

James C. Child
35
THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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CHAPTER 6.

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Repealed 1860 [Chapter 6, revised statutes.]
 SEC. I. AND II. [Superseded by Article 7, section 1 of the constitution.]

*all of this chapter 6 repealed 1860 by
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GENERAL ELECTIONS.

(1.) SEC. III. (a) 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, constables, and all other county, precinct and district officers not herein enumerated, or otherwise provided for.

General election, when held, and what officers elected thereat.

(2.) SEC. IV. 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.

Commissioners to appoint judges of election.

Proviso.

(3.) SEC. V. 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.

Judges to choose clerks of elections.

(4.) SEC. VI. 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, to wit:

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

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.

Form of notice.

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

Signed A. B., clerk of the board of county commissioners.

(a) This section, as is the case with many others, is in force only so far as it applies to the state government; but its language cannot be changed by the compilers.

Sheriff when to post up notices of election.

(5.) SEC. VII. 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.

(6.) SEC. VIII. 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.

Judges and clerks to be sworn before votes are received.

(7.) SEC. IX. 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 of elections may administer oaths in certain cases.

(8.) SEC. X. 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.

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

(9.) SEC. XI. 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.)

Clerks to furnish stationery.

(10.) SEC. XII. The clerks of the election shall furnish the necessary poll books and stationery for conducting the same.

Votes, how to be given.

(11.) SEC. XIII. 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.

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

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

Electors, where to vote.

(13.) SEC. XV. 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.

Proviso.

(14.) SEC. XVI. 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 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.

Proceedings when a vote shall be challenged.

Form of oath.

(15.) SEC. XVII. 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 willful 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.

Persons taking the oath entitled to vote.

Vote when to be rejected.

(16.) SEC. XVIII. 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.

(17.) SEC. XIX. 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.

(18.) SEC. XX. 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.

(19.) SEC. XXI. 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.

(20.) SEC. XXII. 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 dis-

At each adjournment clerks to compare poll list.

covered, according to the decision of the board, until such poll lists shall be made in all respects to correspond.

Box, list and key
how kept.

(21.) SEC. XXIII. 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 and key, by
whom kept and
to whom re-
turned.

(22.) SEC. XXIV. 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.

Judges to chal-
lenge illegal
votes.

(23.) SEC. XXV. 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 main-
tain order.

(24.) SEC. XXVI. 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.

May fine disor-
derly persons.

Canvass when to
be made, to be
public.

(25.) SEC. XXVII. 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 how
conducted.

(26.) SEC. XXVIII. 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.

Excess of ballots
to be destroyed.

(27.) SEC. XXIX. 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.

Board to count
votes.

(28.) SEC. XXX. The ballot and poll lists agreeing or being made to agree, the board shall then proceed to count and ascertain the number

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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:

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.

(29.) SEC. XXXI. [*As amended on page 30 of amendments to the revised statutes, passed March 6, 1852:*] The judges of election shall then enclose and seal one of the poll books, and under cover direct the same 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 said clerk of the board of county commissioners, at his office, within twenty days of 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.

Duties of judges of election.

(30.) SEC. XXXII. 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 offense, 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.

Returns of elections of unorganized counties; where made.

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

(31.) SEC. XXXIII. 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

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

Certificates of election given to person elected.

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.

(32.) SEC. XXXIV. 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.

(33.) SEC. XXXV. 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.

(34.) SEC. XXXVI. 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.

(35.) SEC. XXXVII. 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

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

Clerk of board of county commissioners to transmit abstract of votes.

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

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

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.

Governor to issue proclamation

(36.) SEC. XXXVIII. 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 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.

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

(37.) SEC. XXXIX. 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.

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

(38.) SEC. XL. 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.

Compensation of judges and clerks of election.

(39.) SEC. XLI. 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.

Vacancies, how filled in certain cases.

(40.) SEC. XLII. 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.

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

(41.) SEC. XLIII. No election returns shall be refused by any clerk of the board of county commissioners for the reason that the same may be

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

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 charter, liable to a fine.

(42.) SEC. XLIV. 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.

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

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

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

(44.) SEC. XLVI. 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.

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

(45.) SEC. XLVII. 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.

Person having the highest number of votes elected.

(46.) SEC. XLVIII. 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.

Election returns.

(47.) SEC. XLIX. [*As amended by laws of 1856, page 55* 10.] 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, the use of initial letters 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 punished accordingly.

Clerk of board of commissioners to provide uniform poll-books.

(48.) SEC. L. 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 offenses; also containing blanks 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.

(a) See Township Organization act.

An Act to provide for the establishment of Election Precincts in Unorganized Counties.

