

CHAPTER 87.

PENITENTIARY.

AN ACT to provide for the completion of the penitentiary.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Completion of Penitentiary. That the inspectors of the Penitentiary are hereby directed, as fast as the funds at their disposal will permit, to provide for completing the exterior wall and roof of the Penitentiary, constructing the requisite number of cells, and such other appendages of the establishment as they may think expedient.

SEC. 2. Appropriations. To furnish the means necessary for this purpose, sufficient amount, not exceeding ten thousand dollars, be and the same is hereby appropriated out of the state treasury, from time to time, as fast as required.

SEC. 3. How drawn. The money hereby appropriated must remain in the state treasury until needed. It shall be drawn out on an auditors warrant, founded on an order of the inspectors, or any two of them.

SEC. 4. Report. The inspectors must report to the governor, showing the condition of the work, and the amounts expended; and they shall, at the same time, forward a particular statement of their accounts, showing the items of expenditures, which shall be filed in the office of auditor of state.

SEC. 5. Take effect. This act shall be in force from and after its publication in the "Iowa Capital Reporter."

Approved, February 5th, 1851.

Published in the Iowa Capital Reporter February 26th, 1851.

[206] CHAPTER 88.

BELLEVUE.

AN ACT to incorporate the town of Bellevue, in Jackson county.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Boundaries.—Incorporated.—Name and style.—Powers. That all that portion of the State of Iowa heretofore embraced within the corporate limits of the town of Bellevue, as surveyed and laid out by the commissioners appointed in pursuance of an act of congress to lay off the towns of Burlington, Fort Madison, Dubuque, etc., viz: fractional section eighteen, in township eighty-six, north of range No. 5 east of the 5th principal meridian, shall be, and hereby is declared to be a corporate town, and the inhabitants thereof shall be and hereby are created a body corporate and politic, with perpetual succession, by the name and style of the "president and trustees of the town of Bellevue," and as such by that name shall be capable in law of contracting and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places, in all matters whatsoever of law and equity, and also of purchasing, using, occupying, enjoying and conveying real, personal

and mixed estate, and may have and use a corporate seal, and may change, alter and renew the same at pleasure, and shall be competent to have, exercise and enjoy, all the rights, immunities, powers and privileges, and be subject to all the duties and obligations incumbent and appertaining to a body corporate and politic, and for the better ordering and governing said corporate body, the exercise of the corporate powers of the same hereby and herein granted, and the administration of its fiscal, prudential and corporate concerns, with the conduct, direction and government thereof, shall be vested in five trustees to be chosen as hereinafter provided, together with such other officers as are hereinafter mentioned and provided for.

SEC. 2. Corporate authorities, their powers, duty and liabilities. That the said president and trustees of the town of Bellevue, shall be and are hereby invested as the lawful [207] owner and proprietor, with all the real, personal and mixed estate, and all the rights and privileges thereof, together with all the property, revenues and funds, and all the moneys, debts, accounts and demands, due and owing or in anywise belonging to the president and trustees of the town of Bellevue, or which by or under the authorities of any former act or acts, have been acquired, vested in, or is, or may be owing or belonging to the president and trustees of the town of Bellevue, and all rights, interests, claims and demands, in favor of or against the president and trustees of the town of Bellevue, may be continued, prosecuted, defended and collected in the same manner as though this act had never been passed.

