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THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

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1851

OF ELECTIONS.

been served, and of the names of all the parties to whom the same were directed, and the description and amount of the instrument protested; which record shall at all times be competent evidence to prove such notices in any trial, before any court in this territory, where proof of such notice may become requisite.

Duty of clerks of district courts.

SEC. 7. It shall be the duty of the several clerks of the district courts to receive and keep safe, all the records and papers directed by this chapter to be deposited in their office, and give attested copies of any of said records or papers when required, and copies so given by the said clerk are hereby declared to be as valid as if the same had been given by the said notaries public. All forfeitures under this chapter shall be, one half to the use of this territory, and the other half to him or them who shall sue for the same; to be recovered in a civil action in any court having jurisdiction of the same in the county where such notary public shall reside.

Seal.

SEC. 8. Every notary public before he enters upon the duties of his office shall provide an official seal, and deposit an impression of the same together with said oath and bond in the office of the secretary of the territory.

May take acknowledgement of deeds.

SEC. 9. Notaries public shall have full power and authority to take acknowledgements of deeds, and to administer oaths in all cases where oaths are required by law to be made.

Full credit to be given to their acts.

SEC. 10. Full faith and credit shall be given to all the protestations, attestations and other instruments of publication of all notaries public now in office or hereafter to be appointed under the provisions of this chapter.

CHAPTER 5.

OF ELECTIONS.

SECTION

1. Persons who are qualified voters; proviso.
2. Persons who are not qualified voters.
3. General election, when held and what officers elected thereat.
4. Commissioners to appoint judges of, and establish election precincts; proviso.
5. Judges to choose two qualified voters to act as clerks of election.
6. Clerks of board of county commissioners shall give notice of election to sheriff; form of notice.
7. Sheriff, when to post up notices of election.
8. In case of vacancy, voters present to choose a judge of election.
9. Judges and clerks to be sworn before votes are received,

SECTION

10. Judges of election may administer oaths in certain cases.
11. Polls, when to open and when to close.
12. Clerks to furnish stationery.
13. Votes, how to be given.
14. Names of all persons voted for to be on one ballot.
15. Electors, where to vote; proviso.
16. Proceeding when a vote shall be challenged; form of oath.
17. Person taking the oath entitled to vote.
18. Ballot box provided by judges of election.
19. Ballot box, how arranged.
20. Judges of election not to open ballots.
21. Clerks shall keep a poll list.
22. At each adjournment clerks to compare poll lists.

SECTION

23. Box, list and key, how kept.
24. Box and key, by whom kept, and to whom returned.
25. Judges to challenge illegal votes.
26. Judges to maintain order; may fine disorderly persons.
27. Canvass, when to be made, to be public.
28. Canvass, how conducted.
29. Excess of ballots to be destroyed.
30. Board to count the votes; statement of result to be made in writing; form of statement.
31. Statement and poll book to be delivered to clerk of commissioners of the county; returns from unorganized counties, when to be made.
32. Judge or clerk failing to deliver poll book liable to a fine.
33. Canvass of the clerk of the board of commissioners, when to be made; certificates of election given to persons elected.
34. In case of a tie vote, to be decided by lot.
35. Clerk of board of county commissioners to transmit abstract of votes to the secretary of the territory.
36. If returns not received in forty days, secretary to notify clerk of the board of county commissioners.

SECTION

37. Persons elected to office may resign, in case of vacancy governor to issue writ of election; governor to issue proclamation.
38. Two counties united in one district; the canvass, where to be made.
39. Vacancy in council or house of representatives, proceedings in case of.
40. Compensation of judges and clerks of election.
41. Vacancies how filled in certain cases.
42. In cases of election to fill vacancies, returns, when to be made.
43. No returns shall be refused by clerk, for certain reasons.
44. Officers violating the provisions of this chapter, liable to a fine.
45. County and precinct officers, term of, when to commence.
46. Persons elected to fill vacancies, when to enter upon the duties of their office.
47. No civil process to be served on elector on election day.
48. Person having the highest number of votes elected.
49. Clerk and Justices of the peace to decide all matters of disagreement.
50. Clerk of board of commissioners to provide uniform poll books.

QUALIFICATIONS AND DISABILITIES OF ELECTORS.

