

the same day of every second year thereafter, for the period of eight years, to take an enumeration of all the white inhabitants of all ages in their respective counties; and, in those counties not organized, it shall be the duty of the assessors of the counties to which unorganized counties may be attached, for election purposes, to take the enumeration thereof, as provided for by this act.

SEC. 2. Returns—compensation. It shall be the duty of said assessors to make a correct return of the duties performed under this act, under oath, to the clerk of the board of commissioners of their respective counties, on or before the fifteenth day of September next following such enumeration; for which services they shall receive such compensation as the board of commissioners may allow.

SEC. 3. Duty of Clerks. It shall be the duty of the several clerks of the boards of county commissioners to forward a certified copy of said returns to the secretary of state, within thirty days after the reception thereof.

[24] **SEC. 4. Penalty.** Every assessor or clerk who shall refuse or neglect to perform the duties enjoined by this act, shall forfeit and pay to, and for the use of, the common schools of their respective counties, a sum not less than fifty dollars, nor more than one hundred dollars.

SEC. 5. When to take effect—publication. This act shall take effect and be in force from and after the first day of March next; previous to which time the secretary of state shall cause the same to be published one [once] in the several newspapers in this state.

Approved, January 20th, 1847.

Published in the Reporter, Jan. 27th, 1847, and in the Standard Feb. 4th, 1847.

CHAPTER 9.

DISTRICT CLERKS AND PROSECUTING ATTORNEYS.

AN ACT in relation to clerks and prosecuting attorneys.

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

SECTION 1. Clerks elected Oct. 26, 1846, to give bonds—amount—how filed—to be recorded—actions may be brought thereon, in the name of the commissioners—if the original be lost—oath of office—oath to be endorsed. That the clerks of the district courts elected in the several counties of this state, at the general election, on the twenty-sixth day of October, 1846, wherein notice of said election had been previously given by the clerks of the boards of county commissioners in the several counties, or wherein any one person has received a majority of all the votes cast for state officers, before they enter upon the duties of their respective offices, shall enter into bond before the clerk of the board of county commissioners in their respective counties, with two or more sufficient securities, to be approved of by said clerk, in the penal sum of five thousand dollars, payable to said board of county commissioners—conditioned that they will faithfully and impartially discharge the duties of said office, and pay over all moneys that may come into their hands, under and by virtue of their said office, to the proper authorities, person or persons entitled to the same; and that they will, in every other respect, discharge the duties required of them by law; which said bond shall be filed in the office of the board of commissioners for said county by the clerk thereof, and also recorded at length upon the records of said office; and actions may be brought

thereon, or a certified copy thereof, by any person who may feel himself aggrieved by a violation of the same; which said action may be brought in the name of the said commissioners, for the use of the persons intended to be benefited thereby; and if said original bond should be lost or destroyed so that the same cannot be produced on the trial, a certified copy from the records of said commissioners, by the clerk thereof, shall be read [25] as evidence of it; and said clerks shall also take and subscribe an oath that they will support the constitution of the United States and of the state of Iowa, and in every respect discharge the duties of clerk faithfully, and to the best of their abilities; and it shall be the duty of the clerk of the board of commissioners to endorse on the certificate of election of said clerk elect, that the oath has been taken and bond filed according to law.

SEC. 2. Attorneys elected Oct. 26, 1846—to give bond—amount, condition—bond to be filed and recorded—oath of office—oath to be filed. And be it further enacted, that the prosecuting attorneys elected at the general election, on the twenty-sixth day of October, 1846, in the several counties or districts in this state, wherein notice of said election had been previously given by the clerks of the boards of county commissioners in the several counties, or wherein any one person has received a majority of all the votes cast for state officers, before they shall be qualified to act as such, shall execute a bond to the board of county commissioners of their respective counties, with two or more sufficient sureties, to be approved of by the clerk thereof, in the penal sum of two thousand dollars—conditioned that they will faithfully, and to the best of their ability, discharge the duty of prosecuting attorney for said county, and pay over to the proper person or persons all moneys that may come into their hands under or by virtue of their said office; which said bond shall be filed and recorded in the same manner, and the same remedies had thereon, as on bonds of the clerks of the several district courts. Said prosecuting attorneys shall also take and subscribe an oath that they will support the constitution of the United States, and the constitution of the state of Iowa, and faithfully discharge their duties as prosecuting attorneys to the best of their skill and ability; which said oath shall be filed in the office of the board of commissioners.

