

THE
STATUTES AT LARGE
OF THE
STATE OF MINNESOTA

COMPRISING

THE GENERAL STATUTES OF 1866

As amended by subsequent Legislation to the close of the Session of 1873

TOGETHER WITH

ALL LAWS OF A GENERAL NATURE IN FORCE, MARCH 7, A.D. 1873

WITH REFERENCES TO

JUDICIAL DECISIONS OF THE STATE OF MINNESOTA, AND OF OTHER
STATES WHOSE STATUTES ARE SIMILAR

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT,
THE ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA

VOL. I.

COMPILED AND ARRANGED BY

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1873

CHAPTER IV.

OF ELECTIONS OTHER THAN FOR TOWN OFFICERS.

(This Chapter is Chapter I. of the Statutes of 1866.)

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TITLE I.

OF QUALIFICATIONS AND PRIVILEGES OF ELECTORS.

SECTION 1. (*Vide* Art. 7 of the Constitution of the State of Minnesota, and Art. 15 of the Amendments to the United States Constitution, *supra*.)

TITLE II.

OF GENERAL AND SPECIAL ELECTIONS.

SEC. 2 (1). *Time of holding election, officers to be elected.*—On the first Tuesday after the first Monday of November, in each year, an election shall be held in the several election districts of the state, which shall be known as the annual election. And the several state and county officers, judges of the supreme and district courts, members of the legislature, and representatives in the congress of the United States, shall be elected at the annual election next preceding the expiration of the term of each of the said officers respectively; and on the year when a president and vice-president of the United States are to be chosen, 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 is entitled in the congress of the United States, shall be elected at said election.

SEC. 3 (34). *Special election called to fill vacancy and in case of a tie.*—Whenever there is no election of any state officer, or of the requisite number of members of the senate or house of representatives, by reason of any two or more persons having an equal and the highest number of votes, or whenever any vacancy occurs in any of the said offices, or of the office of representative in congress, which said vacancy is not otherwise provided for, the governor within ten days after he is informed of the existence of such vacancy, shall issue a proclamation directing that a special election be held in the proper election district, at a time to be specified in the proclamation, not more than thirty days from the date thereof, to fill such vacancy. And the clerks of election of said election district shall call the said special election in the manner provided by law, and the same shall be held and conducted and the returns thereof made and canvassed in the same manner as general elections are held and conducted and the returns thereof made and canvassed: *provided*, if there is no session of the legislature or of congress between the time of the happening of such vacancy and the then next annual election occurring fifteen days or more thereafter, such vacancy shall be filled at said annual election.

Vide 20 Wis. 235; 22 Wis. 363.

SEC. 4 (35). *Auditor to send abstract, penalty for neglect.*—In elections to fill any vacancy under the preceding section, the auditor shall, within fifteen days

after such election, transmit abstracts of the votes given, to the office of the secretary of state, and take his receipt therefor, under the penalty of five hundred dollars, to be recovered in a civil action in the name of the county; and the county treasurer for the time being shall sue for and recover the penalty aforesaid, for the use of the county.

SEC. 5 (39). *Vacancy in legislature, how filled.*—If a vacancy occurs in the senate or house of representatives from any cause, and if the county comprising the district in which such vacancy exists has 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 is 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 occurred.

TITLE III.

OF THE MANNER OF CONDUCTING ELECTIONS.

SEC. 6 (2). *What constitutes an election district—judges of election, how appointed.*—Every organized township and every ward of an incorporated city is an election district. The township supervisors of each township are the judges of election, and the town clerk of each township shall act as one of the clerks of election in their respective election districts, and the judges shall appoint an additional clerk of election, who shall be of an opposite party, if practicable, to the town clerk. The city council of each incorporated city shall appoint three qualified electors of each election district of said city, who shall be the judges of election in their election districts respectively, and who shall appoint two qualified electors of their election districts as clerks of election: *provided*, that in the cities of Saint Paul and Rochester, the aldermen in each ward shall be the judges of election in their respective election districts, and shall appoint two qualified electors of each ward respectively, who shall be the clerks of election. The election shall be held in each election district, at the place where the last preceding town meeting or ward election was held, but if a vote is taken to hold it elsewhere, the election shall be held at the place designated: *provided*, the city council of any incorporated city may, by ordinance, incorporate any two adjoining wards into one election district, and appoint the place of holding the election in such district, and in any township having over five hundred electors, the supervisors may divide the same into two election districts and designate the boundaries thereof, and thereafter there shall be elected at the annual town meeting of such township, three judges of election, and two clerks of election in each district, and the place of holding election in each district shall be designated by said town meeting, or in default of such designation shall be appointed for each district by the judges of election thereof.

SEC. 7 (3). *Supervisors to provide ballot box.*—The supervisors of the several townships, and the city council of the several cities, shall procure at the expense of the said townships and cities respectively, a ballot box for each election district destitute of the same, which box shall be provided with a lock and key, and have an opening through the lid, of sufficient size to admit a single folded ballot and no

more; and the said box shall be kept by the town clerk of each township, and by the city clerk of each city, for the use of the judges of election in the said election districts respectively.

SEC. 8 (4). *Who shall give notice of election.*—Each township and city clerk, fifteen days at least before the holding of any general election, and ten days at least before the holding of any special election, shall give public notice of the time and place of holding such election, by posting in three public places in each election district, three notices containing a list of the officers to be elected at such election, one of which notices shall be posted up at the place of holding the election; the said notices to be in substance as follows, to wit:

“Notice is hereby given, that on the _____ day
of _____ 18____, at the _____
in the election district composed of the (township, ward, or town, as the case may
be,) of _____ in the county
of _____ an election will be opened at nine o'clock in the
morning, and will continue open until five o'clock in the afternoon of the same day.

Dated this _____ day of _____ 18____

Signed,

A. B. (Township, City, or Town Clerk.)”

Provided, that no failure of any clerk to give notice as aforesaid, shall in any manner invalidate any election.