SEC. 3. Election of trustees—president—quorum.—judges of election, etc. term—powers and duties. That the qualified electors of said town shall, on the first Monday in May, A. D. 1851, and annually on the same day thereafter, elect five trustees, who shall have the qualification of electors, and reside within the corporate limits of said town, who, when assembled together and qualified, shall choose a president out of their own body, who shall as aforesaid, constitute the president and trustees of the town of Bellevue, a majority of whom shall be necessary to constitute a quorum for the transaction of business; they shall be judges of the election returns and qualification of their own members, and shall continue in office for the term of one year and until their successors shall be chosen and qualified. They shall determine the rules of their proceedings, and keep a record thereof, which shall be open to the inspection of every citizen; and may compel the attendance of absent members in such manner and under such penalties as they may prescribe, and they shall meet in some convenient place in said town on the first Monday in every month: Provided, The president or any two of the trustees may call a special meeting of the board whenever in his or their opinion the same may be deemed necessary, specifying in a written notice for said meeting, the time and object thereof. They may employ a clerk whose duty it shall be to make a correct record of all the proceedings and doings of said board of trustees: provided, that a failure to elect on said day shall not forfeit the [208] charter, but an election may be held on any subsequent day pursuant to notice in manner heretofore provided.

SEC. 4. Treasurer and marshal—bonds. That there shall be elected by the qualified electors of said town, on the first Monday in May, A. D. 1851, and annually on the same day thereafter, a treasurer and a marshal, who shall hold their respective offices for the term of one year, and until their successors are duly elected and qualified. They shall perform such other duties, and exercise such powers as may be lawfully required of them by the regulations and ordinances of the said town. They shall severally give bonds made payable to the president and trustees of said town, and their

successors in office, with good and sufficient securities in such sum as may by the president and trustees, be deemed advisable, and a clause shall be inserted therein, that if at any time additional security be required the same shall be given; the condition of such bonds shall be that the said treasurer or marshal shall safely keep and pay over to its proper account all money coming into their hands by virtue of their said offices, and shall faithfully discharge the duties thereof.

SEC. 5. Notice of elections—polls—oath of office—vacancy. That in all elections for town officers, it shall be the duty of the president and trustees of said town, to issue or cause to be issued notice thereof, setting forth the time of such election, the place where the same shall be holden, the officer or officers to be chosen, and cause such notice to be posted up in three of the most public places in the town at least ten days previous to such election; and at all such elections the president or two of the trustees, shall sit as judges, and the town clerk, or in his absence, some one of the trustees *pro tempore*, shall sit as clerk; and at all such elections the polls shall be opened at 12 o'clock, M., and close at 4 o'clock P. M., of the same day, and at the close of the polls the vote shall be counted, and a statement thereof proclaimed at the door of the house in which the election was held, and the persons elected shall within ten days thereafter, take an oath to support the constitution and laws of the United States and of this state, and an oath of office, a certificate of which shall be deposited with the clerk, and by him placed on file and preserved. It shall be the duty of the president and trustees [209] to prescribe the time and manner, and provide the place of holding all elections in said town, and making returns thereof not otherwise herein directed and prescribed. Should the office of trustee, treasurer or marshal become vacant by failing to qualify or in any other manner, it shall be the duty of the president and trustees to fill the same by appointment until the next annual election.

SEC. 6. Qualification of voters. That each and every white male citizen who shall have resided in the town of Bellevue, for six months next preceding any election for officers, or for any other purposes and is a qualified voter for state and county officers, shall be deemed a qualified voter at such town election, and when any person shall present himself to give his vote and either of the judges shall suspect such person does not possess the requisite qualification of an elector, or if his vote shall be challenged by any elector who has previously given his vote at such election, the judges of such election shall administer to such person an oath that will test his qualification as a voter.

SEC. 7. Ineligible to office or contract. That no member of the board of trustees shall be eligible to any office within the gift of said board during the year for which he may have been elected, nor shall any member of said board be interested directly or indirectly in the profits of any contract or job for work or services to be performed for the said town.

SEC. 8. Duty of president. That it shall be the duty of the president of said board to be vigilant and active at all times, in causing the laws and ordinances of said town to be duly executed, he shall sign all by-laws and ordinances adopted and passed by the board of trustees, and see that the same are published six days before they go into effect. He shall preside when present at the meetings of said board and be denominated the president of the same and when there is a tie he shall give the casting vote; he shall do and perform such other duties as the said board of trustees may prescribe and determine, not inconsistent with the provisions of this act.

