

[Chap. 37.]

AN ACT to provide for the organization of townships.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the board of county commissioners of any county within this territory, may hereafter, when they shall deem it expedient, previous to any general election in this territory, give at least fifty days' notice in the usual manner of advertising elections in this territory, that the question will be taken by ballot at such election, to ascertain whether a majority of the electors of the county are in favor of the adoption of a township organization by said county. ^{Notice to be given.}

SEC. 2. It shall be the duty of the judges of such election to provide a separate ballot box to receive the votes upon the aforesaid question. The votes in favor of such organization shall be written thus, "organization," those to the contrary, thus, "no organization." ^{Notes how given.}

SEC. 3. It shall also be the duty of the judges to make a certified return of the number of votes for and against such organization to the clerk of the board of county commissioners of such county, in the manner that is prescribed in the law with regard to general elections; and it shall be the duty of said clerk to present said return to the said board of county commissioners at their next meeting. ^{Return.}

SEC. 4. Should it appear to the said board of county commissioners that a majority of the votes given at said election upon the question of township organization, were in favor of such organization, they shall proceed to organize the county into townships according to the provisions of this act. ^{Commissioners to organize.}

SEC. 5. They shall divide the county into townships, of such shape and size as the convenience and interests of such county would seem to demand, confer upon each township such name as the inhabitants may prefer, and appoint the place within each township where the first meeting of the electors shall be holden. The clerk of the said board shall record the time when each township was set off, its name, and a particular description of its boundaries. ^{Extent, &c. how determined.}

Voters to
choose a
chairman and
judges.

SEC. 6. On the first Monday of April annually thereafter, the electors of each township shall assemble at some place within the township at the hour of ten A. M., and when eight or more electors shall have assembled, they shall elect from their number by ballot, a chairman, whose duty it shall be to preside over the meeting, and to direct any constable present to remove or arrest any disorderly persons, and, if necessary, to confine them until the close of the meeting. And it is hereby made the duty of any such constable to obey such orders. Said electors shall then proceed to elect in the same manner, two persons, having the qualifications of electors, as judges of the election, who shall take an oath or affirmation faithfully to discharge the duties of their office.

First meeting.

SEC. 7. The first meeting of the electors of any township shall be held at the place appointed by the board of county commissioners. But all future meetings shall be held at such place as the trustees of the township may direct.

Officers to be
chosen.

SEC. 8. That after the election of a chairman and judges in manner aforesaid, the electors shall proceed to the election of one township clerk, three trustees, two overseers of the poor, two fence viewers, a sufficient number of supervisors of highways, two constables and one township treasurer, which several officers shall continue in office until their successors shall be chosen and qualified, and shall, on their respective appointments, take an oath or affirmation faithfully and impartially to discharge the duties of their respective offices.

Duty of clerk.

SEC. 9. That it shall be the duty of the township clerk to keep fair and accurate records of all the public transactions of the township meetings, to make out, within two days after the election of township officers, a list of all those of whom by law oaths are required, stating the offices to which they are respectively chosen, and the same deliver to a constable of the township, requiring such constable forthwith to summon such officers to appear before a justice of the peace or before such clerk within ten days, to take such oaths or affirmations as may be by law required, which oaths or affirmations the said clerk is authorized to administer, and of which he shall make a record; and in case any township officer shall take the oath of office before any justice of the peace, such justice shall file a certificate

thereof with the clerk of the township, who shall make a record of the same.

SEC. 10. That it shall be the further duty of the township clerk to record in a book to be provided by him for that purpose, all private roads and cartways by the trustees established, together with the ear marks of all cattle, sheep, and hogs, and such other marks and brands as any person may wish to have recorded in the said township, but he shall not record the same mark to two different persons. And the said clerk shall be entitled to receive of the person employing him as aforesaid, for such entry of marks or brands, the sum of twenty-five cents, and shall deliver a certified copy of such entry to the owner, if required, and he shall be entitled to receive for recording private roads and cartways, for every sheet of one hundred words, ten cents, payable by the person at whose request the said record is to be made.

SEC. 11. That it shall be the duty of the trustees, within twenty days after each annual township meeting, to divide their respective townships into districts, allotting to each supervisor one district, and it shall be the further duty of the said trustees to settle the accounts of the supervisors of highways and overseers of the poor, and to examine and settle all accounts and demands against the township; for which purpose the said trustees, supervisors, overseers of the poor, and township clerk shall meet on the first Monday of March annually, at the place of holding the township meetings; and it shall be the duty of the township clerk to make an entry and true statement of all accounts allowed and adjusted by the trustees, in a book to be provided for that purpose; and for every demand against the township, allowed by the trustees, the creditor shall be entitled to receive from the said trustees an order on the township treasurer for the full amount thereof on demand.

