

marriage contract as to both parties. And in all suits for a divorce brought by a female, if a divorce be granted, the court may, for just and reasonable cause, change the name of such female, who shall thereafter be known and called by such name as the court in its order shall decree or appoint.

Conflicting acts
repealed

Sec. 32. All acts and parts of acts inconsistent with the [provisions] of this act are hereby repealed.

When take ef-
fect.

Sec. 3. This act shall take effect from and after its passage and approval.

Approved, January 15, 1864.

ELECTIONS

CHAPTER XIX.

AN ACT TO REGULATE ELECTIONS, TO PRESCRIBE THE QUALIFICATIONS OF VOTERS, TO PREVENT ILLEGAL VOTING, AND TO PRESCRIBE THE CANVASS AND RETURN OF THE SAME.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

Elections shall
be conducted—
how.

Section 1. That all elections hereafter to be held for Territorial, district, county, precinct and other officers, shall be held and conducted in the manner prescribed in this act.

election—when
held.

Sec. 2. That a general election shall be held in the several election precincts in this Territory, on the second Tuesday in October in each year, at which there shall be chosen so many of the following officers as are by law to be elected in each

What officers to
be chosen.

year, that is to say: A delegate to Congress, and other territorial officers, members of the legislature, judges of probate, district attorney, county commissioners, sheriffs, coroners, reg-

isters of deeds, treasurers, justices of the peace, constables, and all other territorial, district, county and precinct officers, not herein enumerated, that may, by law be provided for..

Sec. 3. The several boards of county commissioners shall respectively, at least thirty days prior to the general election, appoint three capable and discreet persons, possessing the qualifications of electors, to act as judges of election at each precinct, and for each of the polls of election, as provided for in this act, and to set off and establish election precincts of districts, and the register of deeds shall make out and deliver to the sheriff of the county, immediately after the appointment of said judges, a notice in writing thereof, directed to the judges so appointed, and it shall be the duty of the said sheriff, within ten days after the receipt of the said notice, to serve the same upon each of the said judges of the election.

County commissioners to appoint judges of election, &c.

Sec. 4. The said judges shall choose two persons having similar qualifications with themselves, to act as clerks 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 elections, at any election precinct within their respective counties.

Judges choose clerks.

Judges and clerks to act how long.

Sec. 5. The register of deeds of the several counties shall, at least thirty days before any general election, and at least eight days previous to any special election, make out and deliver to the sheriff of his county, three written notices thereof for each election precinct, said notices to be, as nearly as circumstances will admit, as follows, to wit: Notice is hereby given, that on the second Tuesday, 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, town or district officers, (naming the offices to be filled as the case may be,) which election will be opened at nine o'clock in the morning, and will continue open until four o'clock in the afternoon of the same day. Dated this.....day of.....A.

Duty of register of deeds.

Form of notice.

D....., (as the case may be.) Signed A. B., register of deeds."

Sheriff's duty.

Sec. 6. The sheriff, to whom such notice shall be delivered as aforesaid, shall put up in three of the most public places in each town or district, the notice referring to such district, precinct, town, 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 two others at two of the most public places in that vicinity or settlement.

Vacancy in election board—how filled.

Sec. 7. If any person appointed to act as judge of 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 the vacancy or vacancies, shall be and are hereby vested, for that election with the same power as if appointed by the board of county commissioners.

Form of oath of judges and clerks.

Sec. 8. Previous to votes being taken, the judges and the clerk 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."

Who shall administer oaths.

Sec. 9. 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 book.

Polls to be opened and closed—at what time.

Sec. 10. At all elections to be held under this act, the polls shall be opened at the hour of nine o'clock in the forenoon, and continue open until four o'clock in the afternoon of the

same day, at which time the polls shall be closed. Thirty minutes before the closing of the polls, 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.)

Sec. 11. That any board of judges who shall willfully and knowingly reject any legal vote, shall be subject to a fine of fifty dollars to be collected before any justice of the peace, for the use of common schools, on the complaint and proof of any person.

Penalty for rejecting legal vote.

Sec. 12. 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.

Form of ballot.

Sec. 13. The names of all persons voted for by any elector at any general election or special election, shall be on one ballot.

Names all on one ballot.

Sec. 14. 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, conformably to the laws of the United States, and of this Territory on the subject of naturalization,) that you have resided in this Territory ninety days, and in this county twenty days next preceding this election; that you have not voted at this election;" and if any person so challenged shall refuse to

Voter challenged shall take oath.

Form of oath.

