

sample printed forms of ballots for their assistance in the preparation of the ballots by them, and also prepare and cause to be printed in clear, large type on separate cards, to be called cards of instruction, at the expense of the State, and transmit to said respective Boards of Supervisors full instructions for the guidance of voters as to obtaining ballots, the manner of marking them, the method of giving assistance and the manner of obtaining new ballots in place of those accidentally spoiled, together with copies of sections 162 to 166, inclusive, to the number of ten for each polling place."

As section 135 gives *sixty* days before the date of an election to parties to complete their certificates of nomination and nomination papers and to file them with the Supervisors, it would seem to be clear that it necessarily repeals section 92, of Article 33, which requires the election to be held within *fifteen* days after the receipt by the Sheriff of the warrant and deprives him of the power and relieves him of the duty of holding the election within that short time after its receipt.

And as section 138 makes it the duty of the Secretary of State to send the sample ballots and cards of instruction at least thirty days before the day of election, it is manifest, that the performance of this duty must necessarily prevent any election from being held before the expiration of the present Session of the General Assembly, which by constitutional limitation will come to an end on the 4th day of April next.

As therefore no election can lawfully be held in time to enable the candidate who shall be elected to take his seat at the present session, it necessarily follows that under any warrant from the President of the Senate to the sheriff, authorizing and directing him to hold an election to fill the vacancy in the office of Senator, the sheriff must obey the paramount provision of section 13, of Article 3, of the Constitution, and give notice that the election will be held at the ensuing general election for Senators and Delegates in November, 1893.

It cannot now be held earlier without a violation of this provision of the Constitution and of sections 133 and 138, of the Australian Ballot Act.