

which, together with costs of suit, the court shall render judgment against the plaintiff.

SEC. 19. In all cases, upon issue joined where the jury shall find for the defendant, they shall also find whether he had the right of property, or right of possession in said goods and chattels, and if they find either in his favor, they shall assess the damages of the defendant, on which judgment shall be rendered as declared in the preceding section.

Right of prop-  
erty, and right  
of possession.

SEC. 20. Where the jury find for the plaintiff on an issue joined, or on inquiry of damages, they shall assess adequate damages to the plaintiff for the illegal detention of the property for which, and the costs of suit, the court shall render judgment.

Where the jury  
find for the  
plaintiff,—  
costs, damages,  
&c.

SEC. 21. In such case, if said property shall not have been replevied and delivered to the plaintiff, he shall, in addition to the judgment authorized by the preceding section, be entitled to a further judgment, that such goods and chattels be replevied and delivered to him, without delay, or in default thereof, that he recover the value of said property, as the same shall have been assessed by the jury who gave the verdict in the case, the requirements of the writ of execution shall be regulated accordingly.

Additional  
judg't, where  
property has  
not been re-  
plevied; value  
how ascertain-  
ed, &c.

SEC. 22. The judgment for the plaintiff shall be against all those defendants who have been guilty of wrongfully detaining the property or interposing a claim thereto, as aforesaid.

Judgment,  
against whom,  
&c.

SEC. 23. No suit shall be instituted on the bond given by the plaintiff, as provided in this act, nor against the officer who took the same, until an execution shall have issued on the judgment in favor of the defendant, in which it shall be returned, that sufficient property of the plaintiff cannot be found in the county, whereon to levy, and make the amount of said judgment.

Suit on bond,  
when it may  
be commenced

APPROVED, January 23, 1839.

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## REVENUE.

AN ACT for assessing and collecting county revenue.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That for the purpose of raising a revenue for county purposes, the board of county commissioners shall levy a tax

County com-  
missioners to  
levy a tax, and

on what property.	on all lands, town lots, and out lots, with the improvements thereon, not heretofore exempt from taxation
Real estate.	by any law of the United States, now in force, and
Personal property.	on all personal property, with the exception of seventy-five dollars worth of household furniture to each
Property exempt from taxation.	householder, and excepting libraries, tools of mechanics, and agricultural implements; on each license for retailing spirituous liquors, and foreign and
Liquors, &c., in incorporated towns.	domestic groceries by a less quantity than one gallon, to be drank in or about the house where such liquors are retailed, in all incorporated towns, one hundred
In unincorporated towns.	dollars; all groceries other than those in incorporated towns, fifty dollars; but on each license to vend
Merchandise.	merchandise, not less than ten, nor more than fifty dollars per annum, discretionary with the board of
Wooden clocks, &c.	commissioners; on each license for hawking wooden, or brass clocks in the county, not less than one hundred,
Ferries.	nor more than three hundred dollars; on each ferry not less than five, nor more than twenty dollars per annum.
Poll tax on voters.	SEC. 2. The commissioners shall annually, at their regular session in July, or so soon thereafter as the assessment roll is filed, levy a poll tax of one dollar on every qualified voter, in their county under sixty
Per centage. Proviso.	years of age, and a per centage on real and personal property as aforesaid: <i>Provided</i> , That such per centage shall not, in any case, exceed five mills on the
Tavern keepers.	dollar. No tavern keeper shall be permitted to retail spirituous liquors without a grocery license.
Assessor, his election, term of service, and qualifications.	SEC. 3. That, at the time and place of holding the election for county commissioners, there shall be elected one assessor for each county, who shall be a qualified elector, and whose term of office shall be one year, and until his successor is duly elected and
His bond, security and oath.	qualified. Such assessor shall, within sixteen days after receiving a certificate of his election, enter into bonds with security, to be approved by the board of county commissioners, in the penalty of three hundred dollars, conditioned for the faithful performance of his duties, as assessor, and also take an oath, or affirmation, to be administered, by the clerk of the board of county commissioners, well, truly and faithfully to discharge the duties required of him by law.
Where assessor fails, or refuses to act, and notice thereof.	SEC. 4. If any assessor, so elected under the provisions of this act, shall refuse to accept of such office, or fail to comply with the foregoing section, the clerk of the board of commissioners shall, upon