Taylor v. Taylor, 10 Minn. 107.

Vide also 20 Wis. 238; 23 Wis. 363.

SEC. 9 (5, AS AMENDED BY THE ACT OF MARCH 10, 1873). *Duties of judges of election.*—The judges of election in each election district, at least fifteen days before any election, shall make a list of the names of all persons who are entitled to vote in their respective election districts at such election, which said list shall contain the surnames of such persons in alphabetical order. Three copies of said list shall, at least ten days before such election, be posted in three public places in each election district, together with a notice of the time and place when and where the said judges of election will be present for the purpose of making corrections in said list. The said judges of election, on each Wednesday next preceding such election, and for the next three days, from the hour of nine in the forenoon to four in the afternoon, and in cities containing a population of four thousand inhabitants and upwards, in addition thereto, from the hour of eight in the forenoon to the hour of ten in the evening, and on the day immediately preceding such election, from the hour of nine in the forenoon to nine in the afternoon, and for two hours next preceding the opening of the polls on the day of such election, shall be present at the place appointed for the holding of such election in their respective election districts, for the purpose of making corrections in said list. In making such corrections the said judges of election shall insert upon such list the additional names of all persons properly shown to be entitled to vote at such election, and erase from said list the names of all persons properly shown not to be entitled to vote at such election. The said judges in first making out said list shall consult the poll lists used at the last preceding election in their respective election districts, and shall place on said list the names of all persons whom they know or with reasonable diligence ascertain to be entitled to vote at such election in their respective election districts. In making the final corrections of said lists to ascertain who are entitled to vote at

such election, the said judges shall be governed by the rules and regulations herein-after for that purpose prescribed; and at such election no person shall vote whose name is not upon the said list at the time of opening the polls, and the vote of no person shall be rejected whose name is upon said list at the time of opening the polls: *provided*, if any person offers to vote at such election whose name is not upon said list, and who is by all the judges personally known to have the qualifications of an elector in said district, and entitled to a vote at such election, but whose name has been accidentally omitted from the said list, then the name of such person shall be added to said list, and he shall be allowed to vote, but in all such cases an entry shall be made opposite the name of such person of the fact that the said name was inserted in said list after the opening of the polls. And the judges of election shall make or cause to be made a duplicate of said list, so that there shall be two register poll lists at every election.

S. L. 1873, 166.

SEC. 10 (65). *Challenge, proceedings on.*—If any person offering his name to be put on the list of electors is challenged as unqualified by one of the judges of election, or by an elector, one of the judges shall tender to him the following oath: “You do swear” (or affirm, as the case may be) “that you will fully and truly answer all such questions as shall be put to you touching your place of residence, and qualifications as an elector at this election.”

First. If the person is challenged as unqualified, on the ground that he is not a citizen, and has not declared his intention to become such, the judges, or one of them, shall put the following questions:

1st. Are you a citizen of the United States?

2d. Are you a native or naturalized citizen?

3d. Have you declared your intention to become a citizen of the United States, conformably to the laws of the United States upon the subject of naturalization?

If the person so offering his name claims to be a naturalized citizen of the United States, he shall, before his name is inserted on the list, produce, for the inspection of the judges of the election, a certificate of his naturalization, and also state, under oath, that he is the identical person named therein. But the production of such certificate shall be dispensed with if the person so offering his name states, under oath, when and where he was naturalized, that he has had a certificate of his naturalization, and that the same is lost, destroyed, or beyond his power to produce to the judges of election: *provided*, that if he states, under oath, that by reason of the naturalization of his parents, or one of them, or that being born of American parents in foreign parts he has become or is a citizen of the United States, and also states when and where his parent or parents were naturalized, the certificate of said naturalization need not be produced.

Second. If the person is challenged as unqualified on the ground that he has not resided in the state for four months immediately preceding the election, the judges, or one of them, shall put the following questions:

1st. Have you resided in this state for four months immediately preceding this election?

2d. Have you been absent from this state within the four months immediately preceding this election? If yes, then,

3d. When you left did you leave for a temporary purpose, with the design of returning, or for the purpose of remaining away?

4th. Did you, while absent, regard this state as your home?

5th. Did you, while absent, vote in any other state?

Third. If the person is challenged as unqualified on the ground that he is not a resident of the election district where he so offers his name, the judges, or one of them, shall put the following questions:

1st. When did you last come into this election district?

2d. When you came into this district, did you come for a temporary purpose merely, or for the purpose of making it your home?

3d. Did you come into this district for the purpose of voting here?

4th. Are you an actual resident of this district?

Fourth. If the person is challenged on the ground that he is not twenty-one years of age, the judges, or one of them, shall put the following question:

Are you twenty-one years of age, to the best of your knowledge and belief?

The judges of election, or one of them, shall put such other questions to the person challenged, under the respective heads aforesaid, as may be necessary to test his qualifications as an elector at that election.

Vide 20 Wis. 544.

SEC. 11 (66). *Person refusing to answer, not allowed to vote.*—If the person challenged as aforesaid refuses to answer fully any question which is put to him as aforesaid, the judges shall refuse to insert his name on the poll list, and he shall not be allowed to vote.

SEC. 12 (67). *Oath to be administered to person challenged.*—If the challenge is not withdrawn after the person so offering his name has answered the questions put to him as aforesaid, one of the judges of the election shall tender him the following oath:

“You do swear” (or affirm, as the case may be) “that you are a citizen of the United States, of the age of twenty-one years, or have declared your intention to become such citizen conformably to the laws of the United States on the subject of naturalization, that you have been an inhabitant of this state for four months immediately preceding this election, and an actual resident of this election district for the ten days immediately preceding this election.”

Vide 12 Wis. 519.

SEC. 13 (68). *Person refusing to swear, not allowed to vote.*—If any person refuses to take the oath so tendered, his name shall not be inserted on the poll list, and he shall not be allowed to vote.