SEC. 3. Clerk elect to take possession of the office—duty of old clerk—clerk refusing to give possession—clerk elect to present his certificate to the sheriff or coroner—duty of sheriff or coroner—officer to make return to the district court—duty of court—further liability of the person withholding, etc.—action. And be it further enacted, that upon the presentation by the clerk elect of his certificate of election endorsed by the clerk of the board of county commissioners of the proper county, that security has been filed, and the oath taken according to law, to the clerk of the district court of the territory of Iowa, or to any other person or persons having in their possession or under their control the books, papers, furniture and other things properly belonging to said office, or any part thereof, it shall be the duty of said clerk of the district court of the territory of Iowa, or other person or persons as aforesaid, to deliver up into the possession of the clerk elect, and holding said certificate, all of the books, papers, matters and things belonging or in any wise pertaining to said office of clerk; and should the said clerk, or other person having in his or their possession any books, papers, stationery, furniture, or other things appertaining to said office, upon [26] demand of the clerk elect, and exhibiting his certificate of election, endorsed as aforesaid, refuse to deliver the immediate possession of said books, stationery and other things appertaining to said office to said clerk elect, the said clerk elect may, at any time thereafter, present said certificate of election, endorsed, to the sheriff or coroner, as he case may be, of the proper county, with a demand to said sheriff or coroner, in writing, to be placed in possession of said books

and other things appertaining to said office, it shall thereupon be the duty of said sheriff or coroner, as the case may be, forthwith to deliver to said clerk elect said books, stationery and other things appertaining to said office; and if the clerk of the said district court of said territory of Iowa, or other persons having the possession or control of said books, etc., shall, upon demand by said sheriff or coroner, refuse or neglect to deliver immediate possession of the same, said officer shall break open any house or other place wherein said books, etc., may be, as under a writ of replevin, and deliver possession of said books, stationery, furniture, etc., to the clerk elect; and said officer shall return into the office of the clerk of said district court a copy of said certificate, (returning the original to the clerk elect,) with a return thereon, as in a writ of replevin, with the amount of his costs for executing the same; and the said court, at its next session, shall, upon motion, cause judgment to be entered up in favor of said officer and against said defendant, for the amount of the same, unless they be previously paid by said defendant; and the person withholding the same shall, furthermore, be liable to every person who may be injured in consequence of said withholding, before any court having jurisdiction of the same—said remedy to be sought in an action on the case.

SEC. 4. Vacancies how filled—duty of clerk of commissioners—notice—places and manner of election. And be it further enacted, that when a vacancy shall occur in either of the said offices of clerk or prosecuting attorney, from death, resignation, removal, or otherwise, it shall be the duty of the clerk of the board of county commissioners of the proper county, to order an election to fill said vacancy, by giving at least fifteen days notice of the same, by pasting up written notices of the same in two of the most public places in each township in said county; which said election shall be held at the usual places for holding elections in said county, and be conducted in all respects, so far as applicable, as other elections are conducted, and returns made in the same manner.

SEC. 5. Clerks and attorneys to give bond, etc. And be it further enacted, that all clerks and prosecuting attorneys hereafter elected, under and by virtue of the constitution and laws of this state, shall, before they enter upon the discharge of their respective duties, give bond and qualify, as specified in the first and second sections of this act.

[27] **SEC. 6. To take effect.** This act shall take effect from and after its publication in the weekly newspapers printed in Iowa City.

Approved, January 21st, 1847.

Published in the Reporter and Standard, January 27th, 1847.

CHAPTER 10.

TREASURER OF STATE.

AN ACT prescribing the general duties of treasurer of state.

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

SECTION 1. To keep his office at seat of government—to have charge of public money, etc. That the treasurer of state shall keep his office at the seat of government, shall have charge of, and safely keep, all public moneys which shall be paid into the treasury, and pay out the same as directed by law and perform all such other duties as now are, or shall hereafter be, required of him by the laws of this state.