

# LAWS

OF THE

## TERRITORY OF WISCONSIN.

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### AN ACT in relation to the formation of a State Government in Wisconsin.

BE IT ENACTED by the Council and House of Representatives of the Territory of Wisconsin:

SECTION 1. That on the first Tuesday of April next, every white male inhabitant above the age of twenty-one years, who shall have resided in the Territory for six months next previous thereto, and who shall either be a citizen of the United States or shall have filed his declaration of intention to become such according to the laws of the United States on the subject of naturalization, shall be authorized to vote for or against the formation of a State Government in Wisconsin, by depositing with the judges of election in a box, to be prepared and kept by them, a ballot upon which shall be written or printed "for State Government," or "against State Government," and every person so authorized to vote may vote on that question, at any town or precinct in which he may be whether he resides in said town or precinct or not.

SEC. 2. All votes cast at such election shall be canvassed, certified and returned, in the same manner as is required by law for the canvassing, certifying and returning of votes for delegate to Congress, and the Secretary of the Territory shall make and deliver to the Governor, a certified abstract of all such votes by counties, and in all those counties of the Territory which have adopted

To vote for or  
against State  
Government.

Votes to be  
canvassed,  
certified and  
returned.

the provisions of an act entitled "an act to provide for the government of the several towns in this Territory and for the revision of county government," the votes shall be canvassed, certified and returned in the manner provided for by the act entitled "an act to provide for and regulate general elections," and for that purpose the clerk of the board of county supervisors, shall perform all the duties required by law to be performed by the clerk of the board of county commissioners.

**Governor to appoint a person to take census.**

**SEC. 3.** The Governor shall appoint in each of the counties of the Territory, some suitable person who is hereby authorized and required to cause the number of inhabitants in their respective counties to be taken, omitting in their enumeration Indians not citizens, and officers and soldiers of the United States army, and the persons so appointed shall have power to appoint as many assistants to aid them in taking the census as they may deem necessary, assigning to each assistant a certain division of his county, to be accurately defined, either by congressional township lines, the boundaries of towns organized for town government, or be distinctly bounded by water courses or public roads.

**Governor to furnish list of persons appointed.**

**SEC. 4.** The Governor shall furnish to the Secretary a list of the names of all persons and their residence so far as he can ascertain the same appointed by him in pursuance of the provisions of this act, which the Secretary shall record in the Executive Journal: and the Secretary shall furnish to every person so appointed by the first day of April next, a certificate of such appointment, and shall at the same time forward to him the necessary blank forms for carrying into effect the provisions of this act, to be prepared by the Secretary; and the Auditor of the Territory is hereby authorized to audit and allow the accounts of the Secretary for all expenses incurred by him in carrying into effect the provisions of this act, and give his warrant upon the Treasurer for the same.

**To take oath.**

**SEC. 5.** The persons appointed to take the census and their assistants shall severally take and subscribe an oath or affirmation before some person authorized by law to administer oaths, previous to entering upon the discharge of the duties imposed by this act, that they will well and truly cause to be made a just and perfect enumeration of all the persons resident within their county or division, as the case may be, and a true return thereof make

in pursuance of the provisions of this act, according to the best of their abilities, which oath or oaths shall be returned with the census as hereinafter provided, to the Secretary of the Territory. Every assistant so appointed shall return to the person by whom he was appointed, a just and perfect enumeration of the inhabitants of the district or division assigned to him, in the form so as aforesaid to be prepared by the Secretary, by the twentieth day of June next.

SEC. 6. Every person appointed in pursuance of the provisions of this act, to take the census, and every assistant who shall be appointed and accept said appointment, who shall fail to make returns agreeably to the provisions of this act, or who shall make a false return of the enumeration in his county or division shall for-  
 Penalty.  
 feit and pay the sum of two hundred dollars, to be recovered in the name and for the use of the Territory before any court of competent jurisdiction.

SEC. 7. The said enumeration shall be made by an actual enquiry by the persons taking such census, at every dwelling or by personal enquiry of the head of every family, in their respective counties or divisions, and shall commence on the first day of June  
 Census when taken.  
 next, and shall be completed and closed in thirty days thereafter, and said enumeration shall include only those whose place of residence shall be in said counties or divisions on the first day of June aforesaid, and the several assistants shall by the twentieth day of June next make and deliver to the person by whom they were appointed respectively, a true and accurate copy of the enumeration of all persons, Indians not citizens, and soldiers excepted, within their respective divisions, which enumeration shall be set forth in a schedule designating the townships, precincts or districts comprising his division, according to the civil or geographical boundaries thereof and shall embrace the several families by the name of the head thereof and the aggregate population therein.

