

Feb. 19, 1851.

CHAP. X. — *An Act to authorize the Legislative Assemblies of the Territories of Oregon and Minnesota to take Charge of the School Lands in said Territories, and for other Purposes.*

Governments of Oregon and Minnesota authorized to take charge of the school lands therein.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the governors and legislative assemblies of the Territories of Oregon and Minnesota be, and they are hereby, authorized to make such laws and needful regulations as they shall deem most expedient to protect from injury and waste sections numbered sixteen and thirty-six in said Territories, reserved in each township for the support of schools therein. (a)

Grant of land for a university in Minnesota.

SEC. 2. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby, authorized and directed to set apart and reserve from sale, out of any of the public lands within the Territory of Minnesota to which the Indian title has been or may be extinguished, and not otherwise appropriated, a quantity of land not exceeding two entire townships, for the use and support of a university in said Territory, and for no other use or purpose whatsoever, to be located by legal subdivisions of not less than one entire section.

APPROVED, February 19, 1851.

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CHAP. XI. — *An Act to prescribe the Mode of obtaining Evidence in Cases of contested Elections.* (b)

Notice to be given of intention to contest any election of a member of the House of Representatives within thirty days after it is declared.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, whenever any person shall intend to contest an election of any member of the House of Representatives of the United States, he shall, within thirty days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice, in writing, to the member whose seat he designs to contest, of his intention to contest the same, and, in such notice, shall specify, particularly, the grounds upon which he relies in the contest: *Provided,* That in all elections for the thirty-second Congress heretofore held, any person intending to contest the same may give notice thereof within thirty days after the passage of this act.

Proviso.

Answer to be made to such notice.

SEC. 2. *And be it further enacted,* That any member upon whom the notice mentioned in the first section of this act may be served, shall, within thirty days after the service thereof, answer such notice, admitting or denying the facts alleged therein, and stating specifically any other grounds upon which he rests the validity of his election, and shall serve a copy of his answer upon the contestant.

By whom subpoenas are to be issued.

SEC. 3. *And be it further enacted,* That when any such contestant or returned member shall be desirous of obtaining testimony respecting such election, it shall be lawful for him to make application to any judge of any court of the United States, or to any chancellor judge or justice of a court of record of any State, or to any mayor, recorder, or intendant of any town or city, which said officer shall reside within the congressional district in which such contested election was held, who shall thereupon issue his writ of subpoena, directed to all such witnesses as shall be named to him, requiring the attendance of such witnesses before him, at some time and place named in the subpoena, in order to be then and there examined respecting the said contested election, in the manner hereinafter provided.

(a) The reservation for Minnesota is in Stat. 1849, ch. 121, § 18, and for Oregon in Stat. 1848, ch. 177, § 20, and Stat. 1850, ch. 76, § 9.

(b) The prior acts on this subject are Stat. 1798, ch. 8, and Stat. 1800, ch. 28, which extends the former act for four years.

SEC. 4. *And be it further enacted*, That every such witness shall be duly served with such subpoena, by a copy thereof being delivered to him or her, or left at his or her usual place of abode, at least five days before the day on which the attendance of the witness is required: *Provided*, That no witness shall be required to attend an examination out of the county or parish in which he or she may reside, or be served with a subpoena.

Service of subpoena.

Proviso.

SEC. 5. *And be it further enacted*, That any person summoned in the manner hereinbefore directed, and refusing or neglecting to attend and testify, unless prevented by sickness or unavoidable necessity, shall forfeit and pay the sum of twenty dollars, to be recovered, with costs of suit, by the party at whose instance the subpoena was issued, and for his use, by an action of debt, in any court of the United States, and shall also be liable to an indictment for a misdemeanor, and punishment by fine and imprisonment.

Penalty for neglecting or refusing to attend or testify.

SEC. 6. *And be it further enacted*, That the party at whose instance such subpoena may be issued, shall, at least ten days before the day appointed for the examination of the witnesses, give notice, in writing, to the opposite party of his intention to examine witnesses, which notice shall contain a statement of the time and place of the proposed examination, the name of the officer who shall conduct the same, the names of the witnesses to be examined, and their places of residence, which notice shall be served by leaving a copy with the person to be notified, or at his usual place of abode: *Provided*, That neither party shall give notice of taking testimony at different places at the same time, or without allowing an interval of at least five days between the close of taking testimony at one place and its commencement at another.

Notice to be given to opposite party of intention to examine witnesses.

Proviso.