SEC. 9. Duty of treasurer, marshal, etc.—liabilities. That the treasurer and marshal and all other officers under the government of said town, shall before entering upon the duties of their respective offices, take a similar oath to that herein before prescribed for trustees. The said treasurer, marshal and other officers shall respectively be allowed such fees and compensation for their services, and be liable to such fines, penalties and forfeitures, for negligence, carelessness, misconduct in office and positive violation of duty, as the board of trustees shall order and determine.

SEC. 10. Ordinances made and published. That the said president and trustees shall have power and it is made their duty, to make out and publish from time to time, all such ordinances as shall be necessary to secure said town, and the inhabitants thereof, against injuries by fire thieves, robbers, burglars and all persons violating the public peace; for the suppression of riots, and gambling and indecent, and disorderly conduct, for the punishment of all lewd and lascivious behavior, in the streets and other public places in said town, they shall have power from time to time to make and publish all such laws and ordinances as to them shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the said town, and the inhabitants thereof, to prevent and compel the abatement and removal of nuisances within the limits of said town, to impose fines, forfeitures and penalties on all persons offending against the laws and ordinances of said town, and to provide for the prosecution, recovery and collection thereof, and shall have power to regulate by ordinance the keeping and sale of gunpowder in said town.

SEC. 11. President and trustees to make ordinances to regulate and license groceries, exhibitions, etc., or may prohibit the same—may revoke. That the president and trustees of said town, shall have power and it is hereby made their duty to regulate by good and wholesome laws and ordinances, ale, beer, and porter shops, and places where spirituous liquors are sold in less quantities than one gallon, and all other houses of public entertainment in said town, all theatrical exhibitions and public shows, and all exhibitions of whatever nature or name, to which admission is obtained by payment of money or any other reward, and to impose reasonable fines and penalties for the violation of any such laws or ordinances, and said town shall have full and exclusive power to grant or refuse license to keepers of ale, beer and porter shops, retailers of spirituous liquors in less quantities than one gallon, and all other houses of public entertainment, showmen and managers of theatrical exhibitions and other exhibitions for money or other reward, dealers in goods, wares and merchandise—auctioneers for sale of goods, wares and merchandise, horses and other animals at public auction, keepers of billiard tables, ball and ten pin alleys and in granting any such license it shall be lawful for said town to exact, demand and receive such sum or sums of money as they shall think reasonable and expedient, to annex thereto such terms and conditions in regard to time, place and other circumstances under which said license shall be acted upon, as in their opinion the peace, and quiet and good order of society in said town may require.—For the violation of said terms and conditions the said town shall have power to revoke or suspend any such license whenever the good order and welfare of said town may require it, in such manner as shall be provided by ordinance. Said town shall have power to establish and regulate markets; to regulate and license all carts, wagons and drays and every description of two and four wheeled carriages that may be kept in said town for hire, and all livery stables.

SEC. 12. May appoint supervisors—may tax—may prohibit animals from running at large. That the president and trustees shall have the exclusive power of appointing supervisors and other officers of the streets and highways within the said town, and if, collected in money or labor, any sum not exceeding one dollar annually as a road tax from each and every person liable by law to pay such tax or labor on the highways. They shall have the power whenever the public convenience or safety requires it to prohibit hogs, cattle, horses and all other animals from running at large in the streets, alleys, commons and other public places of said town.

SEC. 13. Money must be paid into town treasury—how disbursed. That all moneys raised, recovered, received or collected by means of any tax, license, penalty, fine forfeiture or otherwise under the authority of this act, or which may belong to said town, shall be paid into the town treasury, and shall not be drawn therefrom, except by order, or under the authority of the president and trustees of said town, and it shall be the duty of the president and trustees of said town to liquidate and settle all claims and demands against said town, and to require all officers, agents or other persons entrusted with the disbursement or expenditures of the public money [212] to account to them therefor, at such time and in such manner as they may direct; and they shall annually publish for the information of the citizens a particular statement of the receipts and expenditures of all the public moneys belonging to said town, and also of all debts due and owing to and from the same, and the said president and trustees shall have power to pass all such laws and ordinances as may be necessary and proper to carry into effect the powers herein and by this act granted.