SEC. 14 (69). *Judge of election to challenge, when.*—Each judge of election shall challenge every person offering to have his name inserted on the poll list, or to vote at any election, whom he knows or suspects not to be duly qualified as an elector.

SEC. 15 (6). *Judges refusing to serve, electors to choose others.*—If either of the judges of election of any election district fails to attend at the time and place appointed for correcting said list, or holding any election; or if either of said judges is a candidate at such election, or refuses to act as judge, the qualified electors of the said election district present, shall choose *viva voce* some qualified elector of said election district to act as judge, instead of such judge so absent.

disqualified, or refusing to act; and if any clerk of election is absent, disqualified, or refuses to act, the judges of election shall appoint some qualified elector in place of such clerk. And before any judge or clerk of election enters upon the performance of any of the duties imposed upon him by this chapter, he shall take and subscribe an oath in the following form, to wit: "I, A. B. (judge or clerk of election, as the case may be), do solemnly swear (or affirm) that I will perform the duties of (judge or clerk of election, as the case may be), according to law and the best of my ability; and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting this election, so help me God," which said oath so taken, subscribed, and certified, shall be affixed to the said list provided for in the last preceding section. If there is no person present authorized to administer oaths, then the judges of election may administer to each other and to the clerks the oath above provided.

SEC. 16 (7). *Time of opening and closing polls.*—At all elections to be held under this chapter, the polls shall be opened at nine o'clock in the forenoon, and remain open until five o'clock in the afternoon.

SEC. 17 (8). *Fees of judges and clerks of election.*—At all elections to be held under this chapter, the judges and clerks of election shall receive as a compensation for their services in such election, the sum of two dollars each per day, to be paid out of the treasury of the proper township, city, or town.

SEC. 18 (9). *Inspection of ballot box.*—The judges of election, or one of them, immediately before proclamation is made of the opening of the polls, shall open the ballot boxes in the presence of the people there assembled, and turn them upside down, so as to empty them of everything that is in them, and then lock them; and the key thereof shall be delivered to one of the judges, and said box shall not be re-opened until for the purpose of counting the ballots therein, at the close of the polls, and one of the judges shall forthwith proclaim that the polls are open.

SEC. 19 (10). *Voting to be by ballot—one ballot to contain names of all candidates voted for.*—Every elector shall vote by ballot, and each person offering to vote shall deliver his ballot to one of the judges, in the presence of the board. The ballot shall be a paper ticket, containing, written or printed, or partly written and partly printed, the names of the persons for whom the elector intends to vote, and designating 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, and the names of all persons voted for by an elector shall be on one ballot.

SEC. 20 (11). *Judge to pronounce name of person voting—clerk to check name on list.*—The judge to whom any ballot is delivered shall, upon the receipt thereof, pronounce with an audible voice the name of the person from whom the ballot is so received, and if the name of the person is found upon the list of electors aforementioned, the said judge shall, without opening the said ballot or permitting the same to be opened or examined (except to ascertain whether it is a single ballot), deposit the same in the ballot box, and the clerks of the election shall thereupon distinctly check the name of the said person upon the said lists.

TITLE IV.

OF CANVASSING AND DECLARING THE RESULT.

ARTICLE I.

OF DISTRICT CANVASS.

SEC. 21 (12). *Notice of closing polls to be given—canvass to be public and without adjournment.*—As soon as the polls are finally closed (of which closing proclamation shall be made by the judges thirty minutes previously thereto), the judges shall immediately proceed to canvass the vote given at such election, and the said canvass shall be public and continued without adjournment until completed, and the result thereof declared.

SEC. 22 (13). *Canvass how made—ballots to be made to agree with names on poll list.*—The canvass shall commence by taking out of the box the ballots unopened (except so far as to ascertain whether each ballot is single), and counting the same to ascertain whether the number of ballots corresponds with the number of names on the list checked as aforesaid; and if two or more separate ballots are found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballots is completed; then, if upon a comparison of the said count with the number of names of electors on the lists which have been checked as aforesaid, it appears that the two ballots thus folded together were cast by one elector, they shall be destroyed. If the ballots in the box are still found to exceed in number the names on the list checked as aforesaid, they shall be replaced in the box, and one of the judges shall publicly and without looking in the box, draw out therefrom singly, and destroy unopened, a number of ballots equal to such excess. The number of ballots agreeing, or being thus made to agree with the number of names on said list, the list shall be signed by the judges and attested by the clerks, and the number of names thereon checked as aforesaid, shall be set down in words and figures at the foot of said list, and over the signatures of the judges, and the attestation of the clerks, in the manner hereinafter provided, in the form of said list.

Vide 23 Wis. 430.

SEC. 23 (14). *Counting of votes, preservation of tickets, form of return.*—After the said list is thus signed, the judges shall proceed to count and ascertain the number of votes cast for each person voted for, and the ticket shall then be distinctly read, and as soon as read and canvassed shall be strung by one of the judges upon a string, and deposited in the office of the town or city clerk, and carefully preserved until the next general election, and the clerk shall set down on a paper to be known as the returns of the election, the name of every person voted for, written at full length, the office for which such person received such votes, and the number of votes he received—the number being expressed at full length, and also in figures. The said returns shall be as nearly as circumstances will admit, in the following form, viz :

“At an election held at _____ in the election district composed of the (township, ward, or town, as the case may be), of _____ in the county of _____

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in the state of Minnesota, on the day of 18 , the following named persons received the number of votes set opposite their respective names, for the following described offices, to wit :

A. B. received (the number in figures and also at full length) votes for (specifying the office) and (in like manner for each person voted for, for any office).

