

# County Organization.

## CHAPTER 40.

AN ACT to Provide for the Organization of New Counties.

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

§ 1. WHEN MAY PETITION.] Whenever the voters of any unorganized county in this Territory shall be equal to one hundred and fifty or upwards, and at least one hundred and fifty thereof shall desire to have said county organized, they may petition the Governor, setting forth that they have the requisite number of legal voters to form a county organization, and request him to organize said county as hereinafter provided.

§ 2. DUTY OF GOVERNOR.] Whenever the voters of any organized county in this Territory shall petition the Governor, as provided in the preceding section, and the said Governor shall be satisfied that such county has one hundred and fifty legal voters, it shall be the duty of the Governor, and he is hereby authorized to call an election in said unorganized county, and fix one or more places in said county as the polling places therein, and shall fix the time for holding said election; and the Governor shall thereupon issue a notice of election, which notice shall be substantially in the following form, to-wit: Notice is hereby given that on the .....day of....., 18.., at the following place (or places, as the case may be.)....., in the county of....., an election will be held for the following officers of the said county of....., in the said Territory of Dakota, in the organization of said county, (name the officers to be elected), and also for the temporary location of the county seat of said county, which election will be open at the hour of eight 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..

Attest:

....., Governor.  
....., Secretary.

§ 3. ELECTION OF OFFICERS.] There shall be elected by the qualified electors of said unorganized county, all of the officers of said county as is or may be provided by law for organized counties, which officers shall hold their respective offices until the next

general election thereafter, and until their successors are elected and qualified.

§ 4. COUNTY SEAT.] The electors at such election are hereby empowered to vote for and select a county seat of such county temporarily by ballot, subject to be changed thereafter as provided by law; and each voter at such election may designate on his ballot the place of his choice for county seat, and the place having the highest number of votes polled shall be the temporary county seat.

§ 5. ELECTION PRECINCTS—WHO TO PRESCRIBE.] Whenever the Governor shall have made out and completed said notice of election, he shall cause the same to be delivered to the clerk of the District Court of the judicial subdivision, to which said unorganized county is attached for judicial purposes, in the county where the court is held for such judicial subdivision, at least fifty days prior to the time fixed for said election; and thereupon and at least forty days prior to the time fixed by the Governor in said notice for such election, the said clerk of the District Court shall take to his assistance the chairman of the board of county commissioners and register of deeds, who shall meet at the office of said clerk of the District Court at the time fixed by him; and the said officers, or a majority of them, shall thereupon, if the Governor shall fix more than one place for holding the election in said unorganized county, divide said county into election precincts in accordance with said notice, regard being had for the convenience of the voters; and the said clerk of the District Court shall thereupon add at the foot of each certified copy of said notice of election, a further certificate signed by him, under the seal of the court, showing the division of the said county into election precincts and the boundaries thereof, as determined by said board; and the said clerk of District Court of said county, shall cause the said notice and certificate to be published for at least thirty days prior to said election, in one newspaper of general circulation in said judicial subdivision, printed and published in the county where the court for such subdivision is held, and to deliver to the sheriff or coroner of the county where such court is held, or other person designated by him, five certified copies of said notices, and the certificate at the foot thereof, dividing the county into voting precincts, if any, which original notice shall be filed in the office of the clerk of said court as a record therein.

§ 6. JUDGES OF ELECTION.] It shall be the duty of the said Clerk of District court, Register of Deeds and chairman of the board of county commissioners, or a majority thereof, at the same meeting mentioned in the preceding section, to appoint three capable and discreet persons possessing the qualifications of electors in said unorganized county to act as judges of election

at each polling place in said county, and thereupon said clerk of the District Court shall make out and deliver to the sheriff, coroner or other person that may be designated by them, after the appointment of said judges, a notice in writing thereof, directed to the judges of election so appointed, and it shall be the duty of the sheriff, coroner or other person so appointed, as provided in this section, within ten days after receiving such notices, to serve the same upon each of the said judges of election.