[Passed March 1. 1852.] c. 39

(49.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* That whenever any number of voters not less than ten, residing in an unorganized or partially organized county, and not within twenty miles of an election precinct, shall petition the governor to establish a new precinct, it shall be the duty of the governor, and he is hereby authorized to lay out and establish new election precincts in the unorganized counties, in the manner that county commissioners are now required by law to do the same, at such place or places as the petitioners may require.

Precincts, how established.

(50.) SEC. II. The governor shall, within six weeks of every general and three weeks of every special election, publish in some newspaper printed in the territory, a list of all the election precincts by him so established, and the places where the elections are to be held.

List of, published.

(51.) SEC. III. All elections held at such precincts shall be conducted and returns made, as is now provided by law, for such precincts, as heretofore established by the governor in unorganized counties west of the Mississippi river.

Elections, how conducted.

UNITED STATES SENATORS.

An Act to provide for the election of United States Senators for the State of Minnesota.

[Passed Dec. 18, 1857.]

Thus enacted by the legislature of the state of Minnesota Dec. 18 1857

(52.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That on Saturday, the nineteenth day of December, A. D. 1857, at twelve o'clock M., and thereafter on the first Tuesday of January next, before the expiration of the time for which any senator or senators were elected to represent this state in congress, if the legislature be then in session and if not then within ten days after a quorum of both houses shall be assembled at the next meeting of the legislature, the senate and house of representatives of the state of Minnesota shall meet in joint convention in the hall of the house of representatives, to elect a senator or senators to represent the state of Minnesota in the senate of the United States, and when so assembled may adjourn from day to day, but shall not adjourn *sine die* until after such senator or senators are elected.

Time of election of United States senators.

(53.) SEC. II. On the assembling of the joint convention, as provided for in the preceding section, the speaker of the house of representatives shall call the convention to order, and preside over the convention. The clerk of the house shall then call the roll of the joint convention, and upon a majority of members being present, the convention shall then proceed to the election of one or more senators to the United States senate, as the case may be, and the person or persons receiving a majority of all the votes cast, shall thereupon be declared to have been duly elected as senator or senators, to represent the state of Minnesota in the senate of the United States.

Proceedings in joint convention.

(54.) SEC. III. At all elections in this state for United States senator or senators, the vote shall be taken *viva voce*, and the clerk shall enter each vote upon his journal, and upon the final declaration of the vote by the speaker, a certified copy of such election shall then be signed by the president of the senate and the speaker of the house, and attested by the secretary of the senate and chief clerk of the house, and within three days thereafter, said certificate of election duly signed and attested as herein provided, shall be presented by the speaker of the house of representa-

Manner of voting; certificate of election, by whom made.

tives, to the governor for his signature; and upon the signature of the governor being attached to said certificate of election, the same shall be delivered to the person or persons entitled to receive it under and by virtue of this act.

Notice of election to be given by governor.

(55.) SEC. IV. Upon the election of any person to the office of United States senator, it shall be the duty of the governor to notify, in writing, such person of his election; whereupon such person so elected shall notify the governor in writing, his acceptance or rejection of such office. And in the event of his refusal to accept said office, then said office shall be declared vacant, and the governor shall issue a writ for a new election; and if, at the time of such vacancy being declared, the legislature should be in session, they shall at once proceed to an election of United States senator, and in case of a vacancy occurring in the office of senator of the senate of the United States for this state during a vacation of the legislature, the governor of the state shall appoint some person or persons to fill such vacancy, until the next meeting of the legislature.

Take effect.

(56.) SEC. V. This act shall take effect from and after its passage.

PRESIDENTIAL ELECTORS.

An Act to provide for the election of Electors of President and Vice President of the United States.

[Passed August 12, 1858.] c. 86

Proclamation of election to be published in all the counties of the state.

(57.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That the governor of this state, sixty days previous to the time provided by this act, for the election of electors of president and vice president of the United States, shall by proclamation to be inserted in one of the newspapers printed in each county in this state, where any such paper is printed, give notice of the time of holding such election, and the number of electors of president and vice president there to be chosen.

Time of holding election; number of electors.

(58.) SEC. II. That the qualified electors of this state shall on the first Tuesday after the first Monday in November, A. D. 1860, and thereafter in every fourth succeeding year, assemble in their respective townships at the usual place designated for holding elections, and proceed to elect a number of electors of president and vice president of the United States, equal to the number of senators and representatives to which this state may be entitled in the congress of the United States, which shall commence and close at the same hours, and be conducted in the same manner, and of which the same notice shall be given as is or may be directed by law for electing members of the legislature of the state; but no senator or representative in congress, or person holding an office of trust or profit under the United States shall be eligible as an elector of president and vice president.

Returns of election; duty of judges of election.

