

Elections.

VOTER'S QUALIFICATIONS.

CHAPTER 52.

AN ACT to Amend Section 47 of Chapter 27 of the Political Code entitled "Elections."

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

§ 1. TIME REQUIRED IN COUNTY, ETC.] That section 47 of chapter 27 of the Political Code entitled "Elections" be amended by striking out from said section the following words: Twenty days in the county and five days in the precinct," and inserting in lieu thereof, as follows: "Sixty days in the county and twenty days in the precinct."

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, February 26, 1885.

Elections.

JUDGES, PRECINCTS, ETC.

CHAPTER 53.

AN ACT to Amend Section 3, of Chapter 27 of the Political Code.

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

§ 1. JUDGES AND ELECTION PRECINCTS.] That section three of chapter twenty-seven of the political code be, and the same is, hereby amended so as to read as follows: § 3. The several boards of county commissioners shall, respectively, at least thirty days

prior to the general election in each, appoint three capable and discreet persons, possessing the qualifications of electors, to act as judges of elections at each precinct for the poll of elections therein, as provided for in this act; and in case of the failure of the said board from any cause to make such appointment, as herein provided, then the county clerk shall make such appointment within thirty days thereafter; and said board shall set off and establish election precincts in so much of the county as is not included in organized civil townships therein, and such precincts shall be set off and established in such manner as that no one precinct shall be within more than one commissioners district, and that there shall be at least one voting precinct in each commissioners district, and the county clerks of the several counties shall make out and deliver to the sheriff, coroner or other person that may be designated by the board of county commissioners of each county, immediately after the appointment of said judges of election, a notice in writing thereof, directed to the judges of election so appointed: and it shall be the duty of such sheriff, coroner, or other person appointed, as provided in this section, within ten days after receiving such notice, to serve the same upon each of the said judges of election, "*Provided,*" That every organized civil township shall constitute an election precinct, and the township supervisors thereof shall be the judges of election for all elections whether general or special held for any purpose whatever in the county.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 12, 1885.

CONTESTS AND COUNTY SEATS.

CHAPTER 54.

AN ACT to Provide for Contesting Elections for County Officers, and for the Location of County Seats, and for other purposes.

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

§ 1. NOTICE OF CONTEST, SERVING.] Any candidate or person claiming the right to hold an office contested, or any elector of the

proper county desiring to contest the validity of an election, or the right of any person declared duly elected to any office in said county, shall give notice thereof in writing to the person whose election he intends to contest within twenty days after the canvass of the votes for such election, which notice shall be served in the same manner as a summons in a civil action. But if the person whose election is contested cannot be found, and shall have ceased to have a residence in said county or territory, then the notice shall be served by leaving said notice at the house where such person last resided in the Territory of Dakota, and if no service as above provided can be made, or if no such residence can be found in the territory, the district court or judge thereof may expressly direct the manner of service, which notice of contest shall be in writing, and shall set forth the facts and grounds upon which the contestant relies in his contest, and may be verified as a pleading in a civil action.

§ 2. ANSWER.] Any person upon whom the notice mentioned in the preceding section may be served, shall, within ten days after the service thereof, answer such notice, admitting or denying the facts alleged therein, and state any other grounds upon which he rests the validity of his election, and shall serve a copy of his answer in the contest, and all allegations set forth in the notice, and not denied in the answer, shall be taken as admitted, and said answer shall be served in the manner provided in the preceding section, except where the contestant appears by attorney, in which case the answer shall be served on the attorney, in the manner provided by the code of civil procedure.

§ 3. WHO MAY BRING CONTEST.] The contest provided for in this act may be brought by a candidate or person claiming said office on his own motion, in his own name as plaintiff, but such contest can not be brought by an elector without the notice is signed by the district attorney of the proper county, or upon his refusal so to sign said notice of contest, the contest may be allowed by the court or judge thereof.