Certified by us,

A. B.,

C. D.,

E. F., judges of election.

Attest : A. B.,

G. H., clerks of election."

SEC. 24 (15). *Ballot void, when.*—If a ballot is found to contain a greater number of names for any one office than the number of persons required to fill the said office, the said ballot shall be considered void, as to all the names designated to fill such office, but no further ; but no ballot shall be void for containing a less number of names than is authorized to be inserted thereon.

SEC. 25 (16). *Form of list of electors, where deposited.*—The list of electors provided for in this chapter shall be substantially in the following form, to wit :

"List of qualified electors in the election district composed of the (township, ward, or town, as the case may be,) of , in the county of , state of Minnesota, for an election to be held in the said election district, on the day of , 18 .

A. B.,

B. C.,

C. D. (the surnames in alphabetical order.)

The whole number of the above-named persons who were present and voting at the above-named election was (amount written out in full, and also in figures).

Certified by us,

A. B.,

C. D.,

E. F., judges of election.

Attest : A. B.,

G. H., clerks of election."

After said lists have been used at the election for which they were made out, one of them shall be deposited and kept in the office of the township, city, or town clerk of the election district in which the same belongs, and shall be subject to the inspection of all persons, and the other shall be transmitted to the county auditor, to be by him carefully preserved in his office.

SEC. 26 (17). *Returns, where sent, when and how.*—After the canvass is thus completed, the judges of election, before they disperse, shall inclose the said returns in a cover, seal the same, and indorse thereon the following words, viz. : "Election returns of the election district of in the county of ," and direct the same to the county auditor of their county ; and the said returns shall, within five days from the day of election, be conveyed by one of said judges, to be chosen by lot, if not otherwise agreed upon, and delivered to the said county auditor at his office : *provided*, that the returns of election in unorganized counties shall be made to the auditor of the county to which they are attached for elective purposes, and the votes shall be canvassed and certificates of election issued to the persons elected in the manner provided in this chapter for canvassing votes and issuing certificates of election in organized counties.

SEC. 27 (18). *Penalty for failure to deliver returns.*—If any judge of election deputed to convey and deliver the returns as aforesaid, fails or neglects to deliver the same to the said auditor, within the time prescribed by law, safe, with the seals unbroken, he shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of five hundred dollars, or by imprisonment in the county jail not more than one year nor less than six months.

ARTICLE II.

OF COUNTY CANVASS.

SEC. 28 (19). *Canvassing board, what constitutes, duties.*—The county auditor and two justices of the peace of his county, by him selected, constitute the county canvassing board, and on or before the tenth day after the election, said board shall proceed to open and publicly canvass the several returns made to the auditor's office. The abstracts of the votes cast for governor and lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney general, judges and clerk of the supreme court, and judges of the district court, and all other state officers, shall be on one sheet, and being certified and signed by the auditor and justices of the peace, shall be deposited in said auditor's office, and two copies thereof shall be certified under the official seal of the auditor, one of which shall be enclosed, and directed to the secretary of state, and forwarded immediately to the seat of government by mail, and the other shall be delivered to the member of the legislature to be by him conveyed to the secretary of state; and the auditor shall indorse on the envelope, on the outside of each duplicate, "Certificate of the votes for governor, lieutenant-governor, secretary of state, treasurer of state, attorney general" (and any other state officer, as the case may be), and the name of the county in which said votes are given.

State *ex rel* Biggs v. Churchill, 15 Minn. 455.

SEC. 29 (29). *What persons to be declared elected—appeal, how taken.*—At the close of the canvassing, as provided in section nineteen,* the board of canvassers shall declare the person having the highest number of votes for any county office duly elected, subject to an appeal to the district court of the proper county, provided that notice of such appeal shall be entered with the clerk of said court within twenty days from the day of election; and in case said county contains a senatorial or representative district, then the person having the highest number of votes for senator or representative shall be declared by said board duly elected.

Baberick v. Magner, 9 Minn. 232.

SEC. 30 (30). *County auditor to give certificate without fee.*—The county auditor shall make out for each county officer elected, and also for each of the senators and representatives elected to the legislature, if such county constitutes a senatorial district, a certificate of his election, and shall deliver the same to the person entitled thereto, upon demand without fee; and he shall also make out for any candidate or elector of his county an abstract of votes as aforesaid, upon being paid one dollar therefor.

SEC. 31 (AS AMENDED BY ACT OF FEBRUARY 24, 1872). *County auditor to make abstracts of votes for members of the legislature.*—The county auditor of each

* Sec. 28 of this compilation.

county which does not constitute a representative or senatorial district shall make out from the returns in his office an abstract of the votes for members of the senate and house of representatives, which he shall seal and direct to the county auditor of the senior county in his representative or senatorial district respectively; and if there are two or more counties in such district of the same age, then such returns shall be directed to the auditor of the county polling the greatest number of votes at the last preceding general election, except in the case hereinafter provided; and said auditor shall indorse on the outside of the cover thereof the following words: "Abstract of votes for member of the senate (or house of representatives, as the case may be) of the county of _____," and sign his name thereto, and forward such abstract to the proper auditor within fifteen days after the day of election: *provided*, that the returns and abstracts of votes for members of the legislature of the twenty-fifth district shall be made to and canvassed by the auditor of Anoka county, and the same rules shall be observed as to calling other officers to his assistance, and the manner of opening and canvassing the returns and awarding certificates of election by the auditor of said Anoka county as are to be observed in other cases provided in section thirty-two of said chapter.

