

## [Chap. 95.]

AN ACT providing for the appointment and duties of auditor of public accounts, and regulating the duties of territorial treasurer.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* <sup>Appointment.</sup> That there shall be appointed by the governor of the territory, as soon as he may think it necessary, by and with the advice and consent of the Council, a territorial auditor, who shall hold his office for the term of one year, and shall, previous to entering upon the duties of his office, give bond to the United States in the sum of five thousand dollars, with three or more sufficient securities to be approved of by the governor of the territory, conditioned for the faithful discharge of the duties of his office, and shall also take an oath in the following form, before one of the judges of the supreme court: I, A. B., do solemnly swear (or affirm) that I will faithfully and honestly execute the duties appertaining to the office of auditor of the territory of Iowa, and will deliver over to my successor all books, records, vouchers, papers, presses, and furniture, appertaining to said office, whole, safe, and undefaced. <sup>Bond</sup> <sup>and oath.</sup>

SEC. 2. That when any condition of said bond shall be broken by said auditor, the governor shall cause suit to be instituted against the auditor, and his sureties on his said bond, and one recovery thereon shall not render the bond void, but further breaches thereof may be prosecuted from time to time until the whole penalty be recovered.

SEC. 3. The auditor of public accounts shall, in all cases personally, sign all warrants for money on the treasurer of the territory, all tax receipts and all other papers necessary and proper for the auditor to sign. <sup>To sign warrants.</sup>

SEC. 4. In all cases where warrants for money are issued by the auditor upon the territorial treasurer, the said warrants, before they are delivered to the person or persons for whose benefit the same are drawn, shall be presented by the auditor to the territorial treasurer, who shall personally countersign the same, and shall also enter in a book to be kept for that purpose by him, the date, amount, and the name of the person or persons to whom the same are made payable. <sup>Treasurer to sign warrants.</sup>

SEC. 5. Whenever any person shall pay to the territorial treasurer an auditor's warrant, or money, on account of any debt due the territory, or for <sup>Receipt to be countersigned.</sup>

taxes, the treasurer is required to give duplicate receipts for such payments, one of which receipts shall be filed in the auditor's office and entered in a book to be kept for that purpose, and the other copy shall be countersigned by the auditor and delivered to the person making payment, and no receipt, unless it be so countersigned, shall be evidence of such payment.

Auditor  
to keep  
accounts.

SEC. 6. It shall be the duty of the auditor at all times to keep the accounts of the territory with any state or territory, and with the United States, with all public officers, corporations, and individuals having accounts with this territory. He shall audit all accounts of public officers who are to be paid out of the territorial treasury, and all persons authorized to receive money out of the treasury by virtue of an appropriation made or to be made by law.

When to  
grant war-  
rant.

SEC. 7. On ascertaining the amount due any person from the treasury, the auditor shall grant his warrant on the treasury for the sum due.

Duty of  
auditor.

SEC. 8. The said auditor shall make a fair list of all accounts by him audited, in a book by him to be kept for that purpose, as also an account of all taxes or other moneys which may be due by any person to this territory, or which may be paid into the territorial treasury; he shall make out and present to each regular session of the legislative assembly by the tenth day of the session, a report showing the amount of warrants by him drawn on the treasury, stating particularly on what account said warrants were drawn, to whom, and for what they were issued. He shall also report the amount of money received into the treasury, stating particularly the sources of revenue from which the same were derived.

Record.

SEC. 9. The said auditor shall keep a fair record of all warrants by him drawn, numbering the same, in a book to be kept for that purpose.

How to pro-  
ceed against  
collectors.

SEC. 10. When the auditor shall have made out abstracts of all sums due in the respective counties and sent them to the different collectors, he shall make out, in a book to be kept for that purpose, a fair account against such collector, a certified copy of which, with the seal of his office thereto attached, shall be sufficient for the attorney general or district attorneys to proceed by motion or action against such delinquent collectors and their securi-

ties before the district court. All quietuses necessary to be granted shall issue by the auditor under his hand and seal of office.

SEC. 11. That the treasurer shall, whenever directed by the governor, give an additional bond with two or more securities to be approved of by the governor, in any amount not exceeding fifty thousand dollars, conditioned for the faithful performance of his duties, and for the delivery over to his successor of all books, records and papers appertaining to his office, and all moneys in his possession as treasurer. The bonds of the treasurer and auditor shall be filed in the office of the secretary of the territory. And suit may be instituted on the bonds of the treasurer in like manner as on those of the auditor.

Treasurer to give additional bond.

SEC. 12. If said treasurer die, resign, or be displaced, or otherwise cease to hold his office, then such treasurer, his heirs, executors or administrators shall regularly state the amount, and deliver the moneys and warrants, together with all books, records, memorandums, papers and instruments of writing of the territory in his or their possession, or which such treasurer shall have received and not paid out according to law, to the succeeding treasurer, who shall make report thereon to the legislative assembly. And the said report, if confirmed by the legislature, shall be a discharge of such treasurer's bonds, in which case they shall be given up to such treasurer, his heirs, executors or administrators.

Accounts, &c. to be delivered to successor.

SEC. 13. It shall be the duty of the territorial treasurer to receive the proceeds of all taxes and other public moneys of this territory, and safely keep the same. He shall not pay out of the treasury any money but on a warrant of the auditor, except the auditor's salary. He shall keep a regular and fair account of all moneys and revenues he receives and pays out agreeably to law, stating therein particularly on what account each particular sum was paid out or received, and the time when, and lay a copy thereof before the legislative assembly by the tenth day of any regular session.

Duties of treasurer.

SEC. 14. It shall be the duty of the treasurer to report quarterly to the auditor the amount of money which he may have received, stating on what account the same was paid into the treasury. He shall also report quarterly an account of payments out of the

Same.

treasury, and deposit with the auditor all warrants which he may have paid or received, and take the auditor's receipt for the same; and it shall be the duty of the auditor to make entries of said reports in books to be kept by him for that purpose.

Suits.

SEC. 15. It shall be the duty of the auditor to institute all suits and motions in favor of the territory.

When warrant is lost.

SEC. 16. If any auditor's warrant shall be lost, mislaid or destroyed, so that the same cannot be presented for payment by the person entitled thereto, it shall be lawful for the auditor, at any time before such warrant shall be paid at the treasury, to issue a duplicate warrant to the person or persons having so lost any warrant as aforesaid, on such person filing with the auditor an affidavit in writing, sworn before some justice of the peace or judge, stating the loss or destruction of any such warrant, and the auditor shall immediately certify the same to the treasurer, who shall thereby be authorized to pay any such duplicate warrant.

Compensation.

SEC. 17. The auditor and treasurer shall each receive one hundred dollars per annum for their services, and keep their offices at the seat of government: *Provided*, That a further compensation may be allowed each by the legislature, if the amount of services seem to demand it.

Vacancy.

SEC. 18. That whenever during the recess of the legislature, the office of auditor of public accounts or territorial treasurer shall become vacant by death, resignation, or otherwise, the governor shall appoint such officer pro tem. to fill such vacancy, whose term of service shall expire at the end of the next session of the legislative assembly.

Repeal.

SEC. 19. That sections second, third, and fourth of the act entitled "an act to provide for the appointment of a territorial treasurer, and defining his duties," approved January twenty-fourth, eighteen hundred and thirty-nine, be and the same are hereby repealed. This act to take effect and be in force from and after its passage.

Approved January 7, 1840.

NOTE.—In the last clause of the second section, the word "on," in the enrolled bill has been printed "one," being evidently so intended. This act was not in the hands of the supervisor to insert in the order of its date.