

SEC. 24. *And be it further enacted,* That should any Vacancies. of the commissioners named in the different sections of this act, die, refuse to serve, or remove out of their respective counties, the county commissioners of the county where such vacancies shall happen, shall fill the same: *Provided, however,* That any two of them shall have power to discharge the Two may act. duties herein required.

SEC. 25. That the time for locating and estab- Time extended lishing several territorial roads authorized by the last session of this legislative assembly, is hereby extended one year from the taking effect of this act. And the commissioners whose powers and duties are hereby revived, may meet at such place and time to commence the discharge of their duties as they may agree upon.

SEC. 26. That vacancies existing or that may Vacancies in occur among such commissioners, may be filled in former boards the manner provided in this act.

SEC. 27. That the second, fourth, tenth, and twelfth sections of an act establishing certain territorial roads, approved January twenty-fifth, eighteen hundred and thirty-nine, are hereby repealed, and English Buel, of Clinton county, is hereby appointed commissioner in the place of James Kirkpatrick, in section thirteen of said act; and that the seat of justice of Cedar county shall be a point in lieu of Rochester, in section third of said act.

Approved January 14, 1840.

[Chap. 52.]

Town limits.

AN ACT to incorporate the town of Salem, in Henry county.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all that part or tract of land in township seventy north, of range seven west of the fifth principal meridian, in the county of Henry, as is comprised within the limits of the original town plat of the town of Salem, together with all additions that may hereafter be made and recorded thereto, be and the same is Election. hereby constituted a town corporate, and shall be known by the name or title of the town of Salem.

SEC. 2. It shall be lawful for the inhabitants of said town having the qualification of electors, to meet at some convenient place in said town of Salem, on the first Monday of April, and annually Officers.

thereafter, then and there proceed by plurality of votes to elect by ballot a president, recorder and three trustees, who shall hold their offices one year, and until their successors are elected and qualified; and any three of them shall be a board for the transaction of business, but a less number may adjourn from time to time: *Provided*, That if an election of a president, recorder and trustee should not be held on the day set for that purpose the said corporation shall not, for that cause be dissolved, but it shall be lawful to hold such election at any time thereafter by public notice being given in the manner hereinafter prescribed.

Elections,  
how conduct-  
ed.

SEC. 3. At the first election to be held under this act, there shall be chosen by the electors president two judges and a clerk of said election, who shall each take an oath or affirmation faithfully to discharge the duties required of them by this act; and at all subsequent elections the trustees or any two of them shall be judges, and the recorder clerk of the elections; and at all elections to be held under this act the polls shall be opened between the hours of nine and ten o'clock in the forenoon, and close at five o'clock in the afternoon of said day, and at the close of the polls the votes shall be counted and a true statement thereof proclaimed to the electors present by one of the judges, and the clerk shall make a true record thereof, and within five days after such election the clerk shall give notice to the persons elected of their election, and it shall be the duty of said town council, at each annual election, to give at least five days' notice thereof, by posting up notices at three of the most public places in said town.

Record of  
meetings.

SEC. 4. It shall be the duty of the president to preside at all meetings of the town council, and it shall be the duty of the recorder to attend all such meetings and keep a fair and accurate record of all their proceedings, and the said recorder is authorized, under his hand and seal, to appoint some competent person as his deputy, who, in his absence, shall do and perform all the duties enjoined upon said recorder, and for whose acts said recorder shall be liable.

Incorporation.

SEC. 5. The president, recorder and trustees of said town shall be a body corporate and politic, with perpetual succession, to be known and distinguished by the name of the president and trustees

of the town of Salem, and shall be capable in law in their corporate name to acquire property real and personal for the use of said town, sell and convey the same, may have a common seal, which they may alter at pleasure, may sue and be sued, defend and be defended, in any court of competent jurisdiction; and when any suit shall be commenced against said corporation, the first process shall be by summons, which shall be served by an attested copy to be left with the recorder, not less than five nor more than ten days before the return day thereof.

SEC. 6. The officers elected by virtue of this act, shall each take an oath or affirmation to support the constitution of the United States and the organic law of this territory (or the constitution of this state as the case may be,) and also faithfully to discharge the duties of his office.

SEC. 7. The president and trustees shall have power to ordain and establish by-laws, rules and regulations for the government of said town, and the same to alter, repeal or re-ordain at pleasure, and to provide in said by-laws for the election of a treasurer, two assessors, a town marshal, and other subordinate officers which may be necessary for the good government and well being of the town, to prescribe their duties, declare their qualifications, and determine the periods of their appointments, and the fees they shall be entitled to receive for their services, and require of them to take an oath or affirmation faithfully and impartially to discharge the duties of their respective offices, and may require of them such security for the performance of the duties of their respective offices as shall be thought necessary. Said president and trustees shall also have power to affix to the violation of the by-laws and ordinances of the corporation such reasonable fines and penalties as they may deem proper, and to provide for the disposition of such fines and penalties: *Provided also*, That no by-laws or ordinances of said corporation shall have any effect until the same shall have been published three weeks successively in a newspaper printed in said county, or by written notices posted up in three of the most public places in said town: *Provided*, Nothing contained in this section shall be incompatible with the laws of the United States or the laws of this territory.

