

purposes," shall hereafter be performed by the territorial agent, and the purchase money of all lots or out lots in Iowa City, and all sums becoming due upon any promissory notes or obligations for the purchase of any of said lots, shall be paid to the said territorial agent, or his successor in office.

SEC. 18. **Of vacancies.** Should a vacancy happen in either of the aforesaid offices of superintendent of public buildings at Iowa City, or territorial agent, during the recess of the legislative assembly, such vacancy shall be filled by the governor.

SEC. 19. **Salaries of superintendent and agent.** That the said superintendent shall receive, as a compensation for his services, an annual salary of one thousand dollars, and [62] the said territorial agent the sum of seven hundred dollars per annum.

SEC. 20. **Repealing section.** That all acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 21. **When to take effect.** This act to take effect and be in force from and after its passage.

Approved January 14, 1841.

## CHAPTER 69.

AN ACT to locate the county seat of Lee county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

SECTION 1. **Election to be held for county seat.** That on the second Monday of March next, the qualified voters of Lee county shall be allowed to vote for the location of the seat of justice of said county.

SEC. 2. **All points may be voted for.** Every voter may vote for any point as the seat of justice; and if, at said election, any one point shall receive a majority of votes over all the other points, it shall be declared the seat of justice of said county.

SEC. 3. **Second election provided for.** If no one point receives a majority of all the votes cast at said election, then there shall be a second election held on the third Monday in April next, at which second election the two points receiving the highest number of votes at the first election shall be voted for, and none other; and the point for which the highest number of votes is cast, shall be declared the seat of justice of said county.

SEC. 4. **Judges, etc.—judges and clerks to take oath.** That the same persons who served as judges or managers at the several precincts in said county, at the last general election, shall be judges or managers of the elections 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 elections; 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; and the person administering said oaths or affirmations shall cause an entry thereof to be made and subscribed by him, and prefixed to the poll book, which shall be returned to the clerk of the district court as hereafter provided.

**SEC. 5. Of challenged votes.** 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 or elections, are hereby required to administer an oath to such persons offering to vote, true answers to [63] 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 such judges shall not permit any person to vote at said election or elections, who is not qualified according to the provisions of this act.

**SEC. 6. Mode of conducting election—opening of polls—counting of votes—of ballots, etc.—meeting of judges—duty of clerk of district court.** That the first election shall be conducted as follows, to-wit: 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 clerk's poll book, 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, between the hours of nine and ten o'clock, a. m., and shall be closed at six o'clock, p. m., of the same day. When 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 Lee county, by three o'clock, p. m. of the fourth day after said election, on which said fourth day after said election the judges of the several precincts shall meet at the office of the clerk of said 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 if a majority of said judges are satisfied that any one point voted for shall have received a majority of the legal votes polled at said first election, then they shall declare said point the seat of justice of said county, and the clerk of the district court shall so enter the same on the minutes of said court.

**SEC. 7. How to proceed in case of no election.** But if, on such examination, it shall appear that no one point has received a majority of all the votes cast at said first election, it shall be the duty of the clerk of the district court to write three notices for every election precinct in said county, which notices shall set forth the two places receiving the highest number of votes at the first election, and which places are to be voted for at the second election, and also the day on which said second election is to be held, which notices shall be delivered to the sheriff of said county, and by him posted up in the following manner, to-wit: one no-[64]-tice at the place of voting in each precinct, and the two others in two of the most public places in each precinct, at least ten days before the time of holding said election.

**SEC. 8. Mode of conducting second election.** That the second election shall be conducted, and the result made known and declared, in the same manner

as provided for in the sixth section of this act providing for the holding of the first election.

**SEC. 9. Of poll books, etc.** That the ballots and poll books 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 holding either of said elections, at which time he shall destroy said ballots, unless within that time said election shall be contested in the manner hereafter provided.