S. L. 1872, 121.

SEC. 32 (AS AMENDED BY ACT OF MARCH 1, 1867). *County auditors to meet, when and where—shall make certificates of election.*—When two or more counties are comprised in one senatorial district, the auditor of the senior county, or of the county wherein it is provided the returns are to be made, shall, on the twenty-fifth day after the election, with the county auditors of such other counties of the district as choose to attend at his office, call to his assistance two justices of the peace and a probate judge (provided such judge resides at the county seat where the returns are made), and shall then and there open the returns of the votes given in the several counties, or portions of counties composing such senatorial district; and said auditors shall immediately make out certificates of election for the persons having the highest number of votes in such senatorial district, for members of the legislature, which certificate shall be delivered to the person entitled thereto: *provided*, that the returns and abstracts of votes for members of the house of representatives elected separately in each county of the sixteenth senatorial district shall be made to and canvassed by the auditor of each county respectively, and each auditor shall immediately make out a certificate of election for the person having the highest number of votes in the proper county, which certificate shall be delivered to the person entitled thereto on his application to the auditor as aforesaid: *provided* also, that in the third senatorial district the returns of the votes for representative in Stearns county shall be made to and canvassed by the county auditor of said county, and the returns of the vote for representative in the balance of the territory in said district shall be made to and canvassed by the county auditor of Morrison county.*

S. L. 1867, 136.

SEC. 33. *Form of abstract—election not to be set aside for want of form.*—The following is the form of the abstract of votes provided for herein, to be used by all county canvassing boards; but no election shall be set aside for want of form in the abstracts, provided they contain the substance.

* By an act passed March 4, 1871, the senatorial districts were remodeled, making the proviso of this section inapplicable as the districts are now formed.

MINNESOTA STATUTES 1873 SUPPLEMENT

A B S T R A C T.

NAMES OF PERSONS VOTED FOR, AND FOR WHAT OFFICE, CONTAINING THE NUMBER OF VOTES GIVEN FOR EACH CANDIDATE.

PRESIDENTIAL ELECTORS,	S	No. Votes.
	T	No. Votes.
	U	No. Votes.
	V	No. Votes.
GOVERNOR,	A	No. Votes.
	B	No. Votes.
LIEUTENANT-GOVERNOR,	C	No. Votes.
	D	No. Votes.
SECRETARY OF STATE,	E	No. Votes.
	F	No. Votes.
AUDITOR OF STATE,	G	No. Votes.
	H	No. Votes.
TREASURER OF STATE,	I	No. Votes.
	J	No. Votes.
ATTORNEY GENERAL,	K	No. Votes.
	L	No. Votes.
JUDGES SUPREME COURT,	M	No. Votes.
	N	No. Votes.
CLERK SUPREME COURT,	O	No. Votes.
	P	No. Votes.
MEMBERS OF CONGRESS,	Q	No. Votes.
	R	No. Votes.
MEMBERS OF THE STATE LEGISLATURE.	S	Represent- atives.
	T	No. Votes.
LEGISLATURE.	U	Senators.
	V	No. Votes.
JUDGES DISTRICT COURT,	W	No. Votes.
	X	No. Votes.
PROBATE JUDGE,	Y	No. Votes.
	Z	No. Votes.
SHERIFF,	A	No. Votes.
	B	No. Votes.
CORONER,	C	No. Votes.
	D	No. Votes.
COUNTY AUDITOR,	E	No. Votes.
	F	No. Votes.
COUNTY COMMISSIONER,	G	No. Votes.
	H	No. Votes.
COUNTY TREASURER,	I	No. Votes.
	J	No. Votes.
REGISTER OF DEEDS,	K	No. Votes.
	L	No. Votes.
COUNTY SURVEYOR,	M	No. Votes.
	N	No. Votes.
COUNTY ATTORNEY,	O	No. Votes.
	P	No. Votes.

We do hereby certify that A. B. had votes for Governor ; C. D. had votes for Governor ; E. F. had votes for Lieutenant-Governor, &c. (writing the vote at length and in figures.)

ATTEST :

C. D., }
E. F., } Justices of the Peace.

A. B., Auditor.

SEC. 34 (36). *When auditor is prevented, judge of probate to canvass returns.*—Whenever the auditor, from any cause, is prevented from opening the returns of votes at any election, it shall be the special duty of the probate judge of the county in which such election was held, to attend immediately at the auditor's office with two justices of the peace of the proper county, by him selected, and proceed to open all the returns of elections for such county, which have been made to the auditor's office, and perform the same duties that are required of the auditor in such cases, under the provisions of this chapter.

SEC. 35 (37). *Election by lot in case of a tie.*—If for any county office a number of persons greater than is directed to be elected to such office, receives an equal and the highest number of votes, the auditor and justices, or judge and justices aforesaid, shall determine, publicly, by lot, which of the persons shall be declared elected.

SEC. 36 (38). *Fees of auditors.*—There shall be allowed out of the county treasury of each county, to the person carrying the returns from the place of the election to the auditor of the county, the sum of ten cents per mile for going to and returning from the office of the auditor; this provision to extend to the unorganized counties, and to be paid out of the treasury of the county to which they are attached.

SEC. 37 (40). *No election returns to be rejected for informality.*—No election returns shall be refused by any auditor for the reason that the same are returned or delivered to him in any other than the manner directed herein; nor shall the canvassing board of the county refuse to include any returns in their 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 canvassing board and included in the abstracts, provided there is a substantial compliance with the provisions of this chapter.

Taylor v. Taylor, 10 Minn. 107; Edson v. Child, 18 Minn. 35L

ARTICLE III.

OF FINAL CANVASS BY OFFICERS OF STATE.

SEC. 38 (20). *Abstracts of votes to be delivered to the speaker—canvass of votes.*—Immediately after the organization of the house of representatives, the secretary of state shall deliver one of said copies to the speaker, who shall within three days after each house is organized cause the abstracts of the votes so received to be opened and canvassed before both houses of the legislature, in conformity with the provisions of the second section of article five of the constitution.

State ex rel Biggs v. Churchill, 15 Minn. 455.