Statement of receipts.

SEC. 8. The president and trustees shall, at the expiration of each six months, cause to be made out and published a correct statement of the receipts and expenditures of the preceding six months.

Taxes.

SEC. 9. The electors of said town, in legal meetings assembled, shall have power by vote to direct the levy of taxes on all real and personal estate within the limits of said corporation, not exceeding one-half per centum upon said real and personal estate in any one year, to regulate and improve the lanes and alleys and to determine the width of sidewalks: *Provided*, That no property shall be taken from any individual until such individual shall be paid therefor, the value thereof to be ascertained by twelve disinterested freeholders to be summoned by the marshal for that purpose. They shall have the power to remove all nuisance and obstructions from the streets and commons and all other places of said town, and to provide for the removal of the same.

Licenses.

SEC. 10. The president and trustees shall be authorized to grant all licenses for the retailing of ardent spirits within the limits of the corporation; and the proceeds of such licenses shall be appropriated for the benefit of said corporation: *Provided, however*, That the power hereby granted shall not be so construed as to conflict with the general laws of this territory or of the future state of Iowa, regulating taverns and licenses for retailing ardent spirits.

Streets.

SEC. 11. The streets, lanes and alleys of said town shall constitute one road district, including the several roads leading from said town for the distance of two miles from the corporation limits, and the electors of said town shall, at their annual meeting, elect an overseer of the same, and in case of death, removal or other inability of said overseer or other officers of the corporation, the president and trustees shall have power to fill such vacancies.

Meetings, how called.

SEC. 12. All meetings for the purposes contemplated in the preceding section of this act, shall be called by the president, or in case of his absence, by the senior trustee, by posting up written notices in three of the most public places in said town, at least three days previous to holding such meeting. Said notices shall specify the time and place of holding said meeting, and the purposes for which said meeting is called.

SEC. 13. The recorder shall receive such fees for his services as the by-laws and ordinances of said corporation shall prescribe; but the president and trustees shall receive no compensation unless the same should be considered necessary and right by the inhabitants in legal meeting assembled. <sup>Compensation.</sup>

SEC. 14. For the purpose of enabling the president and trustees to carry into effect the provisions of this act, they are hereby authorized annually to lay a tax on all real and personal estate within the bounds of the corporation, as the same has been or may be appraised: *Provided* Such tax shall in no case exceed the sum for the same year voted for and directed according to the provisions of the ninth section of this act: *And provided*, That the said tax shall not exceed in any one year one-half per centum of the aggregate amount of real and personal estate within the limits of said town, and the said president and trustees shall, between the first Mondays of May and June in each year, determine the amount of tax to be assessed and collected within the current year. <sup>Taxes.</sup>

SEC. 15. It shall be the duty of the president and trustees to make out a duplicate of taxes charging each individual therein the amount of tax in proportion to the real and personal estate of such individual within such town, which duplicate shall be signed by the president and recorder, and delivered to the marshal or such person as shall be appointed collector, whose duty it shall be to collect the same within such time and in such manner as the by-laws shall direct. <sup>How collected.</sup>

SEC. 16. The said collector shall have power to sell personal estate, and for want thereof to sell real estate for the non-payment of taxes within said town, but no real estate shall be sold by reason of the non-payment of such tax or taxes, unless the assessment of such tax shall have been duly notified in some public newspaper printed at the seat of government of this territory, and also at Salem, if any be printed there, once each week for at least six weeks, the last publication whereof shall be at least six weeks before the day when said taxes are payable, nor unless the intended sale thereof be duly notified by publication in like manner, nor unless such assessment and proceedings thereon be regular, and in all things conformable to the provisions of this act; and moreover, all such real estate so sold <sup>Collector may sell estate.</sup>

may be redeemed in the same manner, and within the same period of time, as is or may be provided by law in case of real estate sold for any county taxes.

SEC. 17. This act may be altered, amended, or repealed, by any future legislature of this territory or state.

Approved January 14, 1840.

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[Chap. 53.]

AN ACT to provide for an extra session of the Legislative Assembly.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That, for the purpose of apportioning the members of the council and house of representatives equally among the several counties of this territory, there shall be a special session of the legislative assembly, to commence on the second Monday in July next.

General election, when held.

SEC. 2. That the general election for this territory for the year eighteen hundred and forty, be held on the first Monday in October, but ever after on the first Monday of August, as provided for in the act regulating general elections.

[Presented to the governor on the 11th January, 1840, and having remained with the governor three days (Sundays excepted) the legislative assembly being in session, this bill became a law January 15, 1840.]

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[Chap. 54.]

AN ACT to prevent Frauds.

Parol leases to have effect of leases at will only.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That all leases, estates, interest of freehold or term of years, or any uncertain interest of freehold or term of years, or any uncertain interest of in or out of any messuages, lands, tenements or hereditaments, made or created by livery and seizin only or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any consideration