SEC. 7. *And be it further enacted*, That all witnesses who shall attend in obedience to said subpoena, or who shall attend voluntarily at the time and place appointed, of whose examination notice has been given as provided in the next preceding section, shall then and there be examined on oath or affirmation, by the magistrate who issued the subpoena aforesaid, or, in case of his absence, by any other such magistrate as is authorized by this act to issue such subpoena, touching all such matters and things respecting the election about to be contested as shall be proposed by either of the parties aforesaid, or either of them, or by their or either of their agents; and the testimony of the witnesses, together with the questions proposed by the parties or their agents, the said magistrate is hereby authorized and required to cause to be reduced to writing, in his presence, and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively, after which he shall immediately transmit by mail the said testimony, duly certified under his hand, and sealed up, to the clerk of the House of Representatives for the time being, together with a copy of the subpoena and of the notice served upon the party, as provided in the preceding section, and of the proof of the service of such notice.

Examination of witnesses.

Testimony to be transmitted to the clerk of the House of Representatives.

SEC. 8. *And be it further enacted*, That the said magistrate shall have power to require the production of papers; and on the refusal or neglect of any person to produce and deliver up any paper or papers in his possession pertaining to said election, or to produce and deliver up certified or sworn copies of the same in case they may be official papers, he shall be liable to all the penalties prescribed in the fifth section of this act; and all papers thus produced, and all certified or sworn copies of official papers, shall be transmitted by said magistrate, with the testimony of witnesses, to the clerk of the House of Representatives.

Production of papers.

SEC. 9. *And be it further enacted*, That the testimony taken by the

Testimony to be confined to the matter stated in the notice and answer; and

Testimony to be finished within 60 days from service of answer.

Copy of notice and answer to be prefixed to the depositions.

Proviso.

In certain cases the testimony may be taken before justices of the peace.

Fees of witnesses.

Fees of magistrates.

parties to the contest, or either of them, shall be confined to the proof or disproof of the facts alleged or denied in the notice and answer mentioned in the first and second sections of this act; and no testimony shall be taken after the expiration of sixty days from the day on which the answer of the member returned shall be served upon the contestant; and a copy of the notice of contest, and of the answer of the returned member, shall be prefixed to the depositions taken, and transmitted with them to the clerk of the House of Representatives: *Provided*, That the House may, at their discretion, allow supplementary evidence to be taken after the expiration of said sixty days.

SEC. 10. *And be it further enacted*, That when no such magistrate as is by the third section of this act authorized to take depositions shall reside in the congressional district from which the election is proposed to be contested, it shall be lawful for either party to make application to any two justices of the peace residing within the said district, who are hereby authorized to receive such application, and jointly to proceed upon it in the manner hereinbefore directed.

SEC. 11. *And be it further enacted*, That every witness attending by virtue of such subpoena as is herein directed to be issued, shall be allowed the sum of seventy-five cents for each day's attendance, and the further sum of five cents for every mile necessarily travelled in going and returning, which allowance shall be ascertained and certified by the magistrate taking the examination, and shall be paid by the party at whose instance such witness was summoned; and each judge, justice, chancellor, mayor, recorder, intendant, and justice of the peace who shall be necessarily employed pursuant to the provisions of this act, and all sheriffs, constables, or other officers who may be employed to serve any subpoena or notice herein provided for, shall be entitled to receive from the party at whose instance the service shall have been performed, such fee or fees as are or may be allowed for similar services in the States wherein such service may be rendered respectively.

APPROVED, February 19, 1851.

Feb. 27, 1851.

CHAP. XII. — *An Act to supply deficiencies in the Appropriations for the Service of the Fiscal Year ending the thirtieth of June, one thousand eight hundred and fifty-one.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, one thousand eight hundred and fifty-one, out of any moneys in the treasury not otherwise appropriated, namely: —

Watchmen in north-east executive building.
Judges in California.

State Department. — For additional compensation to four watchmen in the north-east executive building, five hundred and forty dollars.

For salaries of the judges in the northern and southern districts of California, three thousand two hundred and fifty dollars.

Watchmen in south-east executive building.

Treasury Department. — For additional compensation to eight watchmen in the south-east executive building, one thousand and eighty dollars.

Office of first auditor of treasury.

For contingent expenses in the office of the first auditor of the treasury, for cases for the records, documents, and official papers preserved in the office, and for new furniture, this sum having been transferred, per act September thirtieth, eighteen hundred and fifty, as an addition to the salary of one of the recording clerks, two hundred dollars.

Office of Indian affairs.

For contingent expenses of office of Indian affairs, nine hundred and twenty-two dollars and five cents.