such failure, issue a notice thereof to the board of commissioners, which shall be served by the sheriff upon said commissioners, and it shall be the duty of said commissioners, upon receiving notice thereof, to call a meeting forthwith, and appoint some suitable person to fill such vacancy, which assessor, so appointed, shall be qualified according to the foregoing section, and should any assessor die, or become unable, from bodily infirmity or any other cause, to complete the assessment of his county, township, or district, according to the provisions of this act, upon information thereof to the clerk aforesaid, a like summons as above mentioned shall be by him issued, and the appointment and qualification thereupon made, and such last mentioned assessor shall demand and receive the assessment roll of his predecessor, or of the person in whose possession it may be, and proceed to complete the assessment of taxable property, according to the provisions of this act, and if the roll of his predecessor cannot be obtained, the clerk, on application, shall make out a new form.

Vacancy, how, and by whom, filled.

Death, sickness, or infirmity of assessor, or, how remedied.

Duties of successor,—and the comm'r's. clerk.

SEC. 5. Immediately after the election and qualification, each assessor shall commence assessing all property subject to taxation, within his district, or county, as the case may be, and shall deliver to the board of commissioners, on or before the first Monday in July, thereafter, a full and complete assessment roll thereof, which roll shall exhibit the description, number of acres, and rate, whether 1st, 2d, and 3d, of the lands, the description and value of the town lots, and all other property specifically chargeable with tax for county purposes: The lands shall be designated by the numbers and descriptions, as laid down on the plan or map of the original surveys, and the town lots by their numbers and description as laid down on the plan of said town, or by the boundaries, if no other specific description can be obtained, and all lots, in towns or villages, the plats, or plans of which have not been recorded, shall be taxed in the same manner that lots are in towns and villages, whose plats, or plans, have been recorded, and all tracts, and lots of land, owned by non-residents, or persons unknown, and where specific description is not furnished, by the owner or claimant, shall be described by their subdivisions, as known or designated on the map or plan deposited in the office of the clerk, or any other public offices,

Duties of assessors.

Assessment roll, and description of property.

Lands and town lots, how described.

Unrecorded plats.

Lands of non-residents, &c.

Subdivisions, &c.

or which are generally recognized as containing a correct representation of the same by their numbers, or other specific description, and as the property of persons unknown and non-residents. The rates of the land shall be determined as described in this act, and in estimating the value of town lots, the assessor shall take to his assistance two discreet persons, and should any person feel aggrieved by the rate which may be affixed upon his land, by the assessor, or by the value at which the appraisers estimated his town lot, he may produce evidence before the board of commissioners, and if they think the rate of value too high, they shall order the clerk to alter it accordingly

**Value of town lots.** SEC. 6. The clerks of each board of commissioners shall prepare blank forms of assessment rolls under this act, and deliver one to each of the assessors of his county, at the time of his qualifying.

**Commissioners may relieve, &c.** SEC. 7. On the last Monday in June, the assessor shall attend, at the office of the clerk of commissioners, and with the assistance of said clerk shall publicly, in order that all persons interested may have the necessary corrections made, examine the assessment rolls, and correct all double or imperfect listing, or errors, in rates, descriptions, or quantities of lands, or lots, and if it shall appear that there are omissions, or lands taxable not entered by the assessor on his roll, the clerk and assessor shall correct all such omissions, and shall enter upon the rolls lands so omitted, as non-resident lands, and if the entry of any tract of land, or lot, cannot be rendered certain, in its descriptions by the before mentioned examinations, such entry shall be rejected from the roll, and the assessor shall, within five days thereafter return to the clerk a correct description of such lands, or lot, and the clerk shall thereby amend the defective entry in said roll, and if the assessor shall fail to attend at the time and place required, the roll, when returned, shall be compared, corrected, and completed as herein required, and for such failure, the assessor shall be liable, under this act, for a violation of his duty.

