

"shall swear falsely in relation thereto, he shall upon conviction thereof, suffer the pains and penalties of perjury."

The effect of this provision was to authorize the administration of an oath by the judges in any inquiry touching the right of a person offering to vote; but whilst the oath was thereby legalized, and a party swearing falsely was subjected to the penalties of perjury, there was nothing in the law requiring the judge to administer such oath. This omission, so far at least as the election of the 6th of April next is concerned, has been supplied by the Act of the General Assembly under which that election is to be held.

By the terms of that act it is no longer a discretionary authority with the judge to administer an oath or not, but it is made his duty to do so, and especially, in the language of that act; "to every person offering to vote whose vote shall be challenged on the ground that such person has served in the Rebel army, or has either directly or indirectly given aid, comfort or encouragement to those in armed rebellion against the Government of the U. States."

The fact to be ascertained, is whether the voter has served in the Rebel armies, or directly or indirectly aided, comforted or encouraged those engaged in the present Rebellion, and whilst the judge is required wherever a voter is challenged on such ground, to administer an oath to him, he should not content himself with the mere denial in general terms, by the one so challenged, that he has ever aided, comforted or encouraged the Rebels, but would be authorized, and I think required, to test the recollection of the party swearing, by propounding to him particular interrogatories, suggestive of different modes by which this aid, comfort or encouragement may have been given — precisely as when a voter is challenged on the ground of a want of residence, the mere general affirmation upon oath of the party challenged would not be considered sufficient proof of his residence, but he would be required to state time, place and circumstance upon which a proper judgement as to the question of residence might be formed.

Neither is the judge in case of a challenge on any account concluded by the answers of the party challenged, but he is fully authorized to administer an oath to any other who may be present & cognizant of facts having a relation to the question.

It will, of course, occur to you, from the acts which I have quoted, that the giving at any time since the commencement of the existing rebellion, either directly or indirectly, of aid, comfort or encouragement thereto, is, so far as the coming election is concerned, the disqualification of a voter; for the General Assembly would not have imposed upon the judge of Election the duty of enquiring into these facts, if, when their existence was established, the voter could still exercise the right of suffrage. I know that it may be said that the General Assembly possessed no power to prescribe the qualifications of a voter, and that these are established by the Constitution; but without entering into any discussion upon this point, or as to the extent of the judge's power to enquire into