SEC. 14. Ordinances, etc., signed and published. That the by-laws and ordinances of said town shall be signed by the president of the board and published in a newspaper in the county, or posted up in some public place in said town six days before the taking effect thereof, and the certificate of the clerk of the board upon the town records shall be evidence not only of the enacting and signing of said by-laws and ordinance, but of the proper publication of the same having been made.

SEC. 15. Justice of the peace, powers and duties—try offenders—jury—fine and imprisonment—costs—process—imprisonment in jail of Jackson county—fees. Any justice of the peace residing within the said town shall have full power and authority, and it is hereby made their respective duties, at such time as complaint and application shall be duly made before either of them, to issue all needful process for the apprehension of offenders against any of the by-laws or ordinances or regulations of said town, and to hold a court for the trial of all offenders within said town, and the same to fine, imprison or discharge as the by-laws, ordinances and regulations of said town and the facts of the case may require, and for that purpose they and each of them are authorized and required, upon demand of either plaintiff or defendant to cause six citizens of said town to be duly summoned and empanelled as a jury, who after hearing the evidence in the case if guilty shall fix the fine and determine the time of imprisonment where discretion is allowed by the laws or ordinances and where no discretion is allowed their verdict shall be "guilty" or "not guilty," and all such offenders, upon conviction shall be liable for the costs of prosecution and judgment shall go accordingly, and in cases of acquittal the same shall be paid by the corporation, having first been allowed by the board of trustees of said town. And all process in behalf of said town shall run [213] in the name of the "state of Iowa for the use of the president and trustees of the town of Bellevue," and shall otherwise conform to the requisitions and provisions that may be made by said town, and shall be executed and returned by the marshal

or any constable residing in said town. And until other provisions shall be made by the said town authorities it shall be lawful to commit all offenders against said by-laws, ordinances and regulations on conviction to the jail or place of confinement used by the county of Jackson, Iowa, and in case where a portion or all of the punishment shall be by imprisonment the keeper of said jail is hereby required to receive such person or persons, on the proper warrant of the justice of the peace into his custody, in the same manner as in ordinary cases, and all expenses of such imprisonment, in cases where the same cannot be collected from the person or persons convicted and imprisoned shall be paid out of said town treasury. The fees of the justice of the peace, marshal, constable or jurors, in such cases shall be the same as are allowed by the statute in similar cases for the state of Iowa, provided, that nothing in this section shall be construed so as to prohibit either party the right of an appeal from the decision of said justice of the peace or the jury as is allowed by the statute in other cases.

SEC. 16. Trial summary—limitation. That all trials for the violation of the by-laws, ordinances and regulations shall be in a summary manner, and that no person shall be deprived of his liberty for the violation of any of the by-laws, ordinances and regulations more than twenty-four hours for any one offence or be fined in any sum greater than twenty dollars unless convicted by a jury as aforesaid.

SEC. 17. Borrowing of money. That whenever in the opinion of the trustees of said town it is expedient to borrow money for any public purpose, the question shall be submitted to the citizens of the town of Bellevue, the nature and object of the loan shall be stated, and a day fixed for the electors of said town to express their wishes, the like notice shall be given as in cases of elections, and the loan shall not be made unless two-thirds of the votes polled at such election shall be given in favor thereof.

SEC. 18. Meetings of board. That the president and trustees of the town of Belle- [214] vue shall provide for the times and places of holding their meetings, not herein otherwise provided for, which shall at all times be open to the public, and during the sickness or temporary absence of the president the duties shall be discharged by a president "pro tempore," who shall be obeyed and respected accordingly.