Judges may re-
ject vote—when take such oath so tendered, his vote shall be rejected, and after taking such oath, if the judges have good reason to believe that the person so offering to vote is not a legal voter, they may reject the same.

Penalty for vot-
ing illegally. Sec. 15. If any person so offering such vote shall take such oath, knowing it to be false, he shall be deemed guilty of wilful and corrupt perjury, and shall, on conviction, suffer such punishment as now is, or shall hereafter be prescribed by law for persons guilty of perjury. And if any person shall vote at any election who is not a qualified voter, he shall upon conviction thereof, be confined in the county jail of said county, not more than six months nor less than one month, and if there is no jail in said county, he shall be confined in the nearest place kept for such purpose in this Territory, he shall also forfeit and pay into the county treasury of the county in which such action was held, for the use of common schools, a sum not exceeding five hundred dollars nor less than fifty dollars.

Judges to pro-
vide ballot box. Sec. 16. 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 lock and key.

Duty of judges. Sec. 17. 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.

Judges to re-
ceive ballot, &c. Sec. 18. 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 number the same to correspond with the number on the poll list opposite the name of the person casting said vote, and deposit it in the box.

Clerk to keep
poll list. Sec. 19. Each clerk shall keep a poll list which shall contain the names of all the persons voting at such election in their numerical order.

Sec. 20. At each adjournment of the polls, the clerks shall,

in presence of the judges, compare their respective poll lists, Clerk to prepare poll list. compute and set down the number of votes, and correct all mistakes that may be discovered, according to the decision of the board, until such poll lists shall be made, in all respects to correspond.

Sec. 21. The ballot box shall then be opened and the poll list placed therein; and said 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. Manner of proceeding.

Sec. 22. 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 polls; 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.

Sec. 23. It shall be the duty of each judge of election, to Duty of judges to challenge. challenge every person offering to vote, whom he shall know or suspect not to be qualified as an elector.

Sec. 24. For the preservation of order, as well as to secure Judges may appoint constables, &c. 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, and should no constable attend at such elections, the judges of elections 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 twenty 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.

When canvass
shall commence

Sec. 25. 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 may be public, and shall be continued without adjournment until completed.

Rules in can-
vassing.

Sec. 26. 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 shall be 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.

Manner of purg-
ing in case of
excess.

Sec. 27. 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 as many ballots, unopened, as shall be equal to such excess.

Form of canvass

Sec. 28. The ballot and poll list agreeing, or being made to agree, the board shall then proceed to count and ascertain the number of votes cast, and the clerks shall set down in their poll books the name of every person voted for, written at full length, the office for which such person received such votes, and the number he did receive, the number being expressed at full length, such entry to be made, as nearly as circumstances will admit, in the following form, to wit: "At an election held at the house of A B, in the town, district or precinct, in the county of ———, and Territory of Dakota, on the ——— day of ———, 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 person voted for). Certified by us, A B, C D, E F, judges of election. Attest: G H, I K, clerks of election."

Sec. 29. The judges of election shall then enclose and seal ^{Disposition of poll books.} one of the poll books, and, under cover, direct the same to the register of deeds 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 register of deeds, at his office, within three days after the closing of the polls, and the other poll book, together with the ballots and ballot box, deposited with the chairman of the board of county commissioners; and the said poll book shall be subject to inspection at any time thereafter, in case of a contest, or upon the order of a judge of the probate or district court.

Sec. 30. 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 register of deeds, or any other person deputed for that purpose, shall fail or neglect to deliver such poll book to the said register of deeds, within the time specified by law, safe, with the seals unbroken, he shall for every such offence, forfeit and pay the sum of five hundred dollars, for the use of the common schools in said county, to be recovered by a civil action in the name of the county commissioners, in the district court, and be confined in the county jail not less than six months. ^{Penalty for failing to deliver poll book.}

Sec. 31. On the twentieth day after the close of any election, or as soon as all the returns are received, the register of deeds, taking to his assistance a majority of the county commissioners of the county, or the probate judge and one county commissioner, 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; the abstract of votes for the county and precinct officers shall be on one sheet; and it shall be the ^{Duty of register of deeds.}

duty of the said register of deeds, 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 register at his office; *Provided*, That when a tie shall exist between two or more persons for the council or house of representatives, the register of deeds shall give notice to the sheriff of the county, who shall immediately advertise another election, giving at least ten day's notice; and it shall be the duty of the register of deeds 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.

Proceeding in
case of tie.