SEC. 12. That each and every township, whenever and so often as the major part of the whole number of electors in said township shall deem it expedient, shall have power and authority to lay a tax: *Provided*, That such articles only shall be subject to taxation as are made liable by the laws for assessing and collecting county revenue, and that the amount of the tax so laid shall not exceed what might be laid on the same articles for county purposes; and

it shall be the duty of the township clerk to make out from the county assessment roll for the township, an assessment of the tax voted by the township, a duplicate whereof he shall deliver, within twenty days, to such constable of the township as the trustees shall direct, and the other within the like time to the township treasurer, and the constable receiving such tax to collect shall, before he commences the collection thereof, give bond with two sufficient sureties to the township treasurer, conditioned to collect and pay over to the said treasurer or his successor in office, the amount of said tax within four months, and in case the said constable shall neglect and refuse to collect and pay over the whole amount of such tax within the time specified in said bond, it shall be the duty of the township treasurer, after giving ten days written notice to said constable and his sureties, to proceed in a summary way by motion before the district court and recover the amount due from such constable, with twenty per cent. damages thereon for such neglect or refusal, and shall have execution therefor against said constable and his sureties. And the constable collecting the township tax shall receive like compensation as the county collector receives for like services.

Meetings to
be notified.

SEC. 13. That at least twenty days before the annual township meeting, the trustees shall issue their warrant to a constable of the township directing him to notify the electors of such township to assemble at the time and place appointed for their annual meeting, and said warrants shall enumerate the officers to be chosen at such meeting, and on the application of two or more freeholders of the township for that purpose, said trustees shall insert in said warrant such other business, matter or thing as may be proposed to be submitted to said township meeting; and no tax shall be voted at such township meeting unless notice thereof shall have been given in the said warrant; and the constable who shall receive such warrant, shall warn the electors of such township by setting up copies of said warrant in three of the most public places in each township, at least fifteen days before the meeting of such electors.

Refusing to
serve, penalty

SEC. 14. That any person chosen to any office under this act, and not exempted by law, who shall neglect or refuse to serve in such office, shall for-

feit and pay, to and for the use of the township, the sum of three dollars, to be recovered before any justice of the peace; and it is hereby made the duty of the township treasurer to sue for the same, and for all fines and forfeitures accruing under this act, for neglect or misconduct in office of any township officer: *Provided*, That no person chosen to any office by this law created shall be obliged to serve in such office two years successively.

SEC. 15. That all forfeitures under this law, shall be expended and laid out on the highways within the township, and it shall be the duty of the trustees to apportion the same among the supervisors of the highways of the said townships, and the township treasurer may retain three per cent of all moneys paid into the township treasury for collecting or receiving and paying over the same to the order of the trustees. Forfeitures how expended.

SEC. 16. That when by reason of non-acceptance, death or removal of any person chosen to an office in any township at the annual meeting as aforesaid, or in any case where there is a vacancy, the trustees shall fill such vacancy; and the person thus chosen shall take the same oaths, and be liable to the same penalties as though he had been chosen at the annual meetings; and in case there should not, at any annual meeting under this act, be a sufficient number of electors assembled for the choice of a chairman as is hereinbefore provided, between the hours of ten o'clock in the morning and four in the afternoon, so that no township officers can be chosen by the electors, it shall then be the duty of the trustees to appoint all township officers in this law enumerated; and the township officers thus appointed shall take the same oaths and be liable to the same penalties as though they had been elected at the annual meeting. In case of vacancy, or non-election.

SEC. 17. That it shall be the duty of all township officers to deliver over to their successors in office under this act, all books and papers relating to their respective offices. Books to be transmitted

SEC. 18. That whenever and so often as the board of commissioners of any county, may deem it conducive to the public convenience to divide or alter the boundary lines of any township, they shall be and they are hereby authorized to alter the boundaries or to divide the township in the most convenient Lines may be altered.

manner: *Provided*, That nothing herein shall be construed to empower the boards of commissioners to divide any township in such manner as to reduce the same below the size hereinafter prescribed, and that the trustees of each and every township in this territory, shall have power to determine on the place of holding elections within this township, and shall give public notice thereof, as is provided in case of township meetings.

Extent of townships.

SEC. 19. That no township in this territory shall be less than six miles square, unless it includes an incorporated town.

How to be set off.