SEC. 8. The several persons appointed in pursuance of the provisions of this act to take the census in their respective counties, shall, by the tenth day of July next, prepare duplicate copies  
 Duplicate copies where deposited.  
 of the enumeration of the inhabitants of their respective counties and transmit one of said copies to the Secretary of the Territory and deliver the other to the Register of Deeds of said county, or

if there be no Register of Deeds in such county, to the Register of Deeds of the county to which it is attached for judicial purposes, and the said Register shall preserve the same on file in his office subject to the inspection of all persons,

**Compensation** **Sec. 9.** The persons appointed to take said census and their assistants shall receive as compensation for the service to be performed in taking such census at the rate of one dollar and fifty cents for every one hundred persons enumerated by them respectively: *Provided*, that in the counties of St. Croix, Chippewa and La Pointe, and in those counties having a population of less than one thousand souls, there shall be allowed to the person making the enumeration at the rate of three dollars for every one hundred persons enumerated therein: *Provided*, also, that there shall be allowed to the persons appointed according to this act to take such census the sum of five dollars, for making the abstract or copies required by the preceding section, each county shall pay for taking the census within its own limits and for the abstracts and copies of the same.

**Proviso.**

**Provided also,**

**Duty of Secretary.** **Sec. 10.** As soon as the returns of the census shall have been received by the Secretary from the several persons authorized to take the same, and by the first day of August next, whether he shall have received all of the returns or not, he shall proceed to make an abstract of the population of the several counties as shown by the returns received by him, which abstract he shall file in his office, and furnish a certified copy thereof to the Governor.

**Governor to make apportionment.** **Sec. 11.** Immediately upon the receipt from the Secretary, of the said copy of said abstract, in case a majority of all the votes cast upon the question of forming State Government are "for State Government," the Governor shall proceed to make an apportionment among the several counties, of delegates to form a state constitution upon the following principles, viz: He shall apportion one delegate to every county in the Territory for every thirteen hundred inhabitants in said county, and an additional delegate in every county if there shall be a fraction in such county over and above the said number of thirteen hundred, or any multiple of that number greater than one moiety of said number: *Provided*, that there shall be one delegate apportioned to each organized county, whether it shall contain the number of thirteen hundred inhabitants or not, and no county shall be entitled to two delegates in said convention unless it shall contain over nineteen

**Proviso.**

hundred and fifty inhabitants. No two counties shall be united in the same election district for the election of delegates.

SEC. 12. As soon as the Governor shall have completed said apportionment, he shall issue his proclamation and cause it to be published in all the newspapers printed in the Territory and transmit a copy of it to each of the sheriffs of the county, for an election of delegates according to said apportionment to be held at the time of holding the next annual election in every county of the Territory, and said proclamation shall specify the number of delegates so apportioned to each of the counties of the Territory.

Governor to  
issue procla-  
mation.

SEC. 13. Immediately upon the receipt of said proclamation the sheriff in the several counties in the Territory shall give notice that an election will be held on the day mentioned in the proclamation of the Governor in the several towns and election precincts in each county, for the election of the same number of delegates in their counties respectively as the Governor by his said proclamation shall have apportioned to such county, and the sheriff in such notices shall designate the same place for holding such election in the several towns and precincts as shall have been provided by law for the holding of elections in such towns and precincts; and if no such place shall have been provided by law, then such place as the sheriff shall think proper to select, which notices shall be posted up in at least three public places in each of said towns and precincts, and in case any county shall be attached to another county for judicial purposes, and there shall be no sheriff in it, then the sheriff of the county to which it is attached shall perform the duties hereby required to be performed in such attached county in the same manner that he is hereby required to perform therein in the county of which he is the sheriff excepting the counties of Chippewa, St. Croix and La Pointe, in which said county [counties] it shall be the duty of the clerk of the board of county commissioners to do the duties herein required to be done by the sheriff. And the same persons shall act as judges of election, at said election of delegates, as shall act as judges of the general election and if there are no judges present or if part only are present, the voters in attendance may appoint others to supply their places.

Sheriffs to give  
notice.

SEC. 14. At the times and places specified in said notices of election, all the white male inhabitants of the Territory above the age of twenty-one years, who shall have resided in the Territory

Who may vote  
for delegates.

for six months next preceding said election, and who shall be citizens of the United States, or shall have declared their intention to become such according to the laws of the United States on the subject of naturalization, shall be authorized to vote by ballot for the number of delegates to the convention to form a state constitution which shall have been apportioned to the county in which he is voting, and no person shall vote in any county for delegates unless he shall have been a resident of that county for ten days next preceding such election, and every person authorized by this act to vote for delegates to form a state constitution shall be competent to be elected a delegate to said convention for the county in which he resides.