**SEC. 10. Mode of contesting elections.** That any five electors who shall have voted at either of said elections, may, within twenty days after said elections, 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 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 Lee county, for enquiring into and deciding the said contested election; and notice of such time and place shall be given by said clerk, by nine written notices, one notice to be posted up at the place of holding elections in each precinct in said county, fifteen days prior to the time so appointed for the trial of said contested elections, and said clerk shall issue subpoenas for all such witnesses as said person contesting said elections or any three voters of said county may require, returnable to the time and place so as aforesaid appointed for said trial.

**SEC. 11. Further relative to contested election—purging of polls.** That the clerk of said district court, and the sheriff of Lee 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 elections, 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 elections 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.

**SEC. 12. Seat of justice.** The town which shall have received the greatest number of legal votes shall thenceforth be the seat of justice for Lee county.

**SEC. 13. Penalty for illegal voting, etc.** That if any person shall vote at either of said elections without being qualified, as above required, or who shall vote more [65] than once at either of said elections, or who shall, for the purpose of voting at either of said elections, swear falsely touching his qualifications as a voter, shall be fined in a sum not less than twenty nor more than one 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.

**SEC. 14. Of violations of duty by judges, etc.** That if either the judge or clerk of either of said elections shall be guilty of any wilful violation of any duty required of them by this act and shall thereof be convicted on indictment, such persons so convicted shall be fined in any sum not less than five hundred dollars, nor more than one thousand dollars, or imprisoned not more than twelve months, at the discretion of the jury trying the same.

**SEC. 15. Not to affect previous act.** That nothing contained herein shall alter or repeal the provisions of an act passed at the present session, en-

titled "An act to designate and fix the place of holding the several courts for the county of Lee."

Approved January 15, 1841.

## CHAPTER 70.

AN ACT to provide for assessing and collecting county revenue.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

**SECTION 1. Authority to levy tax on bonds, etc.—property exempt from taxation—licenses, etc.** That for the purpose of raising a revenue for county purposes, the board of county commissioners of each county in this territory, shall, each year, levy a tax, not to exceed five mills on the dollar, on all lands, town lots, and out lots, not exempt from taxation by any law of the United States, now in force; and on all personal property, with the exception of one hundred dollars worth of household furniture to each household, and excepting libraries, agricultural implements, tools of mechanics, sheep, school lands, or property of any kind, belonging or appertaining to schools, the property of all literary or scientific institutions, together with public buildings and other property belonging to the territory; on each ferry license, or ferry kept by authority of law, not less than two, nor more than fifty dollars per annum; on each license for hawking wooden, brass, or any other kind of clocks, not less than one hundred nor more than three hundred dollars; and on each license to keep a grocery, not less than twenty-five nor more than one hundred dollars; and no tavern or inn-keep-er shall be permitted to retail spirituous liquors without a grocery license.

**SEC. 2. Duty of county commissioners—proviso—poll tax—payment of poll tax.** That the county commissioners shall annually, at their regular session in July, or so soon thereafter as the assessment roll is filed, levy a per centage on real and personal property as aforesaid, sufficient, when added to the amount that will probably be received by the county from other sources of revenue, to defray the current expenses of such county, and to liquidate its debts for the year; but such per centage shall not, in any case, exceed five mills on the dollar, as aforesaid: provided, that the county commissioners of Dubuque county may, if they deem it expedient, levy a per centage not to exceed one cent on the dollar; and the commissioners should they deem it necessary may annually levy a poll tax, not exceeding one dollar, nor less than fifty cents, on every white male inhabitant in their county, above twenty-one, and under fifty years of age. Any person indebted to his county for the assessment of a poll tax may have the privilege of paying the same by working on the public road in the precinct in which he resides, at the rate of one dollar per day; and if the person so indebted shall neglect or refuse to pay his poll tax either in money or work, then and in that case the person so refusing or failing to pay his poll tax shall not hold any property free from execution for the payment of such poll tax.

**SEC. 3. Election of assessor and his duties.** That at the time and place of holding the election for county commissioners, there shall be elected one assessor for each county, who shall be a qualified elector, and whose term of office shall be one year, and until his successor is duly elected and qualified. Such assessor shall, within sixteen days after receiving a certificate of his election, enter into bonds, with security to be approved by the board of county commissioners, in the penalty of three hundred dollars, conditioned