SEC. 1. All free white male inhabitants over the age of twenty-one years, who shall have resided within this territory for six months next preceding an election, shall be entitled to vote at any election for delegate to congress and for territorial, county, and precinct officers: *Provided*, That they shall be citizens of the United States, or shall have resided within the United States for a period of two years next preceding such election, and declared on oath before any court of record having a seal and clerk, or in time of vacation before the clerk thereof, his intention to become such; and shall have taken an oath to support the constitution of the United States, and the provisions of an act of congress entitled "an act to establish the territorial government of Minnesota," approved March the third, one thousand eight hundred and forty-nine; and *Provided also*, That nothing in this chapter shall be so construed as to prohibit all persons of mixed white and Indian blood who have adopted the customs and habits of civilization from voting.

Persons who are qualified voters.

Proviso.

SEC. 2. No person under guardianship, non compos mentis, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason, felony, or bribery, unless restored to civil rights, be permitted to vote at any election.

Persons who are not qualified voters.

GENERAL ELECTIONS.

SEC. 3. A general election shall be held in the several election precincts in this territory on the second Tuesday of October in each year, at which there shall be chosen so many of the following officers as are by law to be elected in such year; that is to say: A delegate to congress, members of the territorial council and house of representatives, judges of probate, district attorney, and the following county and precinct officers, to wit, county commissioners, sheriffs, registers of deeds, county treasurers, coroners, justices of the peace, county assessors,

General election when held and what officers elected thereat.

constables, and all other county precinct and district officers not herein enumerated or otherwise provided for.

Commissioners to appoint Judges of election.

SEC. 4. The county commissioners shall respectively, at their regular sessions in April preceding the general election, appoint three capable and discreet persons, possessing the qualifications of electors, to act as judges of the election at each precinct and for each of the polls of election as provided for in this chapter, and to set off and establish election precincts or districts; and the clerk of the said board of commissioners shall make out and deliver to the sheriff of the county immediately after the appointment of said judges, a notice thereof in writing, directed to the judges so appointed; and it shall be the duty of the said sheriff within twenty days after the receipt of the said notices, to serve the same upon each of the said judges of the election: *Provided*, That the election precincts in the unorganized counties west of the Mississippi, as established by the governor in his proclamation of the seventh day of July, one thousand eight hundred and forty-nine, are hereby confirmed, and the election shall take place at the time and in the manner herein provided: The voters of said precincts having the right to elect their judges of elections who shall appoint their clerks, and the returns of said election shall be made in the manner prescribed by law.

Proviso.

Judges to choose clerks of elections.

SEC. 5. The said judges shall choose two persons having similar qualifications with themselves to act as clerk of the election. The said judges shall be and continue judges of all elections of civil officers to be held at their respective precincts until other judges shall be appointed, as hereinbefore directed; and the said clerks of election may continue to act as such during the pleasure of the judges of election, and the county commissioners shall from time to time fill all vacancies which may occur in the office of judges of election at any election precinct within their respective counties.

Clerks of board of county commissioners shall give notices of election to sheriff.

SEC. 6. The clerks of the several boards of county commissioners shall, at least forty days before any general election, and at least twenty days previous to any special election, make out and deliver to the sheriff of his county, or to a justice of the peace of any county attached for judicial purposes, three written notices thereof for each election precinct, said notices to be as nearly as circumstances will admit, as follows:

Form of notice.

Notice is hereby given that on the _____ Monday, the _____ day of _____ next, at the house of _____ in the town, district or precinct of _____ in the county of _____ an election will be held for territorial, county, town or district officers, (naming the offices to be filled, as the case may be,) which election will be opened at nine o'clock in the morning, and will continue open until four o'clock in the afternoon of the same day.

Dated this _____ day of _____ A. D. (as the case may be)

Sheriff when to post up notices of election.

SEC. 7. The sheriff aforesaid, to whom such notices shall be delivered, as aforesaid, shall put up in three most public places in each town or district the notices referring to such precinct town or district, at least twenty days previous to the time of holding any general election, and at least eight days previous to the time of holding any special election; and in cases where towns or districts may not be set off by law as election precincts, said notices shall be posted as follows: one at the house where the election is authorized to be held, and the two others at two of the most public and suitable places in that vicinity or settlement.

In case of vacancy voters present to choose a Judge of election.

