

curred in binding and in taking care of the same, or upon such terms and conditions as shall be mutually agreed upon by Congress and the Regents of the Institution.

CHAPTER SEVEN.

CONGRESSIONAL INVESTIGATIONS.

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101. Oaths to witnesses, by whom administered.
102. Refusal of witnesses to testify.

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103. No privilege to refuse to answer incriminating questions.
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SEC. 101. The President of the Senate, the Speaker of the House of Representatives, or a chairman of a Committee of the Whole, or of any committee of either House of Congress, is empowered to administer oaths to witnesses in any case under their examination.

Oaths to witnesses, by whom administered.

3 May, 1798, c. 36, s. 1, v. 1, p. 554. 8 Feb., 1817, c. 10, v. 3, p. 345.

SEC. 102. Every person who, having been summoned as a witness by the authority of either House of Congress, to give testimony or to produce papers upon any matter under inquiry before either House, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars nor less than one hundred dollars, and imprisonment in a common jail for not less than one month nor more than twelve months.

Refusal of witness to testify.

24 Jan., 1857, c. 19, s. 1, v. 11, p. 155.

SEC. 103. No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he shall be examined by either House of Congress, or by any committee of either House, upon the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous. [See § 859.]

No privilege to refuse to answer incriminating questions.

24 Jan., 1862, c. 11, v. 12, p. 333.

SEC. 104. Whenever a witness summoned as mentioned in section one hundred and two fails to testify, and the facts are reported to either House, the President of the Senate or the Speaker of the House, as the case may be, shall certify the fact under the seal of the Senate or House to the district attorney for the District of Columbia, whose duty it shall be to bring the matter before the grand jury for their action.

Proceedings against witnesses failing to testify.

24 Jan., 1857, c. 19, s. 3, v. 11, p. 156.

CHAPTER EIGHT.

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SEC. 105. Whenever any person intends to contest an election of any member of the House of Representatives of the United States, he shall, within thirty days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to

Notice of intention to contest.

19 Feb., 1851, c. 11, s. 1, v. 9, p. 563.

determine the same, give notice, in writing, to the member whose seat he designs to contest, of his intention to contest the same, and, in such notice, shall specify particularly the grounds upon which he relies in the contest.

Time for answer.
19 Feb., 1851, c.
11, s. 2, v. 9, p. 568.

SEC. 106. Any member upon whom the notice mentioned in the preceding section may be served shall, within thirty days after the service thereof, answer such notice, admitting or denying the facts alleged therein, and stating specifically any other grounds upon which he rests the validity of his election; and shall serve a copy of his answer upon the contestant.

Time for taking testimony.
10 Jan., 1873, c.
24, s. 1, v. 17, p. 408.

SEC. 107. In all contested-election cases the time allowed for taking testimony shall be ninety days, and the testimony shall be taken in the following order: The contestant shall take testimony during the first forty days, the returned member during the succeeding forty days, and the contestant may take testimony in rebuttal only during the remaining ten days of said period.

Notice of depositions; service.
10 Jan., 1873, c.
24, ss. 1, 3, v. 17, p. 408.
19 Feb., 1851, c.
11, s. 6, v. 9, p. 569.

SEC. 108. The party desiring to take a deposition under the provisions of this chapter shall give the opposite party notice, in writing, of the time and place, when and where the same will be taken, of the name of the witnesses to be examined and their places of residence, and of the name of an officer before whom the same will be taken. The notice shall be personally served upon the opposite party, or upon any agent or attorney authorized by him to take testimony or cross-examine witnesses in the matter of such contest, if, by the use of reasonable diligence, such personal service can be made; but if, by the use of such diligence, personal service cannot be made, the service may be made by leaving a duplicate of the notice at the usual place of abode of the opposite party. The notice shall be served so as to allow the opposite party sufficient time by the usual route of travel to attend, and one day for preparation, exclusive of Sundays and the day of service. Testimony in rebuttal may be taken on five days' notice.

Testimony taken at several places at same time.
10 Jan., 1873, c. 24, s. 1, v. 17, p. 408.

SEC. 109. Testimony in contested-election cases may be taken at two or more places at the same time.