§ 7. POSTING NOTICES.] The sheriff, coroner or other person to whom such notices of election shall be delivered as aforesaid, shall put up in five of the most public places in each of the voting precincts in said unorganized county, at least twenty days' previous to the time of holding such election, provided for in this act, one of each of the notices of election with the said certificate thereto [and one] shall be posted at the house where said election is authorized to be held.

§ 8. FILLING VACANCIES IN JUDGES OF ELECTION.] 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 vote of such qualified electors residing within the county or voting 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 in that election with the same powers as if appointed judges of election as provided for in this act. Said judges of election shall choose two persons having the qualifications of electors like themselves to act as clerks of such election.

§ 9. ELECTION LAW TO APPLY.] All the provisions of chapter twenty-seven of the Political Code of Dakota, entitled "Elections," and all amendments thereto, not inconsistent with the provisions of this act, shall apply to all elections held under the provisions of this act

§ 10. SUPERVISOR OF ELECTION TO BE APPOINTED.] It shall be the duty of the Governor, at the time of calling said election, or at least thirty days prior to the time fixed for such election, to appoint a supervisor of election for each polling place in said unorganized county, who shall not be a resident of such county, or in any matter interested in the vote therein, but shall possess all the qualifications of an officer of the Territory. Such supervisor shall, before he enters upon the duties of his office, take and subscribe the oath of office required by law; and also that he is not, and will not in any manner be directly or indirectly interested in the location of any county seat in said county, and will not be so interested therein, and is not the owner of any land or interest therein situated in said county, and shall file the same with the Secretary of the Territory.

§ 11. DUTY OF SUPERVISOR.] It shall be the duty of the said supervisor of election to furnish at said election at the time and place fixed for such election a ballot box in due form for use at said election. But if the supervisor of election should fail or neglect to so furnish said ballot box at the time and place where such election is held, then any resident and legal voter at such poll shall have authority to furnish a ballot box for use at said election, and the said supervisor shall at the same time and place furnish the proper and necessary poll books for use at said election in the form provided by law, but if said supervisor of election should neglect or refuse to produce and furnish such poll books at said election, then any qualified voter at said election is authorized to produce and furnish such poll books and deliver the same to the judges of election.

§ 12. POWER AND DUTY OF SUPERVISORS.] The supervisors of elections, appointed under the provisions of this act, are authorized and required to attend at all times at the places for holding said election for which he is appointed for counting the votes cast at such election, to challenge any vote by any person whose legal qualifications the supervisor may doubt, to be and remain where the ballot boxes are kept, at all times after the polls are opened until every vote cast at such election has been counted, and until the canvass of all votes is completed and the proper and requisite certificates or returns made by the judges and clerks of election, and to personally inspect and scrutinize from time to time, and all times on the day of election, the manner in which the voting is done, and the way and methods in which the poll books and tally sheets therein are kept; and to the end that each candidate voted for at such election, and each place voted for as county seat, shall have the benefit of every vote cast for him or for such place voted for as county seat, the supervisors of election are, and each of them is required to personally scrutinize and assist in the counts and canvass of each ballot in the election precinct for which he was appointed as supervisor, and to make out and deliver to the clerk of said District Court any statement of the truth or accuracy of the poll books, and the truth or fairness of the election and canvass thereof, and whether in the opinion there was illegal voting at said election, and if so the extent of such illegal voting, and the nature and character thereof, if any, in order that the facts as they appear to such supervisors, may become known, which report shall remain among the files of the clerk of the said District Court.

§ 13. SUPERVISORS TO HAVE CERTAIN PRIVILEGE.] And to better enable the supervisors of election to discharge their duties, they are authorized and directed on the day of such election to take, occupy and remain in such position from time to time dur-

ing such election, whether before or behind the ballot boxes, as will in their judgment best enable them to see each person offering to vote, and as will best conduce to their scrutinizing the manner in which the voting is being done; and at the close of the polls for the reception of the votes, they are required to place themselves in such position in relation to the ballot boxes for the purpose of engaging in the work of assisting in the canvass of the ballots as will enable them to fully perform their duties in respect to such canvass provided for, and shall there remain until every duty in respect to such canvass, certificates and returns has been wholly completed.