Votes how  
canvassed, &c

SEC. 15. The votes cast for said delegates shall be deposited in a separate box to be provided by the judges of election for that purpose, and shall be canvassed, certified and returned, and certificates of election issued in the same manner as is provided by law for the canvassing, certifying and returning of votes and issuing of certificates of election for members of the House of Representatives. And the person or persons voted for, for delegate in each county equal to the number apportioned to such county, who shall have received the greatest number of votes shall be the persons declared duly elected as such delegates.

Delegates  
where to meet.

SEC. 16. The persons so elected delegates in the several counties of the Territory shall assemble in the Representatives' Hall, in the Capitol, at Madison, in said Territory, on the first Monday in October next, at twelve o'clock, noon, and when so assembled shall have full power and authority to form a republican constitution for the State of Wisconsin.

Powers of con-  
vention.

SEC. 17. The convention shall by ballot elect one of their number President, and appoint one or more Secretaries. The convention may employ a Doorkeeper, Messenger and Fireman, who shall be allowed the same amount per diem as the delegates. The convention may also employ a printer to do its necessary printing. The amount of pay to each delegate and officer of the convention shall be certified to by the President of the convention.

Pay of dele-  
gates.

SEC. 18. The delegates to such convention shall be entitled to two dollars per day for every day's attendance at said convention, and ten cents per mile for travel in going to and returning from said convention, to be paid out of the territorial treasury.

**SEC. 19.** If any person shall vote at either of the elections provided for by this act, who shall not possess the qualifications of a voter as the same are prescribed in this act, he shall be punished by a fine not less than fifty dollars nor more than one hundred dollars. Penalty for illegal voting.

**SEC. 20.** When any person shall offer to vote at either of the elections provided for by this act, and either of the judges of the election shall suspect that such person does not possess the qualifications of a voter, or if his vote shall be challenged by any voter, one of the judges of election shall tender to such person an oath or affirmation in the following form; I, A. B. do solemnly swear (or affirm as the case may be,) that I have resided in this Territory six months, and in this county ten days immediately preceding this election. I am twenty-one years of age as I verily believe. I am a citizen of the United States. (or have filed an application to become such according to the laws of Congress on the subject of naturalization) and I have not voted at this election. And if such person shall take such oath or affirmation, his vote shall be received unless it shall be proved by evidence satisfactory to a majority of the judges that he does not possess the qualifications of a voter; and if such person refuses to take said oath or affirmation, his vote shall be rejected. Votes how challenged.

**SEC. 21.** If any person shall take said oath or affirmation knowing it to be false, he shall be deemed guilty of perjury. Oath of electors.

**SEC. 22.** Said convention shall have power to submit the constitution adopted by them to a vote of the people, if they shall deem proper; and to provide how the votes cast upon that subject shall be taken, canvassed and returned, and shall also have power to submit the said constitution to the Congress of the United States, and to apply for the admission of Wisconsin into the Union of the United States as a sovereign state: *Provided*, that said constitution shall be eventually ratified by the people either before or after the action of Congress upon the same. Penalty.

**SEC. 23.** The general annual election shall hereafter be held in the several counties of the Territory on the first Monday of September annually, instead of the fourth Monday of September as now provided by law. Constitution to be submitted to a vote of the people.

**SEC. 24.** Should any of the duties required of any officer by this act not be performed as herein provided, it shall be the duty General elections.

**SEC. 24.** Should any of the duties required of any officer by this act not be performed as herein provided, it shall be the duty Duty of Governor.

of the Governor to cause the same to be performed and executed by some other person.

M. C. DARLING,  
Speaker House of Representatives.  
NELSON DEWEY,  
President of the Council.

APPROVED, January 31, 1846.

HENRY DODGE.

## AN ACT to change the time of holding courts in certain counties in the Second Judicial District.

BE IT ENACTED by the Council and House of Representatives of the Territory of Wisconsin:

Courts where  
held.

SECTION 1. The District Court shall be holden at the county seat of the several counties in the second judicial district herein-after mentioned, at the times specified herein, to wit: Dane county, the last Monday in April, and the sixth Monday after the fourth Monday in October: Sauk county, the second Monday in May, and the third Monday in October: Portage county, the second Monday in September: Jefferson county, the third Monday in May, and fourth Monday in October: Walworth county, the fourth Monday in May, and the first Monday after the fourth Monday in October: Rock county, the second Monday after the fourth Monday in May, and the third Monday after the fourth Monday in October: Green county, the fourth Monday after the fourth Monday in May, and the fifth Monday after the fourth Monday in October.

Writs, &c.,  
when returna-  
ble.

SEC. 2. All writs, summons, process, indictment, recognizance and other proceedings in any of the said courts which now are, or may hereafter be made returnable in any of said courts in the first section mentioned, at any time after this act shall take effect, shall be considered as returnable at the time fixed for holding