Who may issue subpoenas.
19 Feb., 1851, c.
11, s. 3, v. 9, p. 568.
23 Jan., 1860, c.
15, v. 15, p. 267.

SEC. 110. When any contestant or returned member is desirous of obtaining testimony respecting a contested election, he may apply for a subpoena to either of the following officers who may reside within the congressional district in which the election to be contested was held:

First. Any judge of any court of the United States.

Second. Any chancellor, judge, or justice of a court of record of any State.

Third. Any mayor, recorder, or intendent of any town or city.

Fourth. Any register in bankruptcy or notary public.

What the subpoena shall contain.
19 Feb., 1851, c.
11, s. 3, v. 9, p. 568.

SEC. 111. The officer to whom the application authorized by the preceding section is made shall thereupon issue his writ of subpoena, directed to all such witnesses as shall be named to him, requiring their attendance before him, at some time and place named in the subpoena, in order to be examined respecting the contested election.

When justices of the peace may act.
19 Feb., 1851, c.
11, s. 10, v. 9, p. 570.

SEC. 112. In case none of the officers mentioned in section one hundred and ten are residing in the congressional district from which the election is proposed to be contested, the application thereby authorized may be made to any two justices of the peace residing within the district; and they may receive such application, and jointly proceed upon it.

Depositions by consent.
10 Jan., 1873, c.
24, s. 3, v. 17, p. 408.

SEC. 113. It shall be competent for the parties, their agents or attorneys authorized to act in the premises, by consent in writing, to take depositions without notice; also, by such written consent, to take depositions (whether upon or without notice) before any officer or officers authorized to take depositions in common law, or civil actions, or in chancery, by either the laws of the United States or of the State in which the same may be taken, and to waive proof of the official character of such officer or officers. Any written consent given as aforesaid shall be returned with the depositions.

SEC. 114. Each witness shall be duly served with a subpoena, by a copy thereof delivered to him or left at his usual place of abode, at least five days before the day on which the attendance of the witness is required.

Service of subpoena.

19 Feb., 1851, c. 11, s. 4, v. 9, p. 569.

SEC. 115. No witness shall be required to attend an examination out of the county in which he may reside or be served with a subpoena.

Witnesses need not attend out of the county.

19 Feb., 1851, c. 11, s. 4, v. 9, p. 569.

SEC. 116. Any person who, having been summoned in the manner above directed, refuses or neglects to attend and testify, unless prevented by sickness or unavoidable necessity, shall forfeit the sum of twenty dollars, to be recovered, with costs of suit, by the party at whose instance the subpoena was issued, and for his use, by an action of debt, in any court of the United States; and shall also be liable to an indictment for a misdemeanor, and punishment by fine and imprisonment.

Penalty for failure to attend or testify.

19 Feb., 1851, c. 11, s. 5, v. 9, p. 569.

SEC. 117. Depositions of witnesses residing outside of the district and beyond the reach of a subpoena may be taken before any officer authorized by law to take testimony in contested-election cases in the district in which the witness to be examined may reside.

Witnesses outside of district.

10 Jan., 1873, c. 24, s. 2, v. 17, p. 408.

SEC. 118. The party notified as aforesaid, his agent or attorney, may, if he see fit, select an officer (having authority to take depositions in such cases) to officiate, with the officer named in the notice, in the taking of the depositions; and if both such officers attend, the depositions shall be taken before them both, sitting together, and be certified by them both. But if only one of such officers attend, the depositions may be taken before and certified by him alone.

Party notified may select an officer.

10 Jan., 1873, c. 24, s. 3, v. 9, p. 408.

SEC. 119. At the taking of any deposition under this chapter, either party may appear and act in person, or by agent or attorney.

Depositions taken by party or agent.

10 Jan., 1873, c. 24, s. 3, v. 17, p. 408.

SEC. 120. All witnesses who attend in obedience to a subpoena, or who attend voluntarily at the time and place appointed, of whose examination notice has been given, as provided by this chapter, shall then and there be examined on oath by the officer who issued the subpoena, or, in case of his absence, by any other officer who is authorized to issue such subpoena, or by the officer before whom the depositions are to be taken by written consent, or before whom the depositions of witnesses residing outside of the district are to be taken, as the case may be, touching all such matters respecting the election about to be contested as shall be proposed by either of the parties or their agents.