SEC. 8. If any person appointed to act as judge of any election as aforesaid, shall neglect or refuse to be sworn to act in such capacity, or shall not be present, the place of such person shall be filled by the votes of such qualified electors residing within the county, town, district or precinct as may then be present at the place of election, and

the person or persons so elected to fill such vacancy or vacancies shall be and are hereby vested with the same power as if appointed by the board of county commissioners.

SEC. 9. Previous to votes being taken the judges and clerks of the election shall severally take an oath in the following form, to wit: I, A. B., do solemnly swear (or affirm, as the case may be,) that I will perform the duties of judge, (or clerk, as the case may be,) according to law and the best of my ability, that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same.

Judges and clerks to be sworn before votes are received.

SEC. 10. In case there shall be no judge or justice of the peace present at the opening of the election, or in case such judge or justice shall be appointed judge or clerk of the election, it shall be lawful for the judges of the election, and they are hereby empowered to administer the oath to each other and to the clerks of the election, and the person administering oaths shall cause an entry thereof to be made and subscribed by him and prefixed to the poll books.

Judges of elections may administer oaths in certain cases.

SEC. 11. At all elections to be held under this chapter, the polls shall be opened between the hours of nine and twelve o'clock in the forenoon, and continue open until four o'clock in the afternoon of the same day, at which time the poll shall be closed. *Provided*, That the judges of the election if they shall deem it necessary for the purpose of receiving the votes of all the electors wishing to vote, may postpone the closing of the polls until five o'clock P. M.; and upon opening the polls one of the clerks, under the direction of the judges, shall make proclamation of the same; and thirty minutes before the closing of the poll, proclamation shall be made in like manner, that the poll will be closed in-half an hour; but the board may in their discretion adjourn the polls at twelve o'clock, noon, for one hour, (proclamation of the same being made.)

Polls, when to be opened and when to be closed.

SEC. 12. The clerks of the election shall furnish the necessary poll books and stationery for conducting the same.

Clerks to furnish stationery.

SEC. 13. Every elector shall vote by ballot, and each person offering to vote shall deliver his ballot to one of the judges of election, in presence of the board. The ballot shall be a paper ticket which shall contain written or printed, or partly written and partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person so named is intended by him to be chosen; but no ballot shall contain a greater number of names of persons designated to any office, than there are persons to be chosen at the election to fill such office.

Votes, how to be given.

SEC. 14. The names of all persons voted for by any elector at any general or special election, shall be on one ballot.

Names of all persons voted for to be on one ballot.

SEC. 15. It shall be lawful for any elector to vote for delegate to congress at any place of holding an election within this territory; for members of the council and house of representatives, at any place of holding an election in the district in which he may reside; for sheriff, coroner, county commissioner, and any other county officers, at any place of holding an election in the county in which he resides; but for constable and other town or precinct officers he shall not vote out of the town or precinct in which he resides: *Provided*, That an elector qualified to vote for a part of, and not all of the officers to be chosen at any election, shall present an open ticket, that the judges may determine the legality of such vote.

Electors, where to vote.

SEC. 16. If any person offering to vote shall be challenged: as unqualified, by any judge or clerk of election, or by any other person entitled to vote at the same poll, the board of judges shall declare to the person so challenged, the qualification of an elector; if such person shall then state himself duly qualified; and the challenge shall not be withdrawn. One of the judges shall then tender to him the following

Proviso.

Proceedings when a vote shall be challenged.