Sec. 32. 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 register whose duty it is to compare the polls, shall give notice to the several persons so having the highest and equal number of votes, to attend at the office of the proper register, at the time to be appointed by the said register, 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 register shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided.

Register to
transmit ab-
stract of votes.

Sec. 33. The register of deeds 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 chief justice and the governor, or a majority of them, to proceed within fifty days after the election, to canvass the votes for delegate to congress, and other territorial officers, 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

Duty of territo-
rial canvassers.

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. *Provided*, That, if either of the persons mentioned in this section as canvassers be a candidate to congress, such person shall take no part in the canvass of said votes.

In case of tie, governor order new election.

Candidate to take no part in canvass.

Sec. 34. If the returns of election of any organized county in this territory shall not be received at the office of the secretary of the territory within thirty days after the day of election, the said secretary shall forthwith send a messenger to the register of deeds 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 the said register.

When returns not received in thirty days Secretary to send messenger.

Sec. 35. Any person who shall receive a certificate of his election as a member of the council or house of representatives of the legislative assembly, sheriff, probate judge, register of deeds, 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 the member 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 of election in his county or district, to hold a special election 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 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.

Proceedings in case of vacancy or resignation of any officer.

Duty of registers, where two counties are attached.

Sec. 36. When two or more counties are united in one council or representative district, the register of deeds of the county last established shall, within thirty days after the day of election, attend at the office of the register of deeds of the senior county, and in conjunction with the register of the senior county, or counties, shall compare the votes given in the several counties comprising such council or representative districts, and said registers shall immediately make out a certificate of the person or persons having the highest number of votes in such counties, for 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 register of deeds of the senior county, at his office.

Duty of Governor and register in case of vacancy.

Sec. 37. 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 register of deeds, 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 register of deeds 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-fifth section of this act.

Pay of judges and clerks.

Sec. 38. 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 the person carrying the poll books from the place of election to the register's office, the sum of five cents per mile for going and returning.

Relative to vacancies.

Sec. 39. If a vacancy, shall occur in the council or house of representatives in this territory, for any cause, and if the county or counties comprising 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 such election who does not at the time reside within the limits of the organ-

ized 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.

Sec. 40. In cases of elections to fill vacancies, as provided for in this act, the returns shall be made by the register of deeds, of the different counties, within twenty days after the election, to the office of the register of deeds of the original county composing the district, and certificates of election shall be made out and signed by the register of deeds of the different counties in which such election may have been held. Vacancies—returns how made

Sec. 41. No election returns shall be refused by any register of deeds for the reason that the same may be returned or delivered to him in any other than the manner directed in this act; nor shall he refuse to include any returns in his estimate of votes for any informality in holding an election, or making returns thereof; but all returns shall be received and the votes canvassed by such register, and a certificate given to the person or persons who may, by such returns, have the greatest number of votes. Returns not refused owing to informality.

Sec. 42. If any judge or clerk of election, or register of deeds, or any other person, in any manner concerned in conducting the election, shall corruptly violate any of the provisions of this act, 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, which money, when collected, shall be for the support of the common schools in said county. Penalty for violating official duty.

Sec. 43. 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. When term of office shall commence.

Sec. 44. 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. Officers may qualify—when.

Highest number
of votes elects.

Sec. 45. In all elections for the choice of any officer, 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.

Electors exempt
from civil pro-
cess.

Sec. 46. 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.

Duty of register
of deeds.

Sec. 47. The register of deeds shall not construe the statutes concerning the canvassing of the election returns, so as to decide all matters of law and fact himself, but the register aforesaid, and the persons called to his 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 name of candidates for office, if it can be ascertained from such votes for whom they are intended, but they shall not count votes polled in any place but at established precincts, and a breach of the provisions of this section shall be deemed a misdemeanor in office, and punished accordingly.

Duty of register
and other offi-
cers.

Sec. 48. It shall be the duty of the register of deeds, 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 act as relates to the duties of judges and clerks of election, the manner of conducting elections and the penalties imposed for offenses; also containing blanks for all entries required to be made in the said poll books, at the time the said register delivered notice for an election to the sheriff of his county, as provided for in this act; 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.

Manner of pro-
ceeding with
voters in mili-
tary service.