SEC. 39 (21). *Abstracts of votes for county officers to be made on one sheet, where sent.*—The abstracts of the canvass of votes for probate judges, sheriffs, coroners, county auditors, county treasurers, registers of deeds, county surveyors, clerks of the district court, county attorneys, court commissioners, county commissioners, and all such other officers as now are, or hereafter may be, provided for in any of the counties or districts of the state, and of the votes upon any proposed change of county lines or county seat, shall be made on one sheet, and being certified and

signed in the manner required in section nineteen aforesaid, shall be deposited in the said auditor's office, and a copy thereof, certified as aforesaid, immediately inclosed and forwarded to the secretary of state; and if any proposed change of county lines has been adopted, the governor shall forthwith make proclamation to that effect.

State ex rel Biggs v. Churchill, 15 Minn. 455.

TITLE V.

OF ELECTION OF MEMBERS OF CONGRESS AND PRESIDENTIAL ELECTORS.

SEC. 40 (22). *Abstracts of votes for members of congress and electors to be made on one sheet, where sent.*—The abstracts of the votes for members of congress and electors of president and vice-president of the United States, shall be made on one sheet, and being certified and signed in the same manner as in case of abstracts of votes for county officers, shall be deposited in the said county auditor's office, and a copy thereof, certified as aforesaid, shall be inclosed, directed to the secretary of state, and indorsed on the outside of the envelope, with these words: "Abstract of votes for (naming the officers) returned to the auditor's office of (inserting the name of the county) county," and the said auditor's signature; and the said auditor shall forward the same to the secretary of state, within eleven days after such election.

SEC. 41 (23). *Returns to be opened, when and by whom—Proceedings in case of tie, duty of governor.*—Within twenty days after said election, the governor and secretary of state, in the presence of the auditor of state, the attorney general, and one or more judges of the supreme court, shall open the returns made to the secretary of state, for members of congress and for electors of president and vice-president of the United States; and shall forthwith proceed to ascertain the number of votes given to the different persons for said offices, and the persons having the highest number of votes shall be considered duly elected; but if it appears that more than the number of persons to be elected have the highest and an equal number of votes, the secretary of state, in the presence of the governor and officers aforesaid, shall decide by lot which of said persons shall be elected, and to each person duly elected the governor shall give a certificate of election signed by him, sealed with the great seal, and countersigned by the secretary of state, and shall transmit the said certificates to each person so elected, and cause the election of electors to be published in the newspapers printed at the seat of government, immediately after said canvass is completed.

SEC. 42 (24). *Electors, when and where to meet.*—The electors 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 then and there perform the duties enjoined upon them by the constitution and laws of the United States.

SEC. 43 (25). *Duties of electors, penalty.*—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, 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 any elector named therein fails 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, persons to fill such vacancies.

SEC. 44 (26). *Vacancy, how filled.*—If more than the number of persons required to fill the vacancies as aforesaid, have the highest, and an equal number of votes, then the governor, in the presence of the electors attending, shall decide by lot which of said persons shall be elected; otherwise they, to the number required having the greatest number of votes, shall be considered elected to fill such vacancies.

SEC. 45 (27). *Persons elected to fill vacancies to be notified.*—Immediately after such choice is made, the 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 in writing to the electors chosen to fill such vacancies, and the said persons so 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 them as electors aforesaid, by the constitution and laws of the United States and of this state.

SEC. 46 (28). *Fees of electors, how paid.*—Every elector attending at the seat of government, as aforesaid, shall receive three dollars for every day's attendance, and three dollars for every twenty miles travel in going to and returning from the seat of government, estimated from his place of residence by the most usual route, 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.

TITLE VI.

OF CONTESTED ELECTIONS.

SEC. 47 (46). *Contested elections, how conducted.*—Any candidate or elector of the proper county, or senatorial, judicial, or election district, desiring to contest the validity of an election, or the right of any person declared duly elected to his seat in the senate or house of representatives in this state, shall give notice thereof, in writing, to the person whose election he intends to contest, or leave a written notice thereof at the house where such person last resided, within twenty days after the votes have been canvassed, specifying the points on which the election will be contested, and the names of two justices of the peace who will officiate at the taking of the depositions, and when and where they will attend to take the same; and such notice shall be served at least ten days before the day pointed out therein for the taking of the depositions. But the time fixed for taking such depositions shall not exceed forty-five days from the day of election.

Baberick v. Magner, 9 Minn. 232.

SEC. 48 (47). *Testimony, how taken.*—The said justices or either of them shall issue subpoenas to all persons whose testimony is required by either of the parties; and the said two justices when met, shall take, under oath, all testimony relative to such contested election, and certify the same under seal, to the presiding officer of that branch of the legislature where the person whose seat is contested is returned to serve at its next session.

SEC. 49 (48, AS AMENDED BY ACT OF FEB. 26, 1872). *Contested election for members of the legislature.*—If a party whose election is contested desires to offer testimony upon points not specified in the notice of the contestants, he shall, within ten days after the contestant's notice is served upon him as aforesaid, serve upon said contestant, in the manner provided in section fifty-six (forty-six), a notice specifying such additional points, and the place and time (which shall not be more than ten days later than the time fixed by the contestant in his notice for taking depositions) at which time testimony thereon will be taken before the justices of the said county, which last notice shall be served at least ten days previous to the time of taking testimony. No testimony shall be taken by the justices which does not relate to some point specified in said notices, a copy of which shall be respectively delivered to the justices taking testimony thereon, and by them transmitted to the presiding officers of that branch of the legislature where the contest is to be decided with the other documents.