(59.) SEC. III. That it shall be the duty of the judges of election in each township forthwith after the close of the elections, to seal up one of the poll books of the election, which shall be carried within three days after the day of election, to the register of deeds of the proper county, who shall attend the six days next succeeding the election at the seat of justice of his county, for the purpose of receiving poll books as aforesaid, and if the judges of election or any one of them shall fail to carry the poll book as aforesaid, they shall forfeit and pay to the state the sum of one hundred dollars to be recovered by civil action before any court having cognizance thereof.

Returns to secretary of state by registers of deeds.

(60.) SEC. IV. That the register of deeds upon receiving the poll books as aforesaid, shall administer an oath or affirmation to each judge

who shall deliver said poll book, that he was a judge of said election, and shall indorse a certificate of having administered such oath or affirmation on the poll book or packet delivered to him, and shall moreover give the judge delivering the poll book a receipt for the same, which receipt the judge shall file with the clerk of the proper county, and the said register of deeds on the receipt of the poll books shall deliver to the secretary of state at his office, within fifteen days after the election under the penalty of one thousand dollars, to be recovered as is provided in the third section of this act.

(61.) SEC. V. That the said poll books on the twentieth day after the election shall be opened by the secretary of state in the presence of the governor, and the aforesaid register of deeds or such of them as choose to attend. The secretary shall cause the poll books as they are opened to be read aloud, and shall make out a fair abstract of the names of the persons voted for, and the number of votes given to each, and the governor shall forthwith make out for the persons having the greatest number of votes, certificates of having been duly elected electors of president and vice-president of the United States, and transmit the proper certificates to each person so elected, and shall cause the election of electors to be published in the newspapers printed at the seat of government, but if more than the number of persons to be elected have the greatest and an equal number of votes, then the election of those having such equal number of votes shall be determined by lot, to be drawn by the secretary of state in the presence of the governor and registers of deeds aforesaid. The governor shall transmit the proper certificate and cause the publication to be made as aforesaid, and the said poll books shall be kept in the secretary's office subject to the inspection of any person who may choose to examine the same.

Canvass of the votes; how made.

(62.) SEC. VI. That the electors who shall be chosen as aforesaid, shall, at twelve o'clock, on the day which is or may be directed by the congress of the United States, meet at the seat of government of this state, and shall then and there perform the duties enjoined upon them by the constitution and laws of the United States.

Electors chosen to meet at the seat of government.

(63.) SEC. VII. That the several persons who shall be appointed to conduct the election of electors of president and vice-president of the United States, for neglect of duty or for improper conduct, be liable to the same penalties and forfeitures as are or may be provided by the law for regulating elections in this state.

Officers of election; penalty for neglect of duty.

(64.) SEC. VIII. That each elector of president and vice-president of the United States shall before the hour of twelve o'clock, on the day next preceding the day fixed by the law of congress to elect a president and vice-president of the United States, give notice to the governor that he is at the seat of government, and ready at the proper time to perform the duties of an elector, and the governor shall forthwith deliver to the electors present a certificate of all the names of the electors, and if on examination thereof, it shall be found that one or more of said electors are absent and shall fail to appear before nine o'clock in the morning of the day of election of president and vice-president as aforesaid, the electors then present shall immediately proceed to elect by ballot in the presence of the governor, a person or persons to fill such vacancy or vacancies as may have occurred through the non-attendance of one or more of the electors.

Electors to give notices of their presence to the governor; vacancies how filled.

(65.) SEC. IX. That if more than the number of persons required to fill the vacancy or vacancies as aforesaid, shall have the greatest number and an equal number of votes, then the election of those having such equal and highest number of votes shall be determined by lot to be drawn

Vacancies; ties; decision by lot.

by the governor, in the presence of the electors attending: otherwise he or they to the number required having the greatest number of votes shall be considered elected to fill such vacancy or vacancies.

Persons chosen to fill vacancies shall be notified by governor, and shall meet with electors.

(66.) SEC. X. That immediately after such choice is made in the manner aforesaid, the name or names of the persons so chosen shall forthwith be certified to the governor by the electors making such choice, and the governor shall cause immediate notice to be given to each and every of the electors chosen to fill such vacancy or vacancies, as aforesaid, and the said person or persons in whose place he or they may or shall have been chosen shall be electors, and shall meet the other electors at the same time and place, and then and there discharge all and singular the duties enjoined on him or them as electors aforesaid, by the constitution and laws of the United States and of this state.

Per diem and mileage of electors.

(67.) SEC. XI. That each and every elector who shall attend as an elector at the seat of government, as aforesaid, shall be entitled to receive three dollars for each and every day's attendance, and three dollars for every twenty miles travel, of the estimated distance by the most usual route from his place of residence to the seat of government, and the like sum of returning, which sum shall be allowed by the auditor on the certificate of the governor, and paid by the treasurer out of any money in the treasury not otherwise appropriated.

Pay of judges and clerks of election.