SEC. 20. That any township desirous of being set off as aforesaid, shall, for that purpose, apply to the board of commissioners of the proper county, and on satisfying the board that they are entitled by law to be set off, it shall be the duty of the board to direct their clerk to record the boundaries of said township in a book to be provided for that purpose, and give said township such name as the board of commissioners shall think proper: *Provided*, That no two townships in any one county in this territory, shall be set off and incorporated by the same name.

Application for roads and cartways.

SEC. 21. That all applications for laying out any cart way or township road shall be by petition to the board of trustees, signed by at least six freeholders of the township residing in the vicinity where said road is to be laid out; and the said petition shall specify the place of beginning, the intermediate points, if any, and the place of termination of said road; and one or more of the signers to said petition shall enter into bonds with sufficient security payable to the treasurer of said township, for the use of said township, conditioned for the payment of all costs and expenses arising from the view and survey of said road, unless the same shall be established a cartway or township road.

Notice.

SEC. 22. That previous to any petition being presented for such cart way or road, notice thereof shall be given by posting up three written notices at three public places in the township, one of which shall be at the place of holding the elections, at least fifteen days before the sitting of the board at which said petition shall be presented, and the petition being presented, and the board being satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of the township as shall take the oath and file the bond required in the

viewers of said road, and a surveyor, if necessary, to survey the same, and shall issue an order directing said viewers, after they have been duly sworn, to proceed on a day to be named in said order, or on their failing to meet on said day, within five days thereafter, to view and lay out said road, or if a surveyor be appointed, then to lay out and survey said road, and make report to the board aforesaid, at their next meeting, and if no remonstrance, which remonstrance shall have at least seven signers, shall be filed with said board or presented on the day at which said viewers make their report, and the said viewers shall report in favor of establishing said road, then and in that case the same shall be recorded in the records of said township as a cart way or township road, and the said trustees shall issue their order to the supervisors of the proper districts to open the same.

SEC. 23. That if any person or persons through whose land any such cart way or township road may be laid out shall feel injured thereby, and make application to the said trustees at their first session after the view of said cart way or road, it shall be the duty of said trustees to appoint three disinterested freeholders of said township, whose duty it shall be to proceed, after being first duly sworn or affirmed to view that part of said cartway or road through the premises of the said complainant and assess the damages of the said complainant, if any, and make report in writing, to said board; and if said viewers shall report that the advantage of said road or cartway are not equivalent to the damage occasioned thereby to the premises of the complainant, and shall therein report the amount of damage, the petitioner shall be required to pay the damages so assessed, and until he does so, the said trustees shall refuse to establish said road or cartway. And all the expenses of the viewers and surveyors, if any, both of the first and second view, shall be paid by said petitioners, and if they shall neglect or refuse to do so, it is hereby made the duty of the said treasurer to commence suit on said bond before some proper court, and prosecute the same to final judgment and execution.

SEC. 24. That the trustees may require of the township officers such bonds to the township as they shall think proper: *Provided*, That the constables shall take the oath and file the bond required in the

“act for electing constables and defining their duties,” approved January twenty-fourth, in the year eighteen hundred and thirty-nine.

Trustees to be judges of elections.

SEC. 25. That the trustees, by virtue of their office, shall be the judges of the general election for their township, and shall conform to the requirements in that respect, of the “act regulating general elections”

Clerks exempt from labor on roads.

SEC. 26. That the clerks appointed by them to serve at the general election, shall receive from them a certificate of their services, which shall be evidence that they are hereby exempted from one day's labor on the roads, which shall be a full compensation for their services.

Town officers exempt from road tax, except.

SEC. 27. That any person holding a township office, except the office of constable or justice of the peace, shall, in full remuneration for his services in such office, be exempt from all road tax or labor upon roads during his continuance in such office: *Provided*, That any township officer may receive such further compensation as the majority of all the electors of such township may allow.

Approved January 10, 1840.

[Chap. 38.]

AN ACT for the benefit of the sheriff of Des Moines county.

Allowed further time.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the sheriff of Des Moines county be and he is hereby allowed until the first Monday in April, eighteen hundred and forty, to make a full and final settlement with the board of county commissioners of the said county of Des Moines, as collector of the county revenue for the year eighteen hundred and thirty-nine: *Provided, however*, That said sheriff shall be required, on the first Monday in January next, to make a full exhibition of all his doings as such collector.

SEC. 2. *And be it further enacted*, That the said sheriff shall pay over all moneys collected by him on or before the second Saturday of January, eighteen hundred and forty, and from and after that time, the sheriff shall settle with the county commissioners every year hereafter on the first Monday in April, in Des Moines county.

SEC. 3. This act to take effect from and after its passage.

Approved January 11, 1840.