**Duty of clerk, as to blank forms.** SEC. 8. After the clerk and assessor shall have corrected the assessment roll, as aforesaid, the same shall be laid before the board of commissioners, and if it is found to contain all the taxable land in said county, and is otherwise correct, the board shall accept it in writing on the back thereof, signed and

**Last Monday in June, assessor to attend and where, for the correction of errors, &c.**

**Omissions.**

**Insufficient descriptions rejected, and how perfected.**

**Violation of duty.**

**Acceptance of assessor's roll; roll to be filed, and preserved, as a record.**

attested by their clerk, and the clerk shall file the same in his office, where it shall remain, unalterable, as a matter of record, and shall be a guide to future assessors, as far as the same may remain correct, but the assessment roll shall, every year, be corrected in the manner named in the preceding section of this act, before such roll shall be accepted and filed as aforesaid. Roll, to be corrected, every year.

SEC. 9. In all transfers of real estate, made after the taking effect of this act, it shall be the duty of the purchaser, at the time he gets his deed recorded, to have his name entered on the assessment roll, by the clerk, in the place of the grantor, and the assessors elected by the authority of this act shall leave a sufficient blank space on each page of his, or their roll, for subsequent entries of the kind. Transfer of estate, and duty of the grantee.

SEC. 10. Whenever any assessor shall discover, during the time he is making his assessment, that there are tracts of land, town lots, or chattels, subject to taxation in his county, or district, which were liable to taxation, and were omitted by the assessor, in one or more preceding years, he shall enter the same upon his roll, noting distinctly the years in which such omissions were made, in the same manner as the assessments for the current year, (but no such assessment shall be made for a longer period than one year back,) and such assessment shall have the like force and effect as assessments made at the proper time, and the tax due thereon charged and collected with the revenue of the year in which such assessment is made, and land and town lots shall be subject to the tax omitted to be assessed as aforesaid, in whose hands soever they may come. Omissions, how corrected by assessor. Limitation. Transfers.

SEC. 11. For the purpose of aiding future assessors, in making assessments under this act, the first assessor shall make out and retain in his possession a duplicate of his assessment roll, and shall make the necessary corrections therein from time to time, so that it correspond with the assessment roll returned by him into the office of the clerk, and, when he is succeeded in his office, he shall deliver the same, with all other documents in his possession relating to said office, to his successor. Duplicates, by whom made, corrected, and transferred, and to whom. Other documents.

SEC. 12. The board of commissioners shall allow to the assessors, in their respective counties, such compensation as to them shall seem just and reasonable, to be paid out of the treasury of the proper county, on the order of said board as other monies Assessor's compensation

<p>Receipts, on unassessed property, to be deducted.</p>	<p>are paid. At the time the collector of the county makes return of the amount of taxes collected by him of unassessed property, as hereinafter provided, the said board shall make an order deducting such sums, as to them may seem reasonable, for failing to assess such property from the allowance made to such assessor: If such assessor shall have received his pay for assessing, he and his securities shall be liable, on their bond, for the amount of such deduction.</p>
<p>Liability on bond.</p>	<p>SEC. 13. The board of commissioners, for the purpose of enabling the clerk to calculate and carry out the amount of tax, on all property returned by the assessor, shall, at their session in July in each year, determine the rates of taxation upon the several subjects allowed to be taxed for county revenue under the restrictions of this act, and enter such determination on record, which shall govern the clerk in making the said calculations.</p>
<p>Rates of taxation, when, and by whom, determined.</p>	<p>SEC. 14. Immediately after the return, perfection, acceptance and filing of the assessment roll, as hereinbefore directed, the clerk shall calculate and carry out the amount of taxes, opposite to the specified property, lots, or lands, charged with tax, and within ten days after the filing shall make out and deliver a certified statement of the amount, as exhibited by said assessment roll, to the treasurer of the county; and within the same time shall also make out a duplicate or transcript of the roll or rolls aforesaid, and deliver the same, together with a precept in the name of the Territory, tested by the clerk under the seal of the board of commissioners, and directed to the collector of his county, commanding him to collect the taxes charged in said transcript, by demanding payment of the persons charged therein, and sale of their goods and chattels, severally, or by sale of the tracts of land, or lots mentioned in said transcript, according to exigency, and that he pay over the moneys collected by him by virtue of said precept, as directed thereby, and return such precept, together with the transcript of the roll aforesaid, and an account of his acts thereon, to the said clerk, on or before the first Monday in January next ensuing the date thereof.</p>
<p>Object and record hereof.</p>	<p>SEC. 15. Whosoever may be in possession of any taxable estate, at the time any tax is to be assessed, shall be liable to pay the tax thereon, and if any other person, by agreement, or otherwise, ought to</p>
<p>Duty of the clerk, as to calculations, assessment rolls, precept, &amp;c.</p>	
<p>Precept, and its requirements.</p>	
<p>When returned.</p>	
<p>Person in possession, to pay the tax.</p>	

