

SEC. 38. The commanding officers of regiments, of the Naval Brigade and of separate battalions shall issue orders for the election of company and divisional officers under their command. The officer ordering an election shall detail an officer to preside thereat, and shall give or cause to be given at least five days' notice to all qualified voters when and where and for what office the election is to take place. Such notice shall be served on the persons entitled to vote at such election in the same manner as warnings for duty are given. If it shall so happen that those entitled to vote at said elections shall not have received legal notice, then the officers detailed to preside at said elections shall have the power to adjourn the meeting and cause such notice to be given; but the presence of a person entitled to vote at said election shall be deemed a waiver of his right to take exception to the want of legal notice to him. A majority of those entitled to vote must be present before an election can be held. The election must be by ballot, and a majority of the votes of all persons present at an election shall be necessary to a choice. The presiding officer shall at once notify the person elected in writing of his election. If a person elected at any such election shall not, within ten days after being notified of his election, signify his acceptance of same to the presiding officer he shall be considered as declining the office to which he shall have been elected, and a new election shall be held. Should there be no choice, the presiding officer shall adjourn the meeting and the convening officer may order another meeting, and at that meeting open the polls for another election; and if such second meeting result in no choice, the Governor shall be notified and may then fill the vacancy by appointment. The presiding officer shall forward the proceedings of an election in such manner as provided in the regulations issued under this article.

SEC. 39. Every officer duly commissioned shall, within ten days after his commission is tendered him, or within ten days after he shall have been notified personally or by mail that the same is held in readiness for him by a superior officer, take and subscribe to the constitutional oath of office. Such oath shall be taken and subscribed to before an officer authorized by law to administer an oath, or some general or field officer who has taken the oath himself and who is hereby authorized to administer the same. In case of neglect or refusal to take and subscribe to such oath within the time mentioned, such commission shall be cancelled by the Governor and a new appointment shall be made, or a new election shall be ordered to fill the vacancy.