

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

county, and running west on the township line, dividing townships seventy-seven and seventy-eight north, to the northwest corner of township seventy-seven, north of range twenty-one west; thence south to the southwest corner of township seventy-four north, of range twenty-one west; thence east along the line dividing townships seventy-three and seventy-four north, to the southwest corner of Mahaska county; thence north along the range line, dividing ranges sixteen and seventeen, to the place of beginning.

**SEC. 2. Organized after 1st Monday in August next.** That the county of Marion be, and the same is hereby organized from and after the first Monday in August next; and the inhabitants of said county shall be entitled to all the privileges to which by law the inhabitants of other organized counties of this territory are entitled.

**SEC. 3. Clerk of district court or sheriff of Mahaska to order special election for county officers.** That for the purpose of organizing said county, it is hereby made the duty of the clerk of the district court of said county, and in case there should be no such clerk appointed and qualified, or for any cause, said office should become vacant, on or before the first Monday in August next; then it shall be the duty of the sheriff of Mahaska county, to proceed immediately after the first Monday in August to order a special election in said county for the purpose of electing three [94] county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one county recorder, and such number of justices of the peace and constables as may be directed by the officer ordering the same, he having due regard to the convenience of the people; which special election shall be on the first Monday in September next. And the officer ordering said election shall appoint as many places of election in said county as the convenience of the people may require, and shall appoint three judges of election for each place of holding [elections] in said county, and issue certificates to said judges of their appointment. And the officer ordering said election, shall by three advertisements, which shall be posted up at three of the most public places in the neighborhood, where each of the polls shall be opened.

**SEC. 4. Clerk or sheriff to give certificates to those elected.** That the officer ordering said election (aforesaid) shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act. The officer ordering each of said elections, shall discharge the duties of the clerk of the board of county commissioners, until there shall be one elected and qualified for said county.

**SEC. 5. Election to be as usual.** Said election shall in all cases not provided for in this act, be conducted according to the law of this territory regulating general elections.

**SEC. 6. Officers to hold till general election.** The officers elected under the provisions of this act, shall hold their offices until the next general election, and until their successors are elected and qualified.

**SEC. 7. Clerk or sheriff to return all books to county commissioners.** The officer ordering the election in said county, shall return all the books and papers which may come to his hand by virtue of this act, to the clerk of the board of county commissioners of said county, forthwith, after said clerk shall be elected and qualified.

**SEC. 8. Sheriff of Mahaska to act in Marion until 1st September.** That it shall be the duty of the sheriff of Mahaska county, to perform the duties required by this act, until the first Monday in September next; and until a sheriff shall be elected and qualified for said county of Marion; and the said sheriff shall be allowed the same fees for services rendered by him under the provisions of this act, that are allowed for similar services performed by the sheriff in similar cases.

**SEC. 9. Clerk of court to be appointed by judge.** That the clerk of the district court for said county of Marion may be appointed by the judge of said district, and qualified at any time after the passage of this act; but he shall not enter on the duties of said office, prior to the first day of August next.

**SEC. 10. No action at law to abate.** That all actions at law in the district court for the county [95] of Mahaska, commenced prior to the organization of the said county of Marion; where the parties or either of them reside in the county of Marion, shall be prosecuted to final judgment or decree, as fully and effectually as if this act had not passed.

**SEC. 11. Justices to deliver books to newly elected justices.** That it shall be the duty of all justices of the peace residing within said county, to return all books and papers in their hands, appertaining to said office, to the next nearest justice of the peace which may be elected and qualified for said county, under the provisions of this act; and all suits at law or other official business which may be in the hands of such justice of the peace and unfinished, shall be completed or prosecuted to final judgment by the justices of the peace to whom such business or papers may have been returned.

**SEC. 12. Assessor to assess county.** That the county assessor elected under the provisions of this act for said county, shall assess said county in the same manner and be under the same obligations and liabilities, as now are or may hereafter be, provided by law, in relation to the county assessors.

**SEC. 13. Commissioners appointed to locate seat of justice.** That Ezra M. Jones, of Van Buren, Joseph Robertson, of Scott county, and James Montgomery, of Wapello county, be, and they are, hereby appointed commissioners to locate and establish the seat of justice of Marion county. Said commissioners, or a majority of them, shall meet at the house of William Stanley, in said county, on the second Monday in August next; or at such other time in the month of August next, as may be agreed on by them, in pursuance of their duties under this act.

**SEC. 14. Commissioners to take oath.** Said commissioners shall first take and subscribe the following oath or affirmation, to-wit: "We do solemnly swear (or affirm) that we have no interest, either directly or indirectly, in the location of the county seat of Marion county; and that we will faithfully and impartially examine the situation of said county, taking into consideration the future as well as the present population of said county; and that we will take into consideration the best interests of the whole people of the county; and that we will not be influenced by any fear, reward, or any promise thereof,"—which oath shall be administered by the clerk of the district court, or by some justice of the peace of said county of Marion. 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. 15. Commissioners to record place selected.** Said commissioners when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county, and as soon as they have come to a determination, they shall commit to writing the place so selected, with a particular description thereof, signed by the said commissioners, in which such seat of justice [96] is located, 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. 16. Compensation.** Said commissioners shall each receive the sum of two dollars per day, while necessarily employed in the duties enjoined on them by this act; and two dollars for every twenty miles travel, in going and returning, to be paid out of the first funds arising from the sale of lots in said seat of justice.

**SEC. 17. County to form part of second judicial district.** The county of Marion shall form a part of the second judicial district, and it shall be the duty of the judge of said district, to hold one term of said court in the same, on the twelfth Monday after the first Monday of March, in each year.

**SEC. 18. Takes effect after passage.** This act to take effect and be in force from and after its passage.

Approved, June 10th, 1845.

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## CHAPTER 58.

### ADDITIONAL JUSTICE IN LEE COUNTY.

AN ACT to provide for the election of an additional justice of the peace, in Madison township, in the county of Lee.

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

**SECTION 1. Additional justice to be elected at the annual election, to hold office till April, 1847.** That there shall be elected at the annual election to be held on the first Monday of August next, one additional justice of the peace, in and for Madison township, in the county of Lee; who shall, when so elected, hold his office until the annual election in April, eighteen hundred and forty-seven, and until his successor shall be elected and qualified.

**SEC. 2. Madison township to have hereafter, three justices.** That the aforesaid township of Madison shall forever after the passage of this act, be entitled to three justices of the peace, who shall be elected according to the law providing for the election of justices of the peace.

**SEC. 3. This act takes effect after passage.** This act shall take effect and be in force from and after its passage.

Approved, June 10th, 1845.

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## [97] CHAPTER 59.

### WILLIAM B. SNYDER.

AN ACT for the relief of William B. Snyder.

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

**SECTION 1. Treasurer to sell after twenty days notice lots enough to raise two hundred and sixty dollars, in cash.** That the territorial treasurer be, and he is, hereby authorized and empowered to offer at public sale, and sell to the highest bidder, for cash, so many of the unsold lots in Iowa City, as may be necessary to raise the sum of two hundred and sixty dollars, exclusive of the expenses of such sale, upon giving twenty days previous notice thereof in the Iowa Capital Reporter.

**SEC. 2. Treasurer to pay William B. Snyder for pine shingles and costs of former suit.** It shall be the duty of the territorial treasurer immediately after such sale as aforesaid, to allow and pay over unto William B. Snyder, upon his presenting proper vouchers therefor, the amount incurred by the said Snyder for the purchase of shingles for the capitol of this territory, at Cin-