S. L. 1872, 122.

SEC. 50 (49, AS AMENDED BY ACTS OF FEB. 27, 1871, AND FEB. 26, 1872). *Contested election for county officers—when return to be filed—when notice of hearing to be served.*—Any candidate or elector of the proper county may contest the election of any person declared elected to any county office, and he shall proceed therein in the manner prescribed for contesting the election of senators and representatives to the legislature. Save only, that the contestant shall, within twenty days after the votes have been canvassed, cause a notice specifying the points on which the election will be contested to be served on the person whose election he intends to contest in the manner provided in section fifty-six (forty-six); and if such person whose election is contested desires to offer testimony upon points not specified in the notice of the contestant, he shall in the same manner, within ten days after the service of the contestant's notice on him, serve a notice on the contestant specifying such additional points; and upon such notices, which are not to be taken as true until proved, and which may be amended if the court under all the circumstances deems it just, all testimony shall be taken as in civil actions, and all matters relating to said contest shall be heard and tried by the district court of the proper county in the manner that civil actions are tried by the court. Said contest shall be heard and tried and the cost therein taxed by the district court of the proper county in the manner that civil actions are tried by the court. And the judge of the said court, in case no term of said court occurs within ninety days after the votes are canvassed, shall appoint a special term of said court, and the said district court, at the first general or special term after the expiration of thirty days after the votes are canvassed, shall hear and determine the contest. When the judgment or decision of the district court shall be removed to the supreme court, the party removing the same shall file in the district court a bond to the opposite party in such sum, not less than five hundred dollars, and with such sureties as shall be approved by the judge, conditioned for the payment of all costs incurred

by the respondent in case the appellant fails in his appeal. The return on said appeal shall be filed in the supreme court within fifteen days from the date of service of notice of appeal, and upon perfecting said appeal, the same may be brought on for hearing and determination before said supreme court at any time when the same shall be in session, upon ten days' notice from either party, and the same shall be heard and determined in a summary manner. Such notice of hearing may be served during the term or in vacation.*

S. L. 1871, 98; S. L. 1872, 123; *Baberick v. Magner*, 9 Minn. 232; *Ford v. Wright*, 13 Minn. 518.

SEC. 51 (50). *Testimony, how introduced.*—On the trial of any contested election for any of the offices in the forty-sixth section of this chapter named, the parties to such contest may introduce either written or oral testimony, but no deposition shall be read on such trial unless the opposite party had reasonable notice of the time and place of taking the same.

Ford v. Wright, 13 Minn. 518.

SEC. 52 (51). *Contested election in house of representatives, how conducted.*—In conducting any contested election in the house of representatives, the following rules shall be observed :

First. On the day and at the hour appointed for that purpose, the house, with the proper officers, shall assemble at their usual place of meeting.

Second. The speaker of the house of representatives shall preside, but when he is contestant, a speaker *pro tem.* shall be elected.

Third. The parties to the contest shall then be called by the clerk, and if they answer, their appearance shall be recorded.

Fourth. The contestant shall first introduce his testimony, and after the testimony is closed on both sides, the contestant may, by himself or his counsel, open the contest, and the officer elect may then proceed, by himself or counsel, to make his defense, and the contestant be heard in reply.

Fifth. After the arguments of the parties are concluded, any member of the house may offer his reasons for the vote he intends to give.

Sixth. The clerk shall keep a regular journal of the proceedings.

Seventh. In deciding the contest, the members shall vote *viva voce*, and a majority of all the votes given shall decide, but no party shall vote either upon the final decision or upon any preliminary question that has reference thereto. If the contest is in the senate, it shall proceed as nearly as may be according to the rules above prescribed.

Ford v. Wright, 13 Minn. 518.

SEC. 53 (52). *Contest concerning removal of county seat, how conducted.*—In any county in which there is a vote for the removing of the county seat, or changing the county lines of said county, or upon any other subject which may by law be submitted to the vote of the people of said county, any elector thereof may contest the validity of such election, as to the right of the point declared selected as the county seat, or as to any county line declared established by said vote, or as to the result of any vote upon any other subject submitted as aforesaid. Such elector shall give notice in writing of such contest, to the county commissioners, or a majority of

* By chap. 45, S. L. 1871, 98, these last two clauses were made applicable to cases then pending.

them, of the county in which said vote was taken, by serving a copy of said notice personally upon said commissioners, or leaving a copy thereof at their place of residence within thirty days after the result of said vote is declared or proclaimed; said notice shall specify the points on which such election will be contested, and a copy thereof shall be filed with the clerk of the district court of the proper county within ten days after the service thereof upon the county commissioners as aforesaid; and the district court at its first general or special term shall hear and determine such contest upon the oral and written proofs of the parties, and depositions may be taken by any of the parties to these proceedings in the same manner as in civil actions. Such commissioners, or upon their failure, any elector of the proper county, may appear and defend, in such contest and introduce evidence as in other actions.

Taylor v. Taylor, 10 Minn. 107; Bayard v. Klinge, 16 Minn. 249.

TITLE VII.

OF PENALTIES FOR VIOLATING ELECTION LAW.

SEC. 54 (41). *Penalty for failure to perform duties.*—If any judge or clerk of election, or any other officer or person required by this chapter to perform any act or thing whatsoever, wilfully fails or refuses to perform such act or thing, or wilfully performs such act or thing falsely, or improperly in any manner, he shall be guilty of a felony, and on conviction thereof, shall be punished by imprisonment in the state prison for a term not less than six months nor more than one year, or by fine not less than five hundred dollars nor more than one thousand.

SEC. 55 (57). *Penalty for voting in wrong district.*—Whoever wilfully votes in any election district in which he does not actually reside, shall be guilty of a misdemeanor, and on conviction thereof be imprisoned in the county jail not less than one month, nor more than six months.

SEC. 56 (58). *Penalty for voting more than once.*—Whoever votes more than once at the same election is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison for not less than six months, nor more than one year.

SEC. 57 (59). *Penalty when a non-resident votes.*—Any resident of another state who votes in this state is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not less than six months, nor more than one year.

SEC. 58 (60). *Illegal voting, penalty.*—Whoever, not being a qualified elector, votes at any election with an unlawful intent, is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not less than one month, nor more than one year.

SEC. 59 (61). *Procuring person not qualified to vote, penalty.*—Whoever procures, aids, assists, counsels, or advises another to vote, knowing that such person is not duly qualified to vote at the place where, and the time when, the vote is to be given, is guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding five hundred dollars, nor less than one hundred dollars, and be imprisoned in the county jail not less than one month, nor more than six months.