§ 14. PENALTY FOR ILLEGAL VOTING, ETC.] And if any person shall interfere with the clerks, judges or supervisors of election in the exercise and discharge of their duties or shall interfere, hinder, molest, or threaten to molest any of such officers in the discharge of their duties, or shall cast any illegal vote at such election they shall be deemed guilty of a felony, and shall, upon conviction thereof, be punished as provided in section nineteen of this act.

§ 15. BALLOTS TO BE NUMBERED, ETC.] The ballots at such election shall be folded by the voters and delivered to one of the judges of election, and if the judges and supervisors of election or a majority of them be satisfied the person offering the vote is a legal voter, the clerks of election shall enter the name of the voter and his number under the proper heading in the poll books, and the supervisors of election and also the judges of election shall thereupon endorse on the back of the ticket offered the number corresponding with the number of the voter on the poll book, and shall immediately put the ticket into the ballot box.

§ 16. POLLS TO REMAIN OPEN, BALLOTS HOW PRESERVED.] After the opening of the polls no adjournment shall be had, nor shall any recess be taken until the votes cast at such election shall have been counted and the result publicly announced. All the ballots counted by the judges and supervisors of election, shall, after being read, be strung upon a strong thread or twine, in the order in which they have been read, and after such ballots have been all counted and so strung, the thread shall be tied in a knot, which knot shall be covered by wax, as directed by the supervisors of election, and thereupon it shall carefully be enveloped and sealed up by the judges of election in presence of the supervisors, and immediately placed in the ballot box, together with the said poll books, which ballot boxes shall be carefully locked up or fastened and sealed by the judges of election in the presence of said supervisors before the same shall be delivered to them, or either of them, as provided in this act.

§ 17. RETURN OF POLL BOOKS, ETC.] The judges of election

shall, after the canvass of the votes has been closed, as provided by law, thereupon enclose and seal one of the poll books, and under cover direct the same to the register of deeds of said county, to which said unorganized county is attached for judicial purposes, and the book thus sealed shall thereupon be delivered to the supervisor of election, and shall that way be conveyed by such supervisor to, and delivered to the said register of deeds, at his office within three days after the closing of the polls; and the other poll book, enclosed in the ballot box, as aforesaid, together with the ballots, enclosed and sealed therein, by such judges and supervisors, shall, within the same time, be deposited by said supervisors with the clerk of the district court for such judicial subdivision; and the said poll book in the office of the register of deeds shall be subject to inspection at any time thereafter, and said poll book shall be preserved as a public record, and the ballots and the ballot boxes, with the poll book therein, shall be carefully kept closed and sealed until they shall be ordered opened by the district court of said subdivision, or the Judge thereof.

§ 18. PENALTY OF MISCONDUCT OF, ETC.] If any of the supervisors, judges or clerks of election shall in any manner interfere with any of the ballots, ballot boxes or poll books, other than as is provided by this act and the laws of the Territory, or shall wilfully aid or assist in making any false count of the ballots, or wilfully falsify the poll books in any manner, or wilfully make any false return of the votes, or if any supervisor of election shall wilfully refuse or neglect to deliver such poll book and ballot boxes to the officers provided for in this act, within the time specified in this act, safe, and with the seals unbroken, or if any supervisor shall in any manner interfere with such poll books, ballots or ballot boxes, other than to deliver them to the officers provided for in this act, he shall be deemed guilty of a felony, and upon conviction thereof, shall be fined in a sum not exceeding five thousand dollars, and be imprisoned in the territorial prison for not less than one year, or more than five years.