§ 4. TRIAL.] The judge of the district court of the sub-division in which said county is situated, in case no term of said court occurs within twenty days after the said answer is served, may appoint a term of said court (in said court) in said sub-division, but if a term of court occurs before that time in said sub-division then the contest shall be tried at that term, unless otherwise ordered by the court or judge thereof. But the district court or judge upon ten days notice by either party, may try the case at the chambers of the judge at any place fixed by said court or judge of said district; or he may on such application, or his own order, if the pleadings involve a question of fact, order such issues of fact to be tried before a jury, or refer the same

as provided in this act, and postpone the trial until such trial can be had in any county in his district, regard being had to the speediest possible trial for the interest of the parties and of the public. The question to be tried, if the issues are ordered to be tried by a jury must be distinctly stated in the order of trial, and the county or sub-division must be designated in the order in which the trial shall be had.

§ 5. TESTIMONY AND PROCEDURE.] All testimony and depositions taken in contests, brought under the provisions of this act, shall be taken in the same manner as civil actions, and depositions may be taken in more than one place at the same time on leave of the court or judge thereof, and all matters relating to the said contest shall be heard and tried by the district court or judge thereof, in the manner that civil actions are tried, except as otherwise provided in this act, and the costs shall be taxed in the same manner as in civil actions, and the court or judge thereof shall have all the power of ordering amendments to notice, and answers and other proceedings as provided in the Code of Civil Procedure, and the court or judge thereof shall have power to enter all orders and final judgment, in such contests, the same as in civil actions.

§ 6. POWER OF ELECTOR.] In any county where there is a vote for the election, or for the removing or changing of the county seat of such county, or changing the county lines of said county, any elector thereof, on leave of the district court or the judge, may contest the validity of such election as to the right of the point declared and selected as the county seat, or as to any county line declared to be established or changed by a vote; such elector shall give notice in writing of such contest to the county commissioners, or a majority of them of the county in which said vote was taken, by serving notice of contest as provided in section one of this act, within thirty days after the result of said vote is canvassed. Said notice shall specify the points on which such election will be contested, and said notice shall be filed with the clerk of the district court where such court is held for the judicial sub-division of which said county forms a part, within ten days after the service of said notice upon the county commissioners as aforesaid, and the said contest shall be tried and determined by the district court or judge thereof, or by a jury as provided for in this act in the contest of county officers; such county commissioners shall appear and defend said contest, and put in an answer to said notice, as is provided for in section two, but if they fail to appear and defend said contest, any elector of said county, at any time before said trial, may on leave of the court or judge appear and defend said contest, and all testimony and depositions shall be taken in the same manner as in civil actions.

§ 7. REFEREE.] All contests brought under the provisions of this act may be referred by the Court, or the Judge thereof, to a referee, as provided in the Code of Civil Procedure, and where the parties do not consent, the Court, or Judge thereof, may direct a reference of such contest.

§ 8. SURETY.] Any person bringing a contest under the provisions of this act, must, before bringing the same, furnish good and sufficient surety for costs, as provided in the Code of Civil Procedure, and the obligation of such surety shall be completed by simply endorsing the notice of contest as security for the costs.

§ 9. APPEALS.] Appeals from any final judgment or decision of the District Court, or Judge thereof, shall be taken in the manner as provided for in the Code of Civil Procedure, except that the undertaking on appeal shall be in the sum fixed by the judge, not less than five hundred dollars, and shall be approved by the judge, or by the clerk of the court of the proper county or subdivision, under the direction of the judge.

§ 10. APPEALS TO SUPREME COURT.] Appeals to the Supreme Court in contests under the provisions of this act, must be taken within sixty days after the entry of final judgment, and the party appealing must immediately procure the transmission of the transcript and papers of appeal to the Clerk of the Supreme Court, and the same may be brought on for hearing and determination before the Supreme Court at any time the said court 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 a term, or in a vacation.

§ 11. HOW CONSTRUED.] This act shall not be construed to affect any of the remedies or rights of action or proceedings provided for in the Code of Civil Procedure.

§ 12. CERTAIN PROVISIONS APPLICABLE.] Except as otherwise provided in this act, the provisions of Part Two of the Code of Civil Procedure are applicable, and constitute the rules of practice in the proceedings mentioned in this act.

§ 13. SAME.] The provisions of Part Two of the Code of Civil Procedure, relative to new trials and appeals, except in so far as they are inconsistent herewith, apply to proceedings mentioned in this act.

§ 14. This act shall take effect and be in force from and [after] its passage and approval.

Approved, March 12, 1885.