

[48] CHAPTER 26.

CENSUS AND EXTRA SESSION.

AN ACT to provide for taking the census, and an extra session of the legislative assembly of this territory.

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

SECTION 1. Assessors to take the census in their respective districts; returns of, to whom and when made, how certified; certificate of, when and where to be filed. That it shall be the duty of the county, township or precinct assessors, of each county in this territory, to take the census of the white inhabitants of their respective counties, townships or precincts, and the counties to which they are attached if there be no assessors in such attached counties, as the case may be, and make out and certify under oath to the clerk of the board of county commissioners, the aggregate number of white inhabitants residing within their respective counties, townships or precincts, on the first day of May, A. D. 1844; which certificate shall be filed in the office of the clerk of the board of county commissioners on or before the second Monday in the month of June.

SEC. 2. Clerk of the board of county commissioners in each county to transmit a certified copy of returns to secretary of territory, at Iowa City, before the 16th June, 1844. That it shall be the duty of the clerks of the several boards of county commissioners in this territory to transmit a certified copy of the aggregate number of white inhabitants of their respective counties, to be ascertained by the return of the assessors made under the provisions of the first section of this act, to the secretary of the territory, at Iowa City, on or before the sixteenth day of June, 1844.

SEC. 3. Penalty upon clerk or assessor for refusing or neglecting to perform duties required by this act; amount of. That if any clerk or assessor shall neglect or refuse to perform the duties required by this act, he shall forfeit and pay to and for the use of the county to which such clerk or assessor may belong, a sum not exceeding three hundred dollars.

SEC. 4. Special session of legislature, when and where to meet; apportionment—restriction as to holding of same. That an extra session of the legislative assembly of this territory shall be begun and holden at Iowa City on the sixteenth day of June, 1844, for the purpose of making an apportionment of members of the council and house of representatives among the several counties of the territory, giving to each section of the territory representation in the ratio of its white population as nearly as may be, according to the census taken under the provisions of this act: provided, [49] That congress shall, before that time, make an appropriation to defray the expenses of said session, or otherwise legalize the holding of said session.

SEC. 5. Notices of next general election; when, how and by whom to be made out. That it shall be the duty of the clerks of the several boards of county commissioners, at least thirty days previous to the general election on the first Monday in August next, to make out and deliver to the sheriffs of their respective counties three written notices of such election for each township or election precinct, which notices shall be in form according to the laws of this territory regulating general elections.

SEC. 6. Sheriffs to post up notices twenty days before election. That the sheriff aforesaid, to whom such notices shall be delivered as aforesaid, shall post up said notices according to the laws of this territory regulating general

elections, at least twenty days previous to the general election on the first Monday in August, 1844.

SEC. 7. No debt to be incurred by the territory or state in consequence of such session. That no debt or expense shall be incurred against the territory or future state of Iowa in consequence of the extra session of the legislative assembly provided for by this act.

SEC. 8. Repealing clause. That so much of the laws of this territory regulating general elections conflicting with the provisions of this act be and the same are hereby repealed, so far as the same may apply to the general election in 1844.

SEC. 9. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 27.

CHANCERY.

AN ACT amendatory of an act entitled "An act relative to proceedings in chancery," approved January 23, 1839.

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

SECTION 1. Suit in chancery, how commenced against non-resident; notice of, how given and by whom; effect of. That when any person shall file a petition or bill of complaint in chancery with the clerk of the district court of any county in this territory, against a non-resident of said territory, such complainant or petitioner may file with such clerk an affidavit, stating that the defendant to said petition or bill is a non-resident of this territory. Thereupon the clerk shall make out a notice [50] of the pendency of the petition or bill of complaint, containing a brief statement of the object and prayer thereof, which the said complainant shall cause to be published for six weeks successively in some newspaper printed in the county where the petition or bill is filed, if there be one; if not, then in some newspaper printed in the territory; which notice, when published, shall be equivalent to personal service, to enable the trial to proceed at the next term of said court after said notice shall have been published during the said six weeks.

SEC. 2. Where to be published. When by the provisions of this act, or of the act to which this is amendatory, service of the pendency of any bill, petition or other proceeding, is required to be made by publication in some newspaper, such publication shall be made in some newspaper printed in the county where such bill, petition or proceeding, is pending; and if there is no newspaper printed and published in said county, then in a newspaper printed in the nearest county.

SEC. 3. If plea or demurrer is overruled defendant may answer over. When any plea or demurrer of a defendant shall be overruled, he shall be allowed to answer over upon filing an affidavit of merits.

SEC. 4. How absent defendant to verify his answer, and before whom. When the defendant in any chancery suit is without this territory, or is a non-resident, he may swear or affirm to his answer before any notary public, clerk of a court of record, or judge thereof, of any foreign state or territory.