pay such tax, or part thereof, the person paying the same may, by action of debt, recover the amount from the person so bound, or liable, with damages not exceeding twenty per cent. on the amount paid, and all taxes on real estate shall be a lien thereon until paid, and have preference of all other charges, and all taxes upon personal estate, shall have preference of all other demands.

Re-payment,  
with damages.

Preference of  
tax claims.

SEC. 16. That the sheriffs of the several counties shall collect the county revenue, and pay over to the county treasurer all such sums collected, and take his receipt therefor, which receipt shall be a sufficient voucher for the board of commissioners to cancel the amount of such assessment roll, standing charged against said collector on the books of said commissioners.

Sheriffs to collect  
the county  
revenue, and to  
whom paid, &c.

SEC. 17. The collector, on receiving the duplicate and precept, which he shall demand at the office of the clerk, at the expiration of the time limited for their completion, shall proceed to collect the taxes charged thereon by demanding payment thereof, at the most usual and best known places of residence of each person charged in the duplicate, or from the person so charged at any other place, on or before the first Monday in November next ensuing, and on the payment of the full amount of the county revenue due from any person, shall give a receipt, in which the amount paid, and for what year, shall be particularly designated in words at full length: *Provided*, That a demand of the person, at any other time, shall be a sufficient demand.

Demand for  
taxes, where to  
be made, and  
when.

Receipt, and  
its specifica-  
tions.

Proviso.

SEC. 18. Any collector, in cases of gross assessment of taxes, upon any tract, or lot of land, upon the application of any claimant, or owner of a part thereof, either divided, or undivided, of such lot, or tract, to pay a part of the taxes, interest and charges due thereon, proportionate to the quantity of such lot, or tract owned, or claimed, shall receive the same: *Provided*, The owner or claimant will specify, with sufficient certainty, to such collector, by a map, or plan of such lot, or tract, or by a memorandum of the undivided part of a survey, which indicates the boundaries thereof, to be delivered to such collector by such owner, or claimant, and the balance of such taxes, interest and charges shall be a lien, only on the balance of such lot or tract of land.

Payment in  
part, when  
rec'd.

Description,  
and lien, for  
the residue.

SEC. 19. If the taxes are not paid to the collector, on or before the first day of August, he may proceed

Collections,  
when made, by  
sale of chattels.

10 days notice  
of time and  
place of sale.

Sale of lands  
and town lots,  
for taxes, and  
the notice  
herein requir-  
ed.

Description of  
lands, &c.

Proof of notice,  
how, and by  
whom, made.

to collect the same by distress and sale of the goods and chattels of the person charged, or of the person found in possession of the lands or town lots charged with such unpaid taxes, giving ten days' notice of the time and place of such sale, by written notices, set up in three of the most public places in said county, and publishing the same in a newspaper printed in said county, if there be any.