MINNESOTA TERRITORIAL STATUTES 1851

- Form of oath. oath: "You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age, that you are a citizen of the United States, (or that you have declared your intention to become a citizen, conformable to the laws of the United States and this territory, on the subject of naturalization,) that you have resided in the United States two years, and in this territory six months next preceding this election, that you have not voted at this election;" and if any person so challenged shall refuse to take such oath so tendered, his vote shall be rejected.
- Persons taking the oath entitled to vote. SEC. 17. If any person so offering such vote, shall take such oath, his vote shall be received, unless it shall be proved by evidence satisfactory to a majority of the judges that he does not possess the qualification of an elector, in which case a majority of said judges are authorized to reject such vote; and if any person shall take the said oath, knowing it to be false, he shall be deemed guilty of wilful and corrupt perjury; and shall on conviction, suffer such punishment as now is, or shall hereafter be prescribed by law for persons guilty of perjury. And if any person shall vote at any election, who is not a qualified voter, he shall forfeit and pay for the use of the county in which such election shall take place, a sum not exceeding fifty, nor less than twenty-five dollars, to be sued for and recovered in the name of the county commissioners, by a civil action before any justice of the peace in such county.
- Vote when to be rejected. SEC. 18. There shall be provided and kept by the judges of each election precinct, (at the expense of the county in which such precincts are situated,) a suitable ballot box with a lock and key.
- Ballot box provided by judges of election. SEC. 19. There shall be an opening through the lid of such box, of no larger size than shall be sufficient to admit a single folded ballot. Before opening the polls, the ballot box shall be carefully examined by the judges of the election, that nothing may remain therein; it shall then be locked, and the key thereof delivered to one of the judges to be designated by the board, and shall not be opened during the election except in the manner, and for the purposes hereinafter mentioned.
- Ballot box, how arranged. SEC. 20. When a ballot shall be received, one of the judges without opening the same or permitting it to be opened or examined, (except to ascertain whether it be a single ballot,) shall deposit it in the box.
- Judges of elections not to open ballots. SEC. 21. Each clerk shall keep a poll list, which shall contain the names of all the persons voting at such election in their numerical order.
- Clerks shall keep a poll list. SEC. 22. At each adjournment of the polls, the clerks shall, in the presence of the judges, compare their respective poll lists, compute and set down the number of votes and correct all mistakes that may be discovered, according to the decision of the board, until such poll lists shall be made in all respects to correspond.
- At each adjournment clerks to compare poll list. SEC. 23. The ballot box shall then be opened and the poll list placed therein; and such box shall then be locked and a covering with a seal placed on the opening in the lid of such box, so as entirely to cover the same, and the key delivered to one of the judges, and the box to another to be designated by the board.
- Box, list and key how kept. SEC. 24. The judge having the key shall keep it in his own possession, and deliver it again to the board at the next opening of the poll; and the person having the box shall carefully keep it without opening it, or suffering it to be opened, or the seal thereof to be broken or removed; and shall publicly in that condition deliver it to the board of judges at the next opening of the poll, when the seal shall be broken, the box opened, the poll lists taken out and the box again locked.
- Box and key, by whom kept and to whom returned. SEC. 25. It shall be the duty of each judge of election, to challenge every person offering to vote, whom he shall know or suspect not to be qualified as an elector.
- Judges to challenge illegal votes.

SEC. 26. For the preservation of order, as well as to secure the judges and clerks from insult and abuse, it shall be the duty of the constable or constables residing in the town, district or precinct, who shall be designated for the purpose by the judges of the election, to attend all elections within such town, district or precinct, and should no constable attend at such election, the judges of election are hereby authorized and empowered to appoint one or more special constables to assist in preserving order during the election; and the judges are hereby authorized to enforce a fine not exceeding fifty dollars on any person or persons who shall conduct in a disorderly or riotous manner, and shall persist in such conduct after having been warned of the consequences, and, on refusal to pay the same, to commit him or them to the common jail of the county for any time not exceeding six days, or until the fine shall be paid; and the constable to whom the order shall be directed, and the jailor of the county, are hereby required to execute said order and receive such person or persons so committed as though it had been issued by a magistrate in due form of law.

Judges to maintain order

May fine disorderly persons

CANVASS BY THE JUDGES.

SEC. 27. As soon as the poll of the election shall be finally closed, the judges shall immediately proceed to canvass the vote given at such election, and the canvass shall be public, and continued without adjournment until completed.

Canvass when to be made, to be public.

SEC. 28. The canvass shall commence by a comparison of the poll lists from the commencement, and a correction of any mistakes that may be found therein until they shall be found or made to agree. The box shall then be opened, and the ballots contained therein taken out and counted by the judges, unopened, except so far as to ascertain whether each ballot is single; and if two or more ballots shall be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballot is completed; and if, upon a comparison of the count with the poll lists and the appearance of such ballots, a majority of such judges shall be of opinion that the ballots thus folded together were voted by one elector, they shall be destroyed.

Canvass, how conducted.