§ 19. CANVASS OF VOTES ] The said register of deeds of the county to which such unorganized county is attached for judicial purposes shall, within the time prescribed by law for the canvass of votes, take to his assistance the said probate judge, the said clerk of the district court, and a majority of the county commissioners of his said county, who shall proceed to open said returns, and make an abstract of the votes cast at said election in the following manner: The abstract of the votes for county officers shall be on one sheet, and the abstract of votes for the temporary location of the county seat shall be on a separate sheet; and it shall be the duty of said register of deeds, immediately, to make out a certificate of election to each of the persons having the high-

est number of votes for such county officers, and deliver such certificate to the persons so elected, and immediately after canvassing the returns, and making an abstract of the votes, as provided in this section, the register of deeds shall make a certified copy of each abstract, and forward the same to the Secretary of the Territory, and when the votes are canvassed for county seat, as provided in this section, the place having the highest number of votes shall be the temporary county seat, and such place shall be so declared the county seat by said board, or a majority of them.

§ 20. OFFICERS TO QUALIFY.] The officers elected under the provisions of this act shall proceed to qualify in the manner provided by law for such officers within twenty days after the canvassing of such votes as provided for in the preceding section, and the county commissioners after they have so qualified shall immediately convene at the place so selected as the county seat of said unorganized county, as canvassed and declared by said canvassing board, and proceed to the discharge of their duties as said county commissioners in the organization of said county as is now or may be hereafter provided by law; and if any person elected to any office shall fail or refuse to qualify within thirty days after such canvass, his office shall be deemed vacant and shall be filled in the manner provided by law for the filling of vacancies; and if any one or more of the county commissioners shall fail or refuse to qualify as provided by law, then remaining member or members of said board, with the judge of the probate court and register of deeds of said county, even before the said two such officers named have given their bond, shall immediately appoint some suitable person to fill the vacancy in the office of county commissioner.

§ 21. POWER OF COUNTY COMMISSIONERS.] The county commissioners elected or appointed under the provisions of this act, shall have power to divide the county into three commissioner districts, which shall be numbered from one to three; and said districts shall not be changed oftener than once in three years, and then only at the regular sessions in January, April or July, and one commissioner shall be elected from each of said districts at the next general election after such organization, one of whom shall be chosen for the term of one year, one for two years, and one for three years, and one annually thereafter as provided by law.

§ 22. COMPENSATION OF SUPERVISORS.] The said supervisors of election shall receive for their services the sum of four dollars per day for the time actually and necessarily employed, and ten cents per mile for necessary travel, to be approved by the Governor and audited, and paid out of the territorial treasury.

§ 23. COMPENSATION OF OTHER OFFICERS.] The officer or person serving the notices on the judges of election, and posting the no-

tices as provided in this act, shall receive for his service the amount authorized by law for like services performed by a sheriff in all organized counties ; and the clerk of the District Court and other county officers required to perform the services required in this act, shall receive two dollars per day for the time actually and necessarily employed, and the printers and publishers shall receive the legal rates for publication of said notices, all of which sum shall be audited and paid by the said unorganized county as soon as the said county shall be organized under the provisions of this act.

§ 24. FAILURE NOT TO INVALIDATE.] Any failure to publish or post the notices provided for in this act shall not invalidate an election held under the provisions of said act ; but if any of the officers shall wilfully fail to perform any of the duties required of him by this act, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished accordingly.

§ 25. WHEN ALL PROCEEDINGS SET ASIDE.] If from any legal cause the whole election held under the provisions of this act for the organization of a county should be set aside by the court or judge thereof, and declared invalid, then the Governor shall have all the authority provided in this act to call a new election, and said county shall be organized as in this act provided.

§ 26. REPEALED.] That sections one, two and three, of chapter twenty-one, of the Political Code, be and the same are hereby repealed.

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

Approved, March 13, 1885.

## County Offices.

COMMISSIONERS TO PROVIDE.

### CHAPTER 41.

AN ACT to Amend Section Forty-two (42) of Chapter Twenty-one (21) of the Political Code.

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

§ 1. That Section Forty-two (42) of Chapter Twenty one (21) of the Political Code be and the same is hereby amended, so as to read as follows :