

SEC. 11. Assessor of Iowa to assess his county. That the county assessor elected under the provisions of this act for the county of Iowa, shall assess his county in the manner, and be under the same obligations and liabilities as is now, or may hereafter be, provided by law in relation to township or county assessors.

SEC. 12. Commissioners appointed to locate seat of justice—to meet 2d Monday of July, or any day before 1st September. Thomas Henderson, of Keokuk county, Luman M. Strong, of Linn county, and Stephen B. Gardner, of Johnson county, be, and they are, hereby appointed commissioners to locate and establish the seat of justice of the county of Iowa. Said commissioners or any two of them, shall meet at the house of James M. Price in said county, on the second Monday in the month of July next, or at such other time within the month of August, as a majority of said commissioners shall agree, in pursuance of their duties under this act.

SEC. 13. Commissioners' oath. Said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear (or affirm) that we have no personal interest, directly or indirectly, in the location of the seat of justice of the county of Iowa; and that we will faithfully and impartially locate the same according to the best interest of said county, taking into consideration the future as well as the present population of said county," which oath shall be administered by the clerk of the district court, notary public, or some justice of the peace in the county of Iowa; and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to record the same.

SEC. 14. Commissioners to locate seat of justice and clerk to file the report. Said commissioners, when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county for which they have been appointed; and as soon as they shall have come to a determination, the same shall be committed to writing—signed [88] ed by the said commissioners, and filed with the clerk of the board of county commissioners of said county, whose duty it shall be to record the same, and forever keep it on file in his office; and the place thus designated, shall be the seat of justice of said county.

SEC. 15. Compensation \$2 per day. Said commissioners shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, which shall be paid by said county out of the funds arising from the sales of town lots in said seat of justice.

SEC. 16. Act takes effect after passage. This act shall take effect and be in force from and after its passage.

Approved, June 10th, 1845.

CHAPTER 56.

LEE COUNTY.

AN ACT to relocate the seat of justice of Lee county.

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

SECTION 1. Election for seat of justice 1st Monday of August. That on the first Monday of August next, the qualified voters of Lee county shall be allowed to vote for the relocation of the seat of justice of said county, subject to the conditions, restrictions and limitations hereinafter provided.

SEC. 2. Place receiving a majority of all the votes, to be seat of justice. 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 other points, it shall be declared the seat of justice of said county.

SEC. 3. If no selection, three highest to be voted for the 1st Monday of September. And if no one point receive a majority of all the votes cast at said election, then there shall be a second election held on the first [89] Monday of September next, at which second election the three points receiving the highest number of votes at the first election, shall be voted for, and no other; and if at said election, any one point shall receive a majority of votes over all other points, it shall be declared the seat of justice of said county.

SEC. 4. If no selection, two highest to be voted for 1st Monday of October. If no one point receives a majority of all the votes cast at said second election, then there shall be a third election held on the first Monday of October next, at which third election, the two points receiving the highest number of votes at the second election and no other, shall be voted for; and the point for which the highest number of votes is cast, shall be declared the seat of justice of said county.

SEC. 5. Judges and clerks of last general election to act. That the same persons who officiated as judges and clerks in the several townships of said county at the last general election, shall be judges and clerks of the elections as 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 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 hereinafter provided.

SEC. 6. Judges to challenge electors. That the said judges or any 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 person offering to vote, true answers to make to such questions touching his qualifications as a voter, as shall be propounded to him; and shall therefore examine such person as to his right to vote, and such judges shall not permit any person to vote at said elections who is not qualified according to the provisions of this act.

SEC. 7. Poll books to be kept—polls at usual places from 9 or 10 a. m., to 6 p. m. 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 votes, and shall enter thereon the name of every person voting in his township, 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 each voter on the clerk's poll book. And the ballot so given and numbered shall be deposited in [90] 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 the usual place of holding elections in each township, between the hours of nine or ten o'clock, a. m., and shall be closed at 6 o'clock, p. m., of the same day; after which 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 or place 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 or place voted for, 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 in such townships, 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 township to the clerk of the district court of Lee county, by three o'clock, p. m., of the fourth day after said election; at which time the judges of the several townships shall meet at the office of the clerk of said county, and shall, in the presence of each other and of the clerk of said district court, proceed to examine the returns from each township; 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 Lee county, and the clerk of the district court shall so enter the same on the minutes of said court.

SEC. 8. Notices to be posted for second 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 each township in said county, which notices shall set forth the three 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 notice at the place of voting in each township, and the two others in two of the most public places in each township, at least fifteen days before the time of holding such election.

SEC. 9. Notices for third election. But if it shall appear that no one point has received a majority of all the votes cast at said second election, then notices setting forth the two places receiving the highest number of votes at the said [91] second election, shall be made out and posted up in the same manner as provided for in the eighth section of this act.

SEC. 10. Second and third elections as first. That the second and third elections shall be conducted, and the results made known, in the same manner as provided for in the seventh section of this act, providing for holding the first election.

SEC. 11. Ballots to be destroyed after final election. That the ballots and poll books returned from the several townships, shall be safely kept by the clerk of the district court, in his office for twenty days from the day of holding the final election, at which time he shall destroy said ballots, unless within that time said election shall be contested in the manner hereinafter provided.

SEC. 12. Five voters may contest election—giving twenty days' notice and bond. That any five electors who shall have voted at either of said elections, may, within twenty days after the election giving a majority of the votes cast to any one point for the seat of justice of said county notify the clerk of the district court, in writing, that they contest said election. And if they shall, within twenty days, enter into bond with sufficient security, to be approved by said clerk, and to him made payable 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 inquiring into and deciding said contested election; and notice of such time and place shall be given by said clerk, by written notices, one to be posted up at the place of holding elections in each township fifteen days prior to the time so appointed for said trial; and said

clerk shall issue subpoenas for all such witnesses as said persons contesting said election, may require, returnable to the place and before the time appointed for said trial.

SEC. 13. Judges to decide contested election. That the clerk of said district court and the sheriff of Lee county shall attend the judges 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 at the final election 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 or place which 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.

[92] **SEC. 14. Declares seat of justice.** The town or place which shall have received the greatest number of legal votes, shall thenceforth be the seat of justice of Lee county.

SEC. 15. Fine \$20 to \$100 for false voting. That if any person shall vote at either of said elections who is not a citizen of the United States, and who has not been a resident of the county for more than thirty days preceding said election or who is not otherwise duly qualified, or who shall vote more than once at either of said elections or who shall, for the purpose of voting, swear falsely touching his qualifications as a voter; he shall be fined in a sum not less than twenty nor more than one hundred dollars—one half thereof to be applied 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 proved guilty of swearing falsely, shall suffer all the pains and penalties of wilful and corrupt perjury.

SEC. 16. Fine \$500 to \$1000 upon judges or clerks for violating duty. That if either of the judges or clerks 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. 17. Courts to be held at seat of justice when buildings are prepared. That as soon as there shall be suitable buildings erected or provided at the place getting the permanent seat of justice, the courts shall be held at said place.

Approved, June 10th, 1845.

[93] CHAPTER 57.

MARION COUNTY.

AN ACT to organize the county of Marion.

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

SECTION 1. Constitutes and describes boundaries of Marion county. That the following shall constitute and be the boundary of a new county, to be called "Marion," to-wit: Beginning at the northwest corner of Mahaska