SEC. 60 (62). *Procuring person to vote in wrong county, penalty.*—Whoever procures, aids, assists, counsels, or advises another to go or come into any county or election district for the purpose of illegally giving his vote in such county, knowing that the person is not duly qualified to vote therein, is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not less than six months, nor more than one year.

SEC. 61 (63). *Attempting to influence votes by threats or bribery, penalty.*—Whoever by threat or bribery attempts to influence any elector in giving his vote or ballot, or by such means attempts to deter him from giving his vote or ballot, is guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, nor less than one hundred dollars, and by imprisonment in the county jail not less than one month, nor more than six months.

SEC. 62 (64). *Furnishing fraudulent ticket, penalty.*—Whoever furnishes an elector, who cannot read the language in which such ticket is printed or written, with a ticket informing him that it contains a name or names different from those which are written or printed thereon, with an intent to deceive and induce him to vote contrary to his inclination, or who fraudulently or deceitfully changes a ballot of any elector, by which such elector is prevented from voting for such candidate or candidates as he intended, is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not less than six months, nor more than one year.

SEC. 63 (70). *Fraudulently putting tickets in box, penalty.*—Whoever after proclamation made of the opening of the polls, and at any time before the vote is fully canvassed, fraudulently puts a ballot or ticket into the box, is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not less than six months, nor more than one year.

SEC. 64 (71). *False swearing, penalty.*—If any person challenged as unqualified to vote, is guilty of wilful and corrupt false swearing or affirming in taking any oath prescribed by this chapter, he shall be deemed to have committed wilful and corrupt perjury, and upon conviction thereof shall suffer the punishment attached by the laws of this state to the crime of perjury.

SEC. 65 (72). *Fines go to county for use of schools.*—All fines incurred under this chapter shall be paid into the county treasury of the county where the offense was committed, for the use of the common schools of such county.

TITLE VIII

OF MISCELLANEOUS PROVISIONS.

SEC. 66 (42). *Term of office, when to commence.*—The regular term of office of county officers commences on the first day of January next succeeding their election, except as otherwise provided by law.

SEC. 67 (43). *Officers filling vacancy to qualify at once.*—Any state, county, or district officer elected or appointed to fill a vacancy shall qualify and enter upon

the duties of his office immediately thereafter; and when elected, hold the same during the unexpired term for which he was elected, and until his successor is elected and qualified; but if appointed he shall hold his office until the next general election, and until his successor is elected and qualified.

SEC. 68 (44). *No civil process to be served on day of election.*—During the day on which any general, special, town, or charter election is held, no civil process shall be served upon any elector entitled to vote at such election.

SEC. 69 (45). *Plurality to elect.*—In all elections, unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed and declared to be elected.

SEC. 70 (54). *Fees for abstracts and certificate.*—Every auditor, probate judge, and justice of the peace, shall receive for services performed under this chapter, the following fees, to wit: For making out abstracts, for every hundred words, ten cents; for each certificate with seal attached to abstract, fifty cents; which fees shall be allowed by the county auditor on the certificate of the auditor or judge, as the case may be, and paid by the county treasurer.

SEC. 71 (55). *Rules for ascertaining who are qualified electors.*—The judges of election in determining the residence of any person for the purpose of ascertaining who are qualified electors, shall be governed by the following rules, so far as they are applicable:

First. That place shall be considered and held to be the residence of a person in which his habitation is fixed, without any present intention of removing therefrom, and to which whenever he is absent, he has the intention of returning.

Second. A person shall not be considered to have lost his residence who leaves his home to go into another state, or county in this state, for temporary purposes merely, with the intention of returning.

Third. A person shall not be considered to have gained a residence in any county into which he comes for temporary purposes merely, without the intention of making such county his home.

Fourth. If a person removes to another state with the intention of making it his residence, he loses his residence in this state.

Fifth. If a person removes to another state with the intention of remaining there for an indefinite time, and as a place of present residence, he loses his residence in this state, notwithstanding he entertains an intention of returning at some future period.

Sixth. The place where a man's family resides shall be held to be his residence; but if it is a place of temporary establishment for his family, or for transient objects, it shall be otherwise.

Seventh. If a man has a family fixed in one place, and he does business in another, the former shall be considered his place of residence; but any man having a family and who has taken up his abode with the intention of remaining, and whose family refuses to reside with him, shall be regarded as a citizen and voter where he has so taken up his abode.

Eighth. The mere intention to acquire a new residence, without the fact of removal, shall avail nothing; neither shall the fact of removal without the intention.

SEC. 72 (56). *Elector to vote where he resides.*—No elector shall vote except in the election district in which he actually resides.

SEC. 73 (53). *Secretary of state to provide blanks.*—The secretary of state shall provide uniform blanks for lists of electors, and for election returns, for the use of the several election districts, also a copy of the law prescribing the qualifications of electors, and so much of this law as relates to the duty of judges and clerks of election, the manner of conducting elections, and the penalties imposed for offences under this chapter, and transmit the same to the auditor of each county, at least thirty days before any election; and the auditor, at least ten days before any election, shall deliver to the clerk of each town and city in his county in person, or transmit to him by mail one copy of each of said blanks, and one copy of the said laws for each election district in his county.

SEC. 74 (73). *Provisions of this chapter to apply to all elections.*—The provisions of this chapter apply to all elections hereafter to be held for all or any state, district, county, town, city, or township officers; and for electors of president and vice-president of the United States, and to any vote hereafter to be taken on amendments to the constitution, laws changing county lines, removing county seats, or on any subject which may by law be submitted to a vote of the people: *provided*, that the registration of the names of the electors previously to the time of voting at the town meeting of any organized township shall not be required; but the said town meeting and the manner of conducting the same shall be as provided in the general act for the organization of towns.