

## JURORS.

AN ACT concerning Grand and Petit Jurors.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all persons who are qualified electors, in this Territory, shall be liable to serve as jurors, in their respective counties, as hereinafter provided. The following persons shall be exempt from serving as jurors, to-wit: The Governor, Secretary of the Territory, Judges of the supreme and district courts, county commissioners, county treasurers, clerks of the supreme and district courts, and clerks of the boards of county commissioners, judges of probate, sheriffs, under sheriffs, and deputy sheriffs, coroners, constables, the marshal of the United States, and his deputies, counselors and attorneys at law, ministers of the gospel, officers of colleges, (not including trustees or directors thereof,) and preceptors and teachers of incorporated academies or universities, and one teacher in each common school, practising physicians, and surgeons, and all persons more than sixty years of age, together with all persons not of sound mind or discretion and subject to any bodily infirmity, amounting to any disability, and all persons shall be disqualified from serving as jurors who have been convicted of any infamous crime.

Who shall serve as jurors.

Who shall be exempt from such service.

SEC. 2. That it shall be the duty of the county commissioners in each of the counties of this Territory, wherein a district court is directed to be held, at least thirty days previous to the sitting of said court, to select twenty-three persons possessing the qualifications aforesaid, in their respective counties, and to deliver an attested copy of the names so selected within three days thereafter to the clerk of the district court, of the proper county, who shall thereupon issue and deliver to the sheriff of the county a *venire*, or summons, under the seal of the court, commanding him to summon the persons so selected as aforesaid to appear before the said court, at or before the hour of eleven o'clock, A. M., on the first day of the term thereof, to serve as grand jurors, any sixteen of whom shall be sufficient to constitute a grand jury, which said summons shall be served at least five days previous to the sitting of said court either by reading it to the person to be summoned, or by leaving an attested copy thereof at his usual place of residence.

Duties of county commissioners.

Duty of the clerk of district court

Duty of sheriff.

Grand Jury.

Summons to jurors how and when served.

- Foreman of grand jury.** **SEC. 3.** After the grand jury is empaneled it shall be the duty of the court to appoint a foreman, who shall have power to swear, or affirm, all witnesses to testify before said grand jury, and whose duty it shall be, when the grand jury, or any twelve of them, shall find a bill of indictment, to be supported by good and sufficient evidence, to endorse thereon "a true bill," and when they do not find a bill to be supported by sufficient evidence, to endorse thereon "not a true bill," and shall, in either case, be signed by the foreman at the foot of the endorsement, and shall, in all cases, where a true bill is returned into court as aforesaid, note thereon the name or names of the witnesses upon whose evidence the same was found.
- His powers and duties.**
- Bills of indictments.**
- Names of witnesses endorsed on true bills.**
- Oath of grand jurors.** **SEC. 4.** That the oath of the grand jury in all cases shall be as follows, to wit: "You, as grand jurors for the body of the county of \_\_\_\_\_ (as the case may be) do solemnly swear, that you will diligently inquire into, and true presentment make of, all such matters and things as shall come to your knowledge, according to your charge: The counsel of the United States of America, your own counsel, and that of your fellows, you shall keep secret; you shall present no person through envy, hatred, or malice, neither will you leave any person unrepresented through fear, favor, or affection, or hope of reward, but that you will present things truly as they come to your knowledge according to the best of your understanding, and according to the laws of this Territory, so help you God."
- Oath of petit jurors, in criminal cases.** **SEC. 5.** That the oath or affirmation of petit jurors in criminal cases shall be as follows, to wit: "You solemnly swear (or affirm) that without respect to person, or favor, or fear, you will well and truly try and true deliverance make between the United States of America and the prisoner at the bar, whom you shall have in charge, according to the evidence given you in court, and the laws of this Territory, so help you God."
- Two grand jurors necessary in making presentment.** **SEC. 6.** No grand jury shall make presentment, of their own knowledge, upon the information of a less number than two of their own body, unless the juror giving the information is previously sworn as a witness, in which case, if the evidence is deemed sufficient, an indictment may be found thereon, as upon the evidence of any other witness who may not be of the jury.
- Exception.**

SEC. 7. It shall be the duty of the board of county commissioners, in each of the organized counties in this Territory, where a district court is directed to be held, at least thirty days previous to the sitting of the said court, to select twenty-four persons possessing the qualifications of jurors, who shall compose and constitute two full petit juries, to serve as such at the next succeeding term of the district court, in each county respectively to be summoned, in like manner as hereinbefore directed in the case of grand juries.

Duty of county commissioners.

Petit jurors.

Their number and how summoned.

SEC. 8. It shall be the duty of the clerk of the district court, at the commencement of each term, to write the name of each petit juror, on a separate ticket, and put the whole into a box, or other place for safe keeping, and as often as it may be necessary to empanel a jury the clerk shall, in the presence of the court, draw, by chance, twelve names out of such box, which shall designate the twelve to be sworn on the jury, and in the same manner for each subsequent jury in their turn, as the court may from time to time direct.

Duty of the clerk of the court.

Manner of selecting a petit jury.

