

[32] CHAPTER 42.

AN ACT to amend an act relative to practice in the district courts.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. All persons competent to institute suits, etc.—how to proceed—duty of clerk. That hereafter it shall be competent for any person or persons, when they wish to institute suit in any of the courts of record of this territory, (if their demand shall be founded on contract,) to file their account, single bill, promissory note, or due bill, with the clerk of said court, whose duty it shall be to issue process against the defendant or defendants, in the same manner as if a declaration and precipe had been filed in the usual form.

SEC. 2. Parties may prosecute and defend in person. That upon the return of the writ, served, the plaintiff and defendant may appear and prosecute and defend, in proper person, and proceed to final judgment in said suit, as in other actions conducted by attorneys in the district courts.

SEC. 3. Non-residents to give security for costs, etc.—security may be demanded for costs paid—proviso. In all suits hereafter commenced in any of the courts of record in this territory, when the plaintiff is a non-resident of the county, the clerk of the court may, if he think it expedient, demand of him security for costs, before the institution of the suit; and the court shall, at any time before the trial, and on the application of the defendant, and his affidavit filed, stating that he is not indebted to the plaintiff in the sum aforesaid, or any less amount, order the plaintiff to give security for costs paid; if he fail to do so, the suit shall be dismissed at his costs: provided, the security for costs shall in no case be extravagant, but moderate.

SEC. 4. Repealing clause—when to take effect. That the seventh section of an act amendatory to "An act regulating practice," passed at the session of eighteen hundred thirty-nine and forty, be and the same is hereby repealed. This act to take effect and be in force from and after its passage.

Approved January 9, 1841.

CHAPTER 43.

AN ACT to establish a territorial road from the north part of Washington county to the Missouri line.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Names of commissioners—road from Washington to southern boundary of territory—meeting of commissioners—pay of commissioners, surveyor, etc. That E. C. Fairchilds, of Washington county, Alexander Winsel, of Jefferson county, and Jesse Belknap, of Van Buren county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing in Washington county, where the north line of said county crosses [33] the military road leading from Iowa City to Mount Pleasant; thence to Washington, the county seat of said county; thence to Brighton, in said county; thence to Fairfield, the seat of justice of Jefferson county; thence to Iowaville, in Van Buren county; thence to a suitable point on the southern boundary of the territory. Said commissioners shall meet at the town of Washington on the third Monday in June, A. D. eighteen hundred and forty-one, or at such subsequent time during the year as they shall agree. The com-

missioners aforesaid shall each receive the sum of two dollars per day for their services in laying out said road; said commissioners shall employ a competent surveyor, who shall be allowed the sum of two dollars and fifty cents per day; chain carriers and other hands necessarily employed by said commissioners, shall each receive one dollar and fifty cents per day.

SEC. 2. Commissioners to be governed by certain act—to take oath. The commissioners aforesaid shall, in all other respects, be governed by an act to provide for the opening and laying out territorial roads, approved December 29, A. D. 1838, and shall also take and subscribe the usual oath before entering upon the duties of their office.

SEC. 3. Names of commissioners—route of road, etc. That Lewis W. Day, Richard B. Davis, Almond Fairchild, of Washington county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at the twenty mile stake from Iowa City, on the road leading from that place to Burlington; thence on the best ground on the south side of the Iowa river, to a point where the military road leading from Iowa City to Mount Pleasant crosses the same. The said commissioners shall be governed in all respects by the foregoing sections of this act.

Approved January 9, 1841.

CHAPTER 44.

AN ACT for the incorporation of the Town of Farmington, in Van Buren County, Iowa Territory.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Farmington incorporated—name and style. That all that part or tract of land lying in township sixty-eight north, and fractional township sixty-seven north, and range eight west, in the county of Van Buren, as is comprised in the town plat of Farmington and North Farmington, together with all additions that may hereafter be made and recorded thereto, be and the same is hereby constituted a town corporate, and shall be known by the name and title of the "Town of Farmington."

SEC. 2. Qualified voters—election, when and where to be held—officers to be elected, etc.,—proviso. That the qualified voters for the members of the legislative assembly who have resided within the limits of said corporation for thirty days immediately preceding any such election, shall [34] meet at some convenient place within said corporation on the first Saturday in March next, and annually thereafter; there and then proceed to elect by ballot a president, four councilmen, and a recorder, who shall hold their offices for one year, and until their successors shall be elected and qualified; and the president and any two of the councilmen shall be a board for the transaction of business, but a less number may adjourn from time to time: provided, that in case of the death or absence of the president the councilmen shall choose a president pro tem. from their own body.

SEC. 3. Additional officers—oath to be taken, etc.—how to open polls, etc.—duty of clerk—duty of recorder. At the first election to be held under this act, there shall be chosen by the electors present, three 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 councilmen, or any three of them, shall be judges, and the recorder clerk of the election; and at all elections to be held under this act the polls shall be