SEC. 29. If the ballots in the box shall be found to exceed in number the whole number of votes on the poll lists, they shall be replaced in the box after being purged as above, and one of the judges shall publicly draw out and destroy therefrom so many ballots unopened as shall be equal to such excess.

Excess of ballots to be destroyed.

SEC. 30. The ballot and poll lists agreeing or being made to agree, the board shall then proceed to count and ascertain the number of votes cast, and the clerks shall set down in their poll books the name of every person voted for, written at full length, the office for which such person received such votes, and the number he did receive, the number being expressed at full length, such entry to be made as nearly as circumstances will admit in the following form, to wit:

Board to count the votes.

Statement of result to be made in writing.

At an election held at the house of A. B. in the town, district, or precinct in the county of _____ and territory of Minnesota, on the _____ day of _____, A. D. _____, the following named persons received the number of votes annexed to their respective names, for the following described offices, to wit: A. B. had _____ votes for delegate to congress. C. D. had _____ votes for member of the legislative council. E. F. had _____ votes for member of the house of representatives. G. H. had _____ votes for coroner. I. J. had _____ votes for sheriff. K. L. had _____ votes for county commissioner. (And in like manner for any other persons voted for.) Certified by us, A. B., C. D., E. F., judges of election. Attest G. H., I. K., clerks of election.

Form of statement.

JUDGES OF ELECTION.—CLERKS OF ELECTION.

Statement and poll book to be delivered to clerk of commissioners of the county.

SEC. 31. The judges of election shall then enclose and seal the poll books, under covers directed to the clerk of the board of county commissioners of the county in which such election was held; and the packet thus sealed shall be conveyed by one of the judges or clerks of the election, to be determined by lot, if they cannot otherwise agree, or by some other person to be agreed upon by the judges, and delivered to the said clerk of the board of county commissioners, at his office, within ten days from the close of the polls; and the other poll book, together with the ballot box deposited with one of the judges of election, to be determined by lot, if not otherwise agreed; and the said poll book shall be subject to the inspection of any elector at any time thereafter who may wish to examine the same. The returns of elections in the unorganized counties shall be made to the register of deeds of the county to which they may be attached for judicial purposes; and said votes shall be canvassed, and certificates of election issued to the persons elected in the same manner that is provided in this chapter for canvassing the votes and issuing certificates of election in organized counties.

Returns from unorganized counties, where made.

Judge or clerk failing to deliver poll book liable to a fine.

SEC. 32. If any judge or clerk of election, after being deputed by the judges of election at which he shall have served as judge or clerk, to carry the poll books of such election to the clerk of the board of county commissioners, shall fail or neglect to deliver such poll book to the said clerk within the time prescribed by law, safe with the seals unbroken, he shall, for every such offence, forfeit and pay the sum of five hundred dollars for the use of the county, to be recovered by a civil action, in the name of the county commissioners, in the district court.

OF THE CANVASS BY THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS.

Canvass of the clerk of the board of commissioners when to be made.

SEC. 33. On the twentieth day after the close of any election, or sooner, if all the returns be received, the clerk of the board of county commissioners, taking to his assistance two justices of the peace of the county, shall proceed to open said returns and make abstracts of the votes in the following manner: The abstract of the votes for delegate to congress shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; and the abstract of votes for county and precinct officers shall be on another sheet; and it shall be the duty of the said clerk of county commissioners, immediately to make out a certificate of election to each of the persons having the highest number of votes for members of the legislative assembly, county and precinct officers, respectively, and to deliver said certificate to the person entitled to it, on his making application to the clerk at his office: *Provided*, That when a tie shall exist between two or more persons for the council or house of representatives, the clerk of the board of commissioners shall give notice to the sheriff of the county, who shall immediately advertise another election, giving at least ten days notice. And it shall be the duty of the clerk of the board of commissioners of each county, on the receipt of the returns of any general or special election to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury.

Certificates of election given to person elected.

In case of a tie vote to be decided by lot.

SEC. 34. If the requisite number of county officers, shall not be elected by reason of two or more persons having an equal, and the highest number of votes for one and the same office, the clerk whose duty

it is to compare the polls, shall give notice to the several persons so having the highest and an equal number of votes, to attend at the office of the proper clerk, at a time to be appointed by the said clerk, who shall then and there proceed publicly, to decide by lot which of the persons so having an equal number of votes shall be declared duly elected; and the said clerk shall make and deliver to the person thus declared duly elected, a certificate of his election as hereinbefore provided.