(68.) SEC. XII. That the judges and clerks of the township election held under this act, and the register of deeds of the different counties shall be paid the like compensation out of their respective counties treasuries, and in like manner as they are entitled to for similar services, under an act entitled "an act to regulate elections."

Take effect.

(69.) SEC. XIII. This act to take effect and be in force from and after its passage.

An act prescribing the manner of Contesting the Election of County, Town, District, and Precinct Officers.

Repealed 1866 by [Chapter 6, Revised Statutes.] 18/1/64

Notice may be given by person wishing to contest the election.

(70.) SEC. I. Any person wishing to contest the election of any person to any county, township, or precinct office, except the office of chairman of the board of county commissioners, may give notice in writing to the person whose election he intends to contest, that his election will be contested, and stating the cause of such contest briefly, within thirty days from the time said person shall claim to have been elected.

Notice, what to contain.

Notice, how served.

(71.) SEC. II. Said notice shall be served in the same manner as a summons issued by a district court, ten days before any hearing upon such contest as herein provided, shall take place, and shall state the time when and the place where such hearing shall be had; upon the return of said notice, served, to the clerk of the district court of such county, who shall thereupon enter the same upon the issue docket as an appeal case, the same shall be heard in its order by the court: *provided*, that if the case cannot be determined by the district court in term time within one month after the termination of such election, the judge of the district court may hear and determine the same at chambers as soon thereafter as may be practicable, and shall make all necessary orders for the trial of the case, and carrying his judgment into effect: *provided*, that this section shall not apply to township or precinct officers.

Proviso.

Town and precinct officers, before whom contested.

(72.) SEC. III. In case of contest between any persons claiming to be elected to any township or precinct office, except as aforesaid, said notice shall be served in manner as aforesaid in the foregoing sections, and

shall be returned to the judge of probate of the county in which such parties reside.

(73.) SEC. IV. Upon the return of said notice to the said judge of probate, and on the day and at the place therein named, the said judge of probate of the county shall hear and determine such contest, and make all necessary orders for the trial of the cause and carrying his judgment into effect. Judge of probate, how to proceed.

(74.) SEC. V. Each party shall be entitled to subpoenas and subpoenas *duces tecum*, as in ordinary cases at law; and the court shall hear and determine (without the intervention of jury) the same in such manner as shall carry into effect the expressed will of a majority of the legal voters as indicated by their votes for such office, not regarding technicalities or errors in spelling the name of any candidate for such office. And the clerk of said court, or any judge of probate, shall issue a certificate to the person declared to be duly elected by said court, which shall be conclusive evidence of the right of said person to hold said office: *provided*, that the judgment, or decision of the district court in term time, or the decision of a judge thereof in vacation, as the case may be, may be removed to the supreme court by a writ of error, or in such other manner as is provided for removing causes from the district to the supreme court, and: *provided further*, that appeals may be taken from the decision of a judge of probate to the district court as in probate cases; in all which cases the party removing any such judgment or decision by writ of error or appeal, shall file in the proper court a bond to the opposite party in such sum, and with such sureties, as shall be prescribed by a judge thereof, conditioned for the payment of all costs that may be properly taxed against him. Each party entitled to subpoenas, &c.
Clerk and judge of probate to issue certificate of election.
Writ of error and appeal allowed.

(75.) SEC. VI. This chapter shall not be construed so as to impair in any way, the right of any person to contest any election in the manner otherwise provided by statute. This chapter, how construed.

CHAPTER 7.

COUNTY OFFICERS.

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| <p>SECTION</p> <ol style="list-style-type: none"> 1. Penalty for neglect of duty. 2. General powers and duties of county commissioners. 3. Commissioners may hold extra sessions not exceeding three days. 4. Commissioners to use an official seal. 5. County commissioners, general duties of. 6. To elect a chairman; chairman to sign all documents. 7. At the annual session in January, to select grand and petit jurors; proviso. 8. If jury list not made at January session, may be made at the session thereafter. 9. Duty of commissioners in preparing such list. 10. At January session the board to make statement of the finances of the county. 11. Commissioners to provide offices for county officers, and books and stationery. | <p>COMMISSIONERS.</p> | <p>SECTION</p> <ol style="list-style-type: none"> 12. Commissioners may remove clerk in certain cases; commissioners may fill vacancy in office of clerk. 13. To receive and inspect assessment roll and correct the same. 14. Commissioners to determine the rates of taxation. 15. Board of, to be vested with superintendence of the poor of the county. 16. Commissioners may appoint overseers of the poor. 17. Appeals from decision of board of commissioners. 18. Appeal where heard, and when. <p style="text-align: center;">REGISTERS OF DEEDS.</p> <ol style="list-style-type: none"> 19. Register of deeds to be elected; term of service. 20. Bond and oath of office to be filed. 21. To deliver over books and papers to his successor. |
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