

[Chap. 25.]

AN ACT to establish the Seat of Justice of Scott County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That for the purpose of permanently establishing the seat of justice of Scott county, an election shall be held at the several precincts in said county, on the third Monday of August next, at which time the qualified electors of said county, shall vote for Davenport or Rockingham, for the seat of justice.

To establish county seat at Davenport or Rockingham.

SEC. 2. That to entitle any person to vote at said election, he must be a citizen of the United States, twenty-one years of age, and shall have resided in said county sixty days, and in the Territory six months next preceding said election.

Persons entitled to vote.

Judges of general election to act in this case.

SEC. 3. That the same persons who are or may be appointed judges or managers at the several precincts in said county of the general election, shall be judges or managers of the election directed by this act; and in case of failure of any of them to attend at the hour for opening the polls their places shall be supplied in the manner directed by the law regulating general elections, and the said judges of each precinct shall appoint two suitable persons, having the qualifications of electors, to act as clerks of said election, and the said judges and clerks, before entering upon the discharge of their duties, shall take an oath before some person authorized to administer the same, honestly, faithfully and impartially to perform the duties required of them by this act.

In case of failure their places to be supplied.

Clerks of election; who appointed.

Power of Judges.

SEC. 4. That the said judges or any one of them shall have power and on any person offering to vote, being challenged by any elector who has voted at such election, are hereby required to administer an oath to such persons offering to vote, true answers to make to such questions touching his qualifications as a voter as shall be propounded to him, and shall thereupon examine such person as to his right to vote, and said judges shall not permit any person to vote at said election who is not qualified according to the requirements of this act.

Persons not permitted to vote.

Duty of clerks.

SEC. 5. That each of the clerks of said election shall keep a separate poll book or list of voters, and shall enter on his poll book the name of every person voting at his precinct, numbering them from one,

progressively in the order in which they shall vote with the proper number set opposite each name, and the judges of said election are hereby required to number the vote or ballot (on the back thereof,) of each and every voter with the same number that stands opposite the name of such voter on the clerks' poll books, and the ballot so given and numbered shall be deposited in a box and shall be safely kept by the judges of said election, until disposed of as hereinafter directed. The polls shall be opened at each precinct at the hour of nine o'clock, A. M. and not before, and shall be closed at six o'clock, P. M. of the same day. Upon closing the polls the judges shall proceed openly and in the presence of such electors as may choose to attend to count the ballots so given in, and the clerks shall severally keep a tally of the votes so counted out, designating the name of the town for which said votes or ballots may have been given, and when they shall all have been counted they shall be added up and the aggregate for each town set down in figures and in words at full length, and the said judges and clerks shall certify that the same is a true statement of the votes polled at such precinct, and shall return the said ballots into the box from which they were taken, and seal up said box; and the said judges shall return said box, containing the ballots so sealed up, and shall also return one of the poll books of each precinct to the clerk of the District Court of Scott county, by three o'clock P. M. of the third day after said election; on which said third day after said election, the judges of the several precincts shall meet at the office of the clerk of said District Court, and shall, in the presence of each other and of the clerk of said District Court, proceed to examine the returns from each precinct, and on said judges, or a majority of them, being satisfied that one of the two places mentioned in the first section of this act has received a greater number of legal votes than the other, said judges shall declare the town having received such majority of votes the seat of justice of Scott county, and the clerk of the District Court shall make an entry of such fact in the minutes of said District Court, and the town so declared to have received a majority of votes shall thenceforth be the seat of justice of Scott county.

Time of opening polls.

Judges to count votes.

Judges and clerks to certify returns.

And return same to clerk of district court within three days.

Judges of several precincts to meet at office of clerk of district court.

And declare result.

Clerk of court to make an entry of same.

Ballots to be kept at clerks office for twenty days.

SEC. 6. That the ballots and poll books so returned from the several precincts shall be safely kept by the clerk of the District Court in his office for twenty days from the day of said election, at which time he shall destroy said ballots, unless within that time said election shall be contested in the manner hereinafter provided.

In case of contest—how prosecuted.

SEC. 7. That any three electors who shall have voted at said election may, within twenty days after said election, notify said clerk of the District Court in writing that they contest said election, and if they shall within said twenty days enter into bond with sufficient security to be approved of by the said clerk, payable to said clerk, in the penal sum of three hundred dollars, conditioned to prosecute said contest with effect, or failing therein, to pay all such costs as may accrue in the premises, the said clerk shall immediately notify the judge of said District Court that said election is contested, and the said judge, on receiving such notice, shall appoint a time and place, in Scott county, for enquiring into and deciding the said contested election, and notice of such time and place shall be given by said clerk by publication in the "Iowa Sun," a newspaper published in said county, not less than fifteen days prior to the time so appointed for the trial of said contested election; and said clerk shall issue subpoenas for all such witnesses as said persons contesting said election, or any other three voters of said county, may require, returnable to the time and place as aforesaid appointed for said trial.

Duty of clerk of court and sheriff.

SEC. 8. That the clerk of said District Court, and the sheriff of Scott county, shall attend the judge of said court at the time and place so appointed, and the clerk of said court shall deliver to the judge thereof the ballots and poll books returned to him as above provided, and said judge shall proceed to enquire into the legality of said election, and may examine said ballots and poll books, and receive the testimony of all such witnesses as may be produced before him, and shall purge the said polls of all illegal votes that may have been received, and shall decide the said contested election in favor of the town that may have received the greatest number of legal votes at said election, and the clerk of said District Court shall make an entry of the decision of said judge on the minutes of said court as a judgment thereof.

To enquire into legality of election.

SEC. 9. That if any person shall vote at said election without being qualified as above provided, or who shall vote more than once at said election, or shall vote at more than one precinct in said county, or who shall, for the purpose of voting at said election, swear falsely touching his qualifications as a voter, shall be fined in a sum not less than fifty nor more than five hundred dollars, one half thereof to the use of the county, and the other half to any one who shall prosecute for the same, and shall be further liable to an indictment, and if found guilty of swearing falsely shall suffer all the pains and penalties of wilful and corrupt perjury.

Illegal voting;
how punished.

SEC. 10. That if either of the judges or clerks of said election shall be guilty of any wilful violation of any duty required of them by this act, and shall be thereof convicted on indictment, such person so convicted shall be fined in any sum not less than one thousand nor more than two thousand dollars, or imprisoned not more than twelve months, at the discretion of the jury trying the same.

Violation of
duty by judges
or clerks;
how punished.

APPROVED, July 29, 1840.

[Chap. 26.]

AN ACT supplemental to "An act to establish the Seat of Justice of Scott County," approved July 1840.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the act to which this is a supplement, and this supplement, shall both take effect from and after the third day of August next.

Act to take
effect.

APPROVED, July 29, 1840.

[Chap. 27.]

AN ACT to incorporate the Baptist Church of Du Buque.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That Benj. Rupert, Amos Mathews, Jenks Dexter, Jos. T. Fales, Alexander D. Anderson, J. D. Graffort, and their associates and successors, be, and they are hereby created a body politic and corporate by the name and style of the Baptist Church of Du Buque, and by that name may have succession, and shall be able in law and equity to sue and be sued, and hold property, personal, real and mixed,

Body cor-
porate.