SEC. 9. In all cases where the sheriff, or other officer, shall be commanded to execute any summons as aforesaid, he shall be required to make timely return thereof to the clerk, who may have issued the same, with an endorsement thereon, certifying on whom it has been served, and the time when, and, in default of so doing, such sheriff, or other officer, shall be considered as being guilty of a contempt, and may be fined for the use of the proper county in any sum not less than ten, nor more than fifty dollars, unless such sheriff, or other officer, shall make his excuse to the satisfaction and acceptance of the court.

Duty of sheriff.

Neglect of duty.

Penalty.

SEC. 10. If a sufficient number of grand or petit jurors do not appear, when selected and summoned as aforesaid, or if by challenges, or any other cause, there shall not appear a sufficient number of qualified persons to make up the panels, the court may order the sheriff to return, without delay, such number of good and lawful men of the county, as may be necessary for that purpose. And when the sheriff is interested or related to either of the parties, the court may direct the coroner to make such return: And if any district court shall at any time sit before the board of county commissioners shall have made a selection of grand or petit jurors, as aforesaid, or

Non-attendance of grand or petit jurors.

How remedied.

When sheriff is interested,—coroner may act.

- if on any account the whole panel in either case shall fail to attend, the court may order the sheriff, or other officer, to summon from the bystanders, being qualified persons as aforesaid, a sufficient number to supply such deficiency who shall continue to serve for the remainder of the term, unless they shall be sooner discharged by the court.
- Bystanders.** **SEC. 11.** Every person who shall fail to appear when lawfully summoned as a grand or petit juror, as aforesaid, without having a reasonable excuse, shall be considered as being guilty of a contempt, and shall be fined by the court in any sum not exceeding twenty dollars, for the use of the proper county, unless good cause be shown for such default at or before the next term of said court, and it shall be the duty of the clerk to issue a summons against such delinquent, when such person shall not come in without process, to show cause at the next succeeding term of said court why he or they should not be fined for such contempt: *Provided*, That the oath or affirmation of any such delinquent shall, at all times, be received as competent evidence in his favor.
- Their qualifications, and term of service.**
- Grand and petit jurors.**
- Fine for non-attendance.**
- Duty of clerk.**
- Proviso.**
- Death or sickness of jurors provided for.** **SEC. 12.** In case of the death, sickness, or non-attendance of any grand or petit juror, after he shall have been sworn upon the jury, or where any such juror, being sworn as aforesaid, shall, for any reasonable cause, be dismissed, or discharged, it shall be lawful for the court to cause others, if necessary, to be summoned and sworn in his or their stead.
- Duty of clerk.** **SEC. 13.** It shall be the duty of the clerk of the district court, at the end of each term of said court, or within ten days thereafter, to make out a certificate to each juror, certifying the number of days and amount of compensation due to each juror, which certificate shall be presented to the board of county commissioners, and allowed as other demands against said county: *Provided*, That no juror shall be paid out of the county treasury for any days attendance as a juror, in the district court of the Territory, for which he may have received, or may be entitled to receive, pay as a juror of the district court of the United States.
- Certificate of service, to contain number of days and amount.**
- To whom presented, and by whom allowed.**
- Proviso.**
- Jurors privileged from arrest. Exceptions.** **SEC. 14.** All grand and petit jurors shall be privileged from arrest, in all cases, except for breach of the peace, treason, felony, and other criminal offences, during their attendance at said court, going

to, and returning from, the same, and all arrests in such cases shall be deemed as illegal and void. Arrest of jurors void.

SEC. 15. It shall be the duty of the board of county commissioners to arrange and select the grand and petit jurors, as aforesaid, in such manner as to make the qualified persons of the county perform duties as jurors, as nearly as may be, in rotation, and so that the same may not be unnecessarily burdensome to any of the citizens of the county according to the best information that the said commissioners can obtain. Duty of county commissioners. Rotation in the selection of jurors.

APPROVED, January 4, 1839.

## JUSTICES OF THE PEACE.

AN ACT to make valid and good in law the acts of Robert G. Roberts, done and performed by him as a justice of the peace, in and for the original county of Du Buque, in the Territory of Wisconsin, now the Territory of Iowa.

WHEREAS, Robert G. Roberts, a citizen of the county of Du Buque, late Wisconsin, now Iowa Territory, was in the month of November, in the year of our Lord one thousand eight hundred and thirty-six, duly commissioned, and, in the month of February of the same year, sworn and qualified to act as a justice of the peace, according to the requirements of the law in such case made and provided, except that the bond of the said Robert G. Roberts was not, agreeably to law, filed in the proper office, by the neglect of which requirement doubts have been made as to the validity and virtue of all the official acts done and performed by the said Robert G. Roberts, in pursuance of his commission aforesaid, in and for the county aforesaid: And whereas, it is highly important that his said acts should be declared and rendered legal and valid: Therefore, R. G. Roberts commissioned in November, 1836. Neglected to file his bond.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all and every the official acts and doings of the said Robert G. Roberts, done and performed by him, by virtue of his commission of justice of the peace, in and for the county of Du Buque aforesaid, during the time he held the same, and performed the duties thereof, be and the same are hereby declared to be as good and valid, in law, as if the said bond had been properly filed according to the requirements of the law in Official acts of said R. G. Roberts declared valid.