

[132] CHAPTER 104.

ELECTION OF STATE OFFICERS.

AN ACT in relation to the election of state officers.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Time of notice in contested elections extended. That if any candidate for the office of governor, secretary, auditor or treasurer of state, of any member of the board of public works, superintendent of public instruction, or any other state office, shall desire to contest the validity of any election, such candidate shall proceed in the matter of giving notice and taking testimony in the manner prescribed in the 20th section of an act entitled "an act providing for and regulating general elections," approved, Feb. 16th 1843, except that the time for giving notice to the person whose election it is intended to contest is hereby extended to ninety days.

SEC. 2. Depositions, etc. forwarded to supreme judge—supreme judges to hear and determine cases of contested elections. Depositions and all other documents or evidence concerning contested elections for state offices, shall be transmitted to one of the judges of the supreme court who shall notify his fellow judges and the parties of the time and place of hearing, and the said supreme judges or any two of them shall hear and determine the matter upon the principles of equity and justice, and the decision of the said judges of the supreme court whether the same be in favor of one of the parties, or to refer the matter back to the people shall be final and conclusive: *provided*, that any other legal evidence than that in this section mentioned which either party may offer on the hearing of the case shall be received.

Approved, Jan. 15, 1849.

CHAPTER 105.

ELECTIONS.

AN ACT to preserve the purity of elections.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Qualifications of electors. That no person shall be entitled to vote at any general or township election who is insane or an idiot, or has been convicted of an infamous crime, nor unless he is a white male citizen of the United States, of the age of twenty-one years or upwards, and shall have been a resident of the state for six months, and of the county in which he claims his vote, for twenty days next preceding such election.

SEC. 2. Persons employed on board of boats. Persons employed on board of steamboats or other water crafts, are subject to the same rules, and can only vote in the township which respectively contain their fixed and permanent home.

SEC. 2. [3] Punishment of illegal votes. Any person who shall vote more than once at the same election, or who shall vote at any election, knowing

himself not qualified thus to vote, shall, upon conviction, be fined not less than one hundred nor more than one thousand dollars, and be imprisoned in the county jail not less than one month, nor more than six months.

SEC. 4. Persons advising illegal voting to be punished. Any person who shall advise, assist, or induce another to vote twice at the same election, or to give his vote knowing him not entitled to do so, shall receive the same punishment as above provided for the principal offender.

SEC. 5. Person guilty of bribery or deception—how punished. Any person who by bribery shall attempt to influence any elector in giving his vote, or who shall use any threat, to compel such elector to vote contrary to his inclination, or to deter him from giving his vote, or who shall furnish an elector who cannot read, with a ticket informing him that it contains a name or names different from those which are written or printed thereon, with an intent to induce him to vote contrary to his inclination, or who shall fraudulently or deceitfully change the ballot of any elector by which he shall be caused to vote for a person different from the one intended by such elector, shall, on conviction thereof, be punished in the same manner as is above provided for persons who vote twice at the same election.

SEC. 6. Judges not to mark ballots. Any judge of election who shall mark the ballot of an elector for the purpose of ascertaining for whom the elector voted, or open and read the ballot of any elector after it has been given in, and before it shall have been deposited in the ballot box, shall, on conviction thereof, be fined not less than one hundred, nor more than one thousand dollars.

SEC. 7. Oath as to right to vote. Except in the cases hereinafter provided, if any person offering to vote is challenged as unqualified, one of the judges of the election shall tender to him the following oath or affirmation: "You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your qualifications as an elector at this election.

SEC. 8. Such person may then be interrogated by either of the judges of the election or by any elector, touching his qualifications.

SEC. 9. Judges the right to interrogate. If, after such examination, the challenge be not withdrawn, [134] one of the judges of election shall tender to the elector the following oath: You do solemnly swear (or affirm) that you are a citizen of the United States, of the age of twenty-one years, that you have been an inhabitant of this state for six months next preceding this election, and that you have been for the last twenty days a resident of this county, that you are now an actual resident of this township, and that you have not voted at this election.

SEC. 10. Persons refusing the oath vote to be rejected. If any person shall refuse to take the oath or affirmation so tendered, his vote shall be rejected.

SEC. 11. Additional words to oath of persons suspected of infamous crime. If the vote be challenged on the ground that the person offering to vote has been convicted of an infamous crime, he may be sworn and examined as above provided for, and to the final oath above prescribed in section nine, the following words shall be added, "and that you have never been convicted of an infamous crime:" *provided*, that a conviction for political offences under the laws of foreign states shall not be deemed a conviction within the meaning of this act.

SEC. 12. Clerk to note the names of persons sworn. Whenever any person's vote shall be received after he shall have taken the oath above pre-

scribed in section nine, the clerks of the election shall write on the poll books at the end of such person's name the word "sworn."

SEC. 13. **Judges to advise persons relative to voting.** If, after a person shall be sworn and examined as above provided, the judges of election shall believe him not qualified to vote, they shall so advise him, but if after such advice he shall still determine to vote, and will take the final oath as provided in this act, his vote shall be received.

SEC. 14. **False swearing to be deemed perjury.** Wilful and corrupt false swearing, in taking either of the oaths above prescribed shall be perjury.

SEC. 15. **Persons fraudulently putting tickets in ballot box to be punished.** Any person who, before or after the proclamation is made for opening the polls, shall fraudulently put a ticket or ballot into the box, shall be punished in the same manner as is above provided for voting twice at the same election.

SEC. 16. **Judges to decide for whom mis-spelled votes are given.** That at all elections, when the names of the respective candidates are mis-spelled either by votes or otherwise, the judges of election shall have power, and it is hereby made their duty, to decide for whom the vote is given: *provided*, said names have the same sound.

SEC. 17. **Judge wilful violating his duty to be fined.** Any judge of election who shall wilfully and corruptly violate his duty as herein before prescribed, shall be fined not less than one hundred, nor more than one thousand dollars, and shall be imprisoned in the county jail, not less than one month nor more than six months.

SEC. 18. **Prosecution to be by indictment.** All prosecutions under this act shall be by indictment in the district court of the proper county.

[135] SEC. 17. [19] **Repealing section.** This act is only intended to repeal such provisions of former statutes as are inconsistent with those herein contained.

SEC. 20. **Take effect.** This act shall be in force from and after the first day of July next.

Approved, January 15, 1849.

CHAPTER 106.

PRACTICE.

AN ACT to amend an act, entitled "an act regulating practice in the district courts in the territory of Iowa," approved Feb. 10, 1843.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. **Judge of district court to instruct in writing.** That hereafter no judge of the district court shall instruct the petit jury in any case, civil or criminal, unless such instructions are reduced to writing.

SEC. 2. **Judge not to qualify or modify.** And when instructions are asked by either party which the judge cannot give, he shall write on the margin thereof the word "refused;" and such as he approves, he shall write on the margin thereof the word "given;" and he shall in no case, before or after instructions are given, orally qualify, modify, or in any manner explain the same to the jury.