SEC. 20. If no goods or chattels can be found, out of which to make the taxes charged on lands and town lots, the collector shall give notice in some weekly newspaper published in his county, or if no such paper be there published, then in some paper published in the county nearest thereto, also by putting up four written notices, one of which shall be on the court house door, the others in three of the most public places in said county, for four weeks preceding the second Monday in December, annually, notifying all whom it may concern, that he will, on the second Monday in December next ensuing the date of such notice, commence selling, at the court house door, or where courts are usually holden in such county, or at the most public place in the county seat, all and singular the lands and town lots in said county on which the taxes due thereon for the year or years (naming the year or years for which he is authorized to collect), are not paid, on or before the second Monday of December, and that such sale will be continued from day to day, between the hours of nine o'clock in the forenoon, and four o'clock in the afternoon, of each day, until all are offered for sale, but such notices are not to contain any description of lands, or lots: *Provided*, however, And it is hereby made the further duty of such collector to put up a written notice at the court house door of the proper county, describing each tract of land, or town lot, intended to be sold as aforesaid, at least four weeks previous to such day of sale.

SEC. 21. Before any collector shall proceed to make any sale of real estate, under the provisions of this act, he shall procure and file in the clerk's office of his county a verification under oath of the printer, or some person belonging to his office, that the advertisement hereinbefore required to be published, relating to the sale of lands and town lots, a copy of which is to be annexed to such verification, has been duly published, the length of time required by this act.



SEC. 22. After having filed evidence of the publication of the notice required in the preceding section, the collector shall proceed, in pursuance thereof, on the said second Monday of December, between the hours of nine and four o'clock of said day, to expose to sale each and every tract of land, and town lot, on which the taxes are not paid, by the description and number by which they are designated on the duplicate for the taxes, and interest due thereon, and the costs of advertising and selling the same, or so much thereof as will sell for the amount due and chargeable thereon, to the best bidder for ready cash, such collector declaring, at such exposure to sale, in what manner the division of a lot, or tract of land, shall be made, if a part thereof shall pay the tax and other charges thereon, and continue, from day to day, between the said hours, to expose the said lands and lots to sale, until all shall be duly offered.

Sale to commence on the 2d Monday of December,

For ready cash.

Division of lots and continuance of sale.

SEC. 23. When any lots, or tract of land, or part thereof, shall be sold for the nonpayment of the taxes, and costs, and charges thereon, the collector shall give to the purchaser a certificate, in writing, describing the same with specific certainty, the sum paid therefor, and the time when the purchaser will be entitled to a deed for such lot, or tract, or part thereof, which certificate shall be assignable, and transferrable, by endorsement on the same, which assignment shall have the same force and effect as the assignment of other bonds for the conveyance of lands; and if the owner, or claimant of the lot, or tract of land, described in such certificate, shall not, within two years, from the date thereof, pay to the purchaser, his heirs or assigns, or to the board of commissioners of the county in which such lot or tract of land be situate, for the use of such purchaser, his heirs or assigns, the sum mentioned in said certificate, with interest thereon at the rate of fifty per centum per annum, together with such other taxes, costs and charges upon the lot, or tract of land sold, as mentioned in said certificate, as may have accrued under the laws of this Territory, and have been paid by such purchaser, his heirs, or assigns, if vouchers of the payment thereof be deposited with board of commissioners, or produced to such owner or claimant, the said collector, or his successor in office, at the time such deed is demanded, shall, at the expiration of the said two years, execute to the said purchaser, his heirs, or assigns, in the name of the

Certificate of sale, description, price, &c.

Certificate assignable.

Redemption within 2 years, and the other conditions thereof.

If not redeemed, deed by

whom, and to whom made, and character of title vested. Territory of Iowa, a conveyance of the lot or tract of land so sold as aforesaid, and described in said certificate, which conveyance shall vest in the person to whom it is given, an absolute estate, in fee simple, subject to the claim of the county for all taxes, costs and charges accruing and remaining unpaid upon such lot, or tract of land, after such sale as aforesaid, and such conveyance shall be *prima facie* evidence that the sale was regular, according to the provisions of this act, and every such conveyance, executed by the collector, or his successor, and duly acknowledged before any officer authorized to take acknowledgments of conveyances, may be recorded and have like effect as other conveyances when acknowledged and recorded: *Provided*, That idiots, femes covert, and insane persons, who are owners, or claimants, of lands, or lots, sold under the provisions of this act, may redeem such lands, or lots, at any time not exceeding five years after the sale thereof, in the same manner as is provided in other cases: *And provided also*, That every person wishing to redeem any lands, or lots, sold under the provisions of this act, by depositing with the board of commissioners of the proper county the money, shall pay to the clerk of said board, at the time of depositing the redemption money, the sum of seventy-five cents for his services: *Provided*, No sale of lands for taxes, nor deed made in pursuance thereof, shall be of any validity if the taxes for which the same is sold, shall have been paid prior to such sale: *Provided*, always, That when the lands of minors be sold, the same shall be redeemable when said minor becomes of age, and one year thereafter.