SEC. 35. The clerk of the board of commissioners, immediately after making the abstracts of the votes given in his county, shall make a copy of each of said abstracts and transmit it by mail to the secretary of the territory at the seat of government, and it shall be the duty of the secretary of the territory, with the marshal of the territory, or his deputy, in presence of the governor, to proceed within fifty days after the election, and sooner if all the returns be received, to canvass the votes given for delegate to congress; and the governor shall grant a certificate of election to the person having the highest number of votes, and shall also issue a proclamation declaring the election of such person. In case there shall be no choice by reason of any two or more persons having an equal and the highest number of votes, the governor shall, by proclamation, order a new election.

Clerk of board of County commissioners to transmit abstract of votes to the secretary of the territory.

SEC. 36. If the returns of election of any county in this territory, shall not be received at the office of the secretary of the territory within forty days after the day of election, the said secretary shall forthwith send a messenger to the clerk of the board of commissioners of such county, whose duty it shall be to furnish said messenger with a certified copy of such returns; and the said messenger shall be paid out of the treasury, the sum of ten cents per mile, for each mile he shall necessarily travel in going to and returning from the office of said clerk.

If returns not received in forty days, secretary to notify clerk of the board of county commissioners.

SEC. 37. Any person who shall receive a certificate of his election as a member of the council or house of representatives of the legislative assembly, coroner or county commissioner, shall be at liberty to resign such office, though he may not have entered upon the execution of its duties, or taken the requisite oath of office, and when any vacancy shall happen in the office of members of the council or house of representatives of the legislative assembly, by death, resignation or otherwise, the governor shall issue a writ of election, directed to the sheriff of the county or district in which such vacancy shall happen, commanding him to notify the several judges in his county or district, to hold a special session to fill such vacancy or vacancies, at a time to be appointed by the governor: *Provided*, That if there be no session of the legislative assembly, between the happening of such vacancy or vacancies and the time of the general election, it shall not be necessary to order a special election to fill such vacancy, and whenever any such vacancy shall happen in the office of sheriff, either by death resignation or otherwise, the clerk of the board of commissioners of the county in which such vacancy shall happen, shall immediately notify the board of county commissioners of the proper county, who shall forthwith appoint some suitable person to be sheriff of the county during, or until the next general election; and when any vacancy shall happen in the office of delegate to congress from this territory, it shall be the duty of the governor to issue his proclamation appointing a day to hold a special election to fill such vacancy.

Person elected to office may resign, in case of vacancy, governor to issue writ of election.

SEC. 38. When two or more counties are united in one council or representative district, the clerk of the board of county commissioners of the county last established, shall within twenty days after the day of election, attend at the office of the clerk of the board of county commissioners of the senior county, and in conjunction with the clerk or clerks of the senior county or counties, shall compare the votes given

Governor to issue proclamation.

Two counties united in one district, the canvass, when to be made.

in the several counties composing such council or representative district, and said clerks shall immediately make out a certificate of the person or persons having the highest number of votes in such counties, for a member or members of the council or house of representatives of the legislative assembly, which certificate shall be delivered to the person entitled to it, on his application to the clerk of the board of county commissioners of the senior county at his office.

Vacancy in council or house of representatives, proceedings in case of.

SEC. 39. When any vacancy shall happen in the office of member of the council or house of representatives of the legislative assembly, by death, resignation or otherwise, it shall be the duty of the clerk of the board of county commissioners, if the county only compose such council or representative district, as soon as he shall be informed thereof, to notify the governor of such vacancy, and if there be more than one county comprised within such council or representative district, it shall be the duty of the clerk of the board of commissioners of the senior county in such district so to notify the governor; the governor immediately upon receiving such notification, shall proceed in the same manner as is prescribed for other cases in the thirty-seventh section of this act.

Compensation of judges and clerks of election.

SEC. 40. There shall be allowed out of the county treasury of each county, to the several judges and clerks of election, two dollars per day, and to the person carrying the poll books from the place of election to the clerk's office, the sum of five cents per mile for going and returning, this provision to extend to the unorganized counties, and to be paid out of the treasury of the county to which they are attached.