Sec. 49. Any citizen of Dakota Territory, who was, at the time of his enlistment, a qualified voter of the same, shall not be deprived of his right to vote because he is in the military service of the United States: *Provided*, He resided in and

was a qualified elector of said territory at the time he entered the military service. At least thirty days prior to any general election, provided for in this act, it shall be the duty of the governor to appoint one commissioner for each company of troops that Dakota may, at that time, have in the military service of the United States. And it is hereby made the duty of such commissioner or commissioners after being notified of his appointment, to visit the company for which they were appointed respectively: *Provided*, Said company of troops be, on the day of election, within the limits of the ceded lands of said territory; and on the day fixed by law for such election, said commissioner shall open an election polls, and receive the votes of all persons authorized to vote by this section for all of the following officers that are to be elected at said election, to wit: delegate to congress, territorial officers, county officers, and members of the council and house of representatives of the legislative assembly. Each voter under this section, will be authorized to cast his vote for members of the legislative [assembly;] and county officers of the district and county in which he was a legal voter at the date of his enlistment. The said commissioner shall keep poll books, and number and preserve the tickets, as required in other cases. Should any person, offering to vote, be challenged, or should the commissioner doubt the qualifications of such person, he shall administer to said person the following oath or affirmation: "You do solemnly swear (or affirm) 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 the Territory of Dakota, on the subject of naturalization;) that you had resided in said Territory ninety days, and in (name the county for which he claims to vote) county twenty days next preceding the day on which you enlisted in the military service of the United States; that you are a member of company (give the letter) Dakota cavalry, or infantry, as the case may be, under captain (name the captain of said company), and that you have not voted at this election, so help you God;" and if any person so challenged, shall refuse to take such oath so tendered, his vote shall be rejected; and after taking such oath, if the commissioner is

Manner of proceeding with voters in military service.

Manner of proceeding with voters in military service,

still of the opinion that such person is not a qualified voter under the provisions of this section, he shall reject said vote; and any person who shall take such oath falsely, or who shall vote without possessing the qualifications required by this section, shall suffer the same punishment, and pay the same fines prescribed in other cases by this act. After all the officers and privates of said company, who are entitled to vote at said election, shall have had an opportunity to vote, the commissioner shall make out an abstract of all the votes cast for territorial officers, and delegate to congress, specifying the name of the person voted for, the office, and the number of votes received by him. He shall in like manner make out an abstract of the votes cast for members of the legislature, and county officers, and shall certify the same under oath, which abstract he shall deliver to the Secretary of the Territory, within fifteen days after such election. And the territorial canvassers shall receive and count the returns so made for delegate to congress, and territorial officers, the same as other returns. And it shall be the duty of the Secretary of the Territory to make out an abstract of the returns for each county and district, and forward the same by mail to the several registers of deeds for whose counties returns have been made to him, by virtue of this section. And the county canvassers of the several counties shall receive and count the returns so made, the same as other returns.

Rights of voters

Sec. 50. And all legal voters in this Territory, residing in an organized county, shall have [the] right to vote for delegate to congress, at any election precinct established by law in any organized county in this Territory; and all voters living in unorganized counties, shall vote in the organized counties to which their unorganized counties are respectively attached for election purposes.

Who shall be voters.

Sec. 51. Every free white male person above the age of twenty-one years, who shall have been a resident of the Territory ninety days, and twenty days in the county, next preceding the election, who is a citizen of the United States, or who has declared upon oath his intention to become such, and shall have taken an oath to support the constitution of the United States, and persons who have been declared by law to be citi-

zens of the Territory, shall be entitled to vote; and all persons possessing the qualifications mentioned in this section, and who have resided in this Territory nine months, shall be eligible to any office in the said Territory.

Sec. 52. That chapter thirty-two of the code, and all other acts or parts of acts conflicting with the provisions of this act, are hereby repealed. Conflicting acts repealed.

Sec. 53. This act shall take effect from and after its passage when take effect and approval.

Approved, January 14, 1864.

FEES OF OFFICERS.

CHAPTER XX.

AN ACT ESTABLISHING THE FEES OF OFFICERS.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

Section 1. For the services mentioned in this chapter hereinafter, done or performed in the several counties of this Territory, by the officers thereof, or in any proceeding authorized by law, the fees hereinafter prescribed, shall be allowed. Fees of officers.

Sec. 2. The fees of the clerks of the district courts for any services herein specified to be rendered by them, shall be as follows: Fees of clerk of district court.

For issuing and sealing every writ, when filled up by the clerk, one dollar; and each exemplification or certificate, when required, fifty cents.

Entering the return of every writ and filing such writ, fifteen cents per each folio.

Entering an appearance and retraxit, discontinuance, nonsuit, or default, twenty-five cents.

Entering every rule in term, founded on motion, fifteen cents for each folio; entering every other rule or order, fifteen cents