Acknowledgment, record, and effect.

Proviso, as to idiots, insane persons, &c.

75 cents to the clerk, when demandable. Proviso, as to taxes paid; and, also, as to minors.

Lands unsold, 7 per cent. interest, charged on taxes; costs, &c., thereon.

Delinquent list, by whom corrected, and how.

SEC. 24. All lands, and town lots, which shall not be sold, as above provided, and the taxes charged thereon still remain unpaid, shall still remain charged therewith, until finally paid, and such taxes, and charges, from the second Monday of December, in the year such taxes were assessed, shall bear interest at the rate of seven per centum per annum, until paid; and the board of commissioners, before the duplicate for the succeeding year is made out, shall examine the delinquent list returned by the collector, and strike therefrom all lands which they know to be forfeited, or relinquished to the United States, all lands, or lots, which have been double listed, or on which the taxes have been paid, and correct all manner of errors that may exist, and see that the clerk makes

due return of such corrected lists of former years to the collector, every year; and the several clerks, when they make out the duplicate of taxes, for each and every year, shall annex, to the new duplicate of taxes, the taxes and charges of any and all former years that remain as unpaid, on lands, lots and personal property, on the delinquent list of the preceding year, after its correction by the board, as hereinbefore directed, and the same, together with the interest thereon, shall be collected by the collector of the current year, as hereinbefore directed.

Supervision,  
and duty of  
clerk.

Unpaid taxes,  
to be annexed  
to annual du-  
plicate, with  
interest, and  
collected.

SEC. 25. Taxes are hereby made a lien on the lands, or town lots, on which they may be due, in whosoever hands such lands, or town lots, may come, and when any land, or town lot, is offered for sale for any such taxes, it shall not be necessary that the collector should sell it as the property of any particular person, and if it should be sold as the property of any particular person, no misname of the owner, or supposed owner, or other mistake respecting the ownership of such land, or town lot, shall ever, in any way, affect the sale or render it void, or voidable.

Taxes, a lien  
on lands, lots,  
&c.

Irregularities,  
not to affect the  
sale.

SEC. 26. At any time before the sale of goods and chattels, or lands and town lots, under the provisions of this act, the owner, or claimant, may release the same by the payment of the taxes, interest, and charges, for which the same are liable to seizure and sale, and whenever any balance of any sale of any goods and chattels under this act, over and above what is sufficient to pay the taxes, interest and charges for which the same were sold, remains, the collector shall pay the same over to the owner of such goods and chattels, on his demand, and if at any time, within two years, after the payment of tax, the person who has paid the same, can satisfy the board of county commissioners that such tax was improperly assessed or paid by mistake, when it was not legally chargeable, the said board shall order that the same be repaid, and such order shall be a legal debt against the county, and shall be paid by the treasurer of said county, and such treasurer shall be entitled to a credit for the amount thereof, as in cases of payment of other claims.

Owner, or  
claimant, may  
release by pay-  
ment before  
sale.  
Surplus, to be  
repaid.

Proceedings  
before county  
commissioners,  
as to mistakes,  
and their dis-  
cretion herein.

SEC. 27. In cases where sales of goods and chattels, lots or lands, are made under the provisions of this act, unless the purchaser shall, within such time as may be allowed by the collector, who makes such sale, pay the purchase money, the collector may, at

Remedy  
against pur-  
chasers, with  
costs and da-  
mages.

his discretion, again expose the property to sale, or sue such purchaser for the amount of the purchase money, and shall recover the same, with costs, and ten per centum damages.