SEC. 19. Revenue— $\frac{1}{4}$ per cent—duplicate—equalize. That for the purpose of raising a revenue for town purposes, the president and trustees shall have power to levy, assess and collect taxes, on the real and personal property therein; provided, the amount of taxes shall not in any one year exceed the sum of twenty-five cents on the hundred dollars of the value thereof; which value shall be ascertained by an assessor appointed by the board for that purpose. A duplicate of the assessment roll shall be made out and signed by the clerk of said town and delivered to the collector of said town. At the next regular meeting of the board, after the assessment roll shall have been returned for any year the board shall have power to equalize any injudicious assessment on the complaint of any person aggrieved.

SEC. 20. Marshal collect—distress and sale—pay over—manner of selling real and personal property—deed—redemption. That the town marshal shall be the collector of any tax assessed, and he is hereby authorized and required, by distress and sale of personal property, as constables, on execution, to collect and pay over said tax to the treasurer of said town within three months after receiving the duplicate thereof, and the treasurer's receipt shall be his voucher. The collector shall make personal demand of every resident charged with tax, and before sale of property for delinquent tax, he shall give ten days written notice of such sale, posted up in three of the most public places in the said town, that if the tax on any lot or piece of land, to dis-

charge which no personal property can be found, shall remain unpaid three months after the expiration of the time allowed the collector for the collection of taxes, then the town marshal shall give thirty days notice, by publication, or by posting up written notices in three of the most public places in said town, that he will at the next term of the district court, for Jackson county, Iowa, apply for judgment and order of sale against said lots and pieces of land for the amount of taxes unpaid, and shall take in all other respects the same steps as are [215] prescribed by law to be taken by the county collector for the collection of delinquent county taxes, except that notice of sale, &c., may be given either by publication in the nearest newspaper or written notice as above; the lots or pieces of land shall be sold in like manner, and the same consequences as though sold for delinquent county taxes, except as herein otherwise provided. And if for any cause they shall not then be sold at the proper time, they may be sold the following or any subsequent year, in the same manner, and with the same consequences as is above contemplated; and upon such sale being made as aforesaid, the marshal shall give a certificate of purchase to the purchaser thereof, and at the expiration of two years from said sale, shall execute his deed for the land or lots thus sold to said purchaser: provided, said land or town lots may be redeemed in the meantime by the owner thereof paying the taxes and costs thereon, with interest at the rate of fifty per cent.

SEC. 21. Judgment in the dist. court how obtained—docket entry. And it is hereby made the duty of the clerk of the district court of Jackson county, upon the application of the town marshal for judgment against said town lots or pieces of land for delinquent taxes, to receive and record the report of said marshal, together with the certificate of publication of notice, in the same book kept for like purposes for delinquent county taxes, and shall also enter in such book all judgments, orders, and other proceedings of the court in relation thereto, and shall keep and preserve the same as a part of the record of the court, and the said clerk shall place the said report and certificate of said marshal on the common law docket for the term, in the following form to-wit:

State of Iowa, for the use of the president
and trustees of the town of Bellevue,
against
John Roe, et al.

} Suit for taxes.

SEC. 22. Court to hear defense render judgment etc.—order of sale. And it shall be the duty of said court, upon calling the common law docket for said term, if any defense be offered by any of the owners of said town lots or pieces of land so reported, or by any person having a claim or interest therein, to hear and determine the same in a summary way, without pleadings; and if no defense be made the said court [216] shall pronounce and render judgment upon said town lots or pieces of land for amount of taxes, interest and costs, and shall thereupon direct the clerk of said court to make out and issue a similar order for the sale of the same, as that in like cases for the sale of land for delinquent county taxes.

SEC. 23. Public act—repeal. That this act shall be taken and received in all courts by all judges, magistrates and other public officers, as a public act, and all printed copies of the same, which shall be printed by or under the authority of the senate and house of representatives shall be admitted as good authority thereof without any other proof whatsoever. That all acts and parts of acts heretofore passed relative to the incorporation of said town of Bellevue, be and the same are hereby repealed.

Approved, February 5, 1851.