. The better to enable the supervisors of election to discharge their duties, they are authorized and directed, in their respective election districts or voting precincts, on the day of registration, on the day when registered voters may be marked to be challenged, and on the day of election, to take, occupy, and remain in such position, from time to time, whether before or behind the ballot-boxes, as will, in their judgment, best enable them to see each person offering himself for registration or offering to vote, and as will best conduce to their scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are required to place themselves in such position, in relation to the ballot-boxes, for the purpose of engaging in the work of canvassing the ballots, as will enable them to fully perform the duties in respect to such canvass provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed.

Their positions.

28 Feb., 1871, c.
99, s. 6, v. 16, p. 435

[See § 5521.]

SEC. 2020. When in any election district or voting precinct in any city or town, for which there have been appointed supervisors of election for any election at which a Representative or Delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hindrance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations, and powers conferred upon them by law, the supervisors of election shall make prompt report, under oath, within ten days after the day of election to the officer who, in accordance with the provisions of section two thousand and twenty-five, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into all the facts; and he shall have power to subpoena and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such Representative or Delegate was voted for, he shall file with the Clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made. [See § 5522.]

When molested.

28 Feb., 1871, c.
99, s. 7, v. 16, p. 435.

Special deputies.

28 Feb., 1871, c.
99, s. 8, v. 16, p.
436.

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times or places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

Duties of marshals.

28 Feb., 1871, c.
99, s. 8, v. 16, p.
436.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration. [See §§ 5521, 5522.]

Persons arrested to be taken forthwith before a judge, &c.

28 Feb., 1871, c.
99, s. 9, v. 16, p.
436.

SEC. 2023. Whenever any arrest is made under any provision of this Title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

Assistance of bystanders.

28 Feb., 1871, c.
99, s. 12, v. 16, p.
437.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this Title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or posse comitatus of his district.

Chief supervisors of elections.

28 Feb., 1871, c.
99, s. 13, v. 16, p.
437.

SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the first day of May, in the year eighteen hundred and seventy-one, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this Title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this Title imposed. [See § 627.]

Their duties.

28 Feb., 1871, c.
99, s. 13, v. 16, p.
437.

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section two thousand and twelve, of the circuit court for the judicial circuit in

which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this Title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed. [See § 627.]

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and, with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal in order that the same may be properly preserved and filed.

SEC. 2028. No person shall be appointed a supervisor of election or a deputy marshal, under the preceding provisions, who is not, at the time of his appointment, a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed.

SEC. 2029. The supervisors of election appointed for any county or parish in any congressional district, at the instance of ten citizens, as provided in section two thousand and eleven, shall have no authority to make arrests, or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof.

SEC. 2030. Nothing in this Title shall be construed to authorize the appointment of any marshals or deputy marshals in addition to those authorized by law, prior to the tenth day of June, eighteen hundred and seventy-two.

SEC. 2031. There shall be allowed and paid to the chief supervisor, for his services as such officer, the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section two thousand and twenty, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. And there shall be allowed and paid to each supervisor of election, and each special deputy marshal who is appointed and performs his duty under the preceding provisions, compensation at the rate of five dollars per day for each day he is actually on duty, not exceeding ten days; but no compensation shall be allowed, in any case, to supervisors of election, except to those appointed in cities or towns of twenty thousand or more inhabitants. And the fees of the chief supervisors shall be paid at the Treasury of the United States, such accounts to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge.

Marshals to forward complaint to chief supervisors.

Ibid.

Supervisors and deputy marshals to be qualified voters, &c.

10 June, 1872, c. 415, s. 1, v. 17, p. 349.

Certain supervisors not to make arrests, &c.

10 June, 1872, c. 415, s. 1, v. 17, p. 349.

No more marshals or deputy marshals to be appointed than now authorized.

10 June, 1872, c. 415, s. 1, v. 17, p. 349.

Pay of supervisors.

28 Feb., 1871, c. 99, s. 14, v. 16, p. 438.

10 June, 1872, c. 415, s. 1, v. 17, p. 349.