**When lands and lots may be offered for sale a second time, for taxes, and claims of the collector for such service.**

SEC. 28. If the collector of any county shall, at any time, unavoidably fail to offer for sale the delinquent lands, or town lots, in his county, or may have offered them for sale, and the purchaser thereof shall refuse to pay the collector the amount due thereon, it shall be the duty of such collector to again advertise and sell such lands, or lots, on the second Monday of April next ensuing, and such advertising and sale shall, in all things, be governed by the provisions of this act, and be as legal and valid, to all intents and purposes, as such sales would have been had they been made on the second Monday in December, and when such collector shall have settled at the treasury, at the proper time, the amount charged against him, he shall be entitled to draw on the treasury for the balance in his favor, on account of lands that shall not sell when offered by him on the said second Monday of April, which account shall be made out and sworn to, as is provided for in this act, for his delinquent return.

**Collector's return, and what shall be set forth therein.**

SEC. 29. The collector of taxes, in his return to the precept before mentioned, shall state fully and distinctly the payment of taxes made by way of credit to the property charged on the transcript of the assessment rolls aforesaid, the payments enforced by distress and sales of goods and chattels, and in like manner the sales of lots and tracts of land, or parts thereof, and the persons to whom, and the sums for which, the same were sold; also the taxes remaining unpaid, designating particularly the tracts, or lots, remaining unsold, the name of the persons, delinquent in the payment of other taxes, and the tax or property with which he is charged, and the legal cause of failure to enforce payment as commanded in said precept, and such other special matters as are provided by this act, to be by him done, and the truth of such return shall be verified by affidavit of the collector, to be taken before the clerk of the board of commissioners, and if any individual shall be injured, or sustain a damage, by a false return of any collector made to any precept under the provisions of this act, or other illegal or fraudulent act of such collector, such individual, upon suit, to be brought against such collector, and his securities, upon their

**Return, to be verified by affidavit.**

**False returns, and the remedies provided for injuries herein.**

bond for his use, shall recover treble damages and full costs and charges. Treble damages.

SEC. 30. It shall be the duty of the clerk of the board of commissioners of the several counties, to make four copies of the lists of delinquents, as returned by the collectors of their several counties, one of which they shall put up in some conspicuous place in their office, and shall keep the same up at least twelve months, and shall cause three other copies to be posted up in three of the most public places in their counties, within ten days after receiving said return; and the board of commissioners of the county may, if they should deem it necessary, cause fifty copies of such delinquent list to be printed and circulated in their county: *Provided*, That it shall be lawful for any collector to proceed, by distress and sale of goods and chattels, to collect any taxes returned delinquent, within ten days after making such return. Lists of delinquents to be made out, and posted up where, and for what length of time. 50 additional copies. Proviso, as to the time of sale.

SEC. 31. All collectors shall have power to proceed, in the collection of taxes, due them for two years, from the time at which they were bound to pay over to the county, in each year in the same manner they would have done during their appointment, or term of office, but this provision shall not be so construed as to authorize any collector to collect taxes by him returned as delinquent after receiving credit therefor. Powers of collectors, as to time, and restriction, as to delinquent returns.

SEC. 32. Each and every collector is authorized and required to assess a county tax, on all real, or personal estate, that may not have been assessed, and at the time he makes return of the precept, and list of delinquents, as required by this act, shall make out, sign, and verify by affidavit, a list of the property by him so assessed, and the taxes collected thereon, and no allowance shall be made to any collector, on his delinquent list, by the board of commissioners, until he shall have complied with the foregoing requisition; and it shall be the duty of the clerk to publish a list of the unassessed property that has been assessed and taxes collected thereon by the collector, in the same manner, and at the same time, that he publishes the delinquent list. Property assessed and taxes collected thereon, how, and when, returned and verified. Duty of clerk.

SEC. 33. When any collector discovers that any tract of land, or town lot, has been assessed more than once for the same year, he shall credit only the tax really due, and make return of the balance as illegal assessments, and in all cases where too much Report of illegal assessments.

personal property has been, through mistake, charged by the assessors, the collector may remit the excess of tax and report the same, with the list of illegal assessments: *Provided*, however, That all such lists of illegal assessments returned by any collector shall contain a description of the property illegally assessed, in what the illegality consists, and the names of the persons concerned, and be verified by affidavit, and filed