Examination of witnesses.

19 Feb., 1851, c. 11, s. 7, v. 9, p. 569.

SEC. 121. The testimony to be taken by either party to the contest shall be confined to the proof or disproof of the facts alleged or denied in the notice and answer mentioned in sections one hundred and five and one hundred and six.

Testimony, to what confined.

19 Feb., 1851, c. 11, s. 9, v. 9, p. 569.

SEC. 122. The officer shall cause the testimony of the witnesses, together with the questions proposed by the parties or their agents, to be reduced to writing in his presence, and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively.

Testimony, how written out and attested.

19 Feb., 1851, c. 11, s. 7, v. 9, p. 569.

SEC. 123. The officer shall have power to require the production of papers; and on the refusal or neglect of any person to produce and deliver up any paper or papers in his possession pertaining to the election, or to produce and deliver up certified or sworn copies of the same in case they may be official papers, such person shall be liable to all the penalties prescribed in section one hundred and sixteen. All papers thus produced, and all certified or sworn copies of official papers, shall be transmitted by the officer, with the testimony of the witnesses, to the Clerk of the House of Representatives.

Production of papers.

19 Feb., 1851, c. 11, s. 8, v. 9, p. 569.

SEC. 124. The taking of the testimony may, if so stated in the notice, be adjourned from day to day.

Adjournments.

10 Jan., 1873, c. 24, s. 3, v. 17, p. 408.

Notice, &c., attached to depositions.

19 Feb., 1851, c.

SEC. 125. The notice to take depositions, with the proof or acknowledgment of the service thereof, and a copy of the subpoena, where any has been served, shall be attached to the depositions when completed.

11, s. 7, v. 9, p. 569. 10 Jan., 1873, c. 24, s. 3, v. 17, p. 408.

Copy of notice and answer to accompany testimony.

19 Feb., 1851, c.

SEC. 126. A copy of the notice of contest, and of the answer of the returned member, shall be prefixed to the depositions taken, and transmitted with them to the Clerk of the House of Representatives.

11, s. 9, v. 9, p. 569.

How testimony to be sent to Clerk of House; how opened.

10 Jan., 1873, c. 24, s. 4, v. 17, p. 409.

SEC. 127. All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall, when the taking of the same is completed, and without unnecessary delay, certify and carefully seal and immediately forward the same, by mail, addressed to the Clerk of the House of Representatives of the United States, Washington, D. C.; and shall also indorse upon the envelope containing such deposition or testimony the name of the case in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement. Upon the written request of either party the Clerk of the House of Representatives shall open any deposition at any time after he shall have received the same, and he may furnish either party with a copy thereof.

Fees of witnesses.

19 Feb., 1851, c. 11, s. 11, v. 9, p. 570.

SEC. 128. Every witness attending by virtue of any subpoena herein directed to be issued shall be entitled to receive the sum of seventy-five cents for each day's attendance, and the further sum of five cents for every mile necessarily traveled in going and returning. Such allowance shall be ascertained and certified by the officer taking the examination, and shall be paid by the party at whose instance such witness was summoned.

Fees of officers.

19 Feb., 1851, c. 11, s. 11, v. 9, p. 570.

SEC. 129. Each judge, justice, chancellor, chief executive officer of a town or city, register in bankruptcy, notary public, and justice of the peace, who shall be necessarily employed pursuant to the provisions of this chapter, and all sheriffs, constables, or other officers who may be employed to serve any subpoena or notice herein authorized, shall be entitled to receive from the party at whose instance the service shall have been performed such fees as are allowed for similar services in the State wherein such service may be rendered.

Expenses of contest.

3 March, 1873, c. 226, s. 1, v. 17, p. 485, (490.)

SEC. 130. No payment shall be made by the House of Representatives, out of its contingent fund or otherwise, to either party to a contested-election case for expenses incurred in prosecuting or defending the same.