Vacancies, how filled in certain cases.

SEC. 41. If a vacancy shall occur in the council or house of representatives of this territory from any cause, and if the county or counties composing the district in which such vacancy has happened, shall have been divided after the election of the member whose seat is vacant, and before the election to supply the vacancy, such election shall be ordered in every county in which any part of the original county or district may be situated; but no person shall be permitted to vote at any such election who does not at the time reside within the limits of the original county or district in which such vacancy may have occurred: *Provided*, That nothing herein contained shall be so construed as to permit any person to vote so residing within the same limits, who has not the other qualifications of an elector.

In cases of election to fill vacancies, returns, when to be made.

SEC. 42. In cases of elections to fill vacancies as provided for in this chapter, the returns shall be made by the clerks of the boards of county commissioners of the different counties, within twenty days after the election, to the office of the clerk of the board of county commissioners of the original county composing the district, and certificates of election shall be made out and signed by the clerks of the boards of county commissioners of the different counties in which such election may have been held,

No returns shall be refused by clerk, for certain reasons,

SEC. 43. No election returns shall be refused by any clerk of the board of county commissioners for the reason that the same may be returned or delivered to him in any other than the manner directed in this chapter, nor shall he refuse to include any returns in his estimate of votes for any informality in holding any election, or making returns thereof; but all returns shall be received, and the votes canvassed by such clerks, and a certificate given to the person or persons who may, by such returns, have the greatest number of votes.

Officers violating the provisions of this chapter, liable to a fine.

SEC. 44. If any judge or clerk of election as clerk of the board of county commissioners, or any other person in any manner concerned in conducting the election, shall corruptly violate any of the provisions of this chapter, he shall forfeit and pay to the county a sum not less than

fifty, nor more than five hundred dollars, to be recovered by a civil action in the name of the county commissioners of the proper county.

MISCELLANEOUS PROVISIONS.

SEC. 45. The regular term of office of all county, town, or precinct officers, when elected for a full term, shall commence on the first day of January next succeeding their election.

County and precinct officers, term of, when to commence.

SEC. 46. Any of the territorial, county, district, or precinct officers that may be elected or appointed to fill vacancies, may qualify and enter upon the duties of their office immediately thereafter; and when elected, they may hold the same during the unexpired term for which they were elected, and until their successors are elected and qualified; but if appointed, they shall hold the same until their successors are elected and qualified.

Persons elected to fill vacancies, when to enter upon the duties of their office.

SEC. 47. During the day on which any general, special, town, precinct, or charter election shall be held, no civil process shall be served on any elector entitled to vote at such election.

No civil process to be served on elector on election day.

SEC. 48. In all elections for the choice of any officers, unless it is otherwise expressly provided; the person having the highest number of votes for any office shall be deemed to have been elected to that office.

Person having the highest number of votes elected.

SEC. 49. The clerk of the board of county commissioners, and register of deeds, as aforesaid, shall not construe the statutes concerning the opening of the election returns, so as to decide all matters of law and fact themselves, but the clerk and register aforesaid, and the two justices they shall call to their assistance, shall constitute a board, a majority of whom shall decide all matters of disagreement; and the said board shall disregard technicalities and misspelling, or abbreviations of the names of candidates for office, if it can be ascertained from such votes for whom they were intended; but they shall not count votes polled in any place but established precincts; and a breach of the provisions of this section shall be deemed a misdemeanor in office, and be punished accordingly.

Clerk and justices of the peace to decide all matters of disagreement.

SEC. 50. It shall be the duty of the clerk of the board of county commissioners of each organized county in this territory, to provide uniform poll books for the use of his county, each poll book containing a copy of the law prescribing the qualifications of electors, and so much of this chapter as relates to the duties of judges and clerks of elections, the manner of conducting elections, and the penalties imposed for offences; also containing blank for all entries required to be made in said poll books; and at the time the said clerk delivers notices for an election to the sheriff of his county, as provided for in this chapter, he shall also deliver to the sheriff two copies of said poll books for an election precinct; and the sheriff shall deliver the same into the hands of one of the judges of election; and the judges of election receiving the said poll books, shall deliver, or cause the same to be delivered to the clerks on the day of election.

Clerk of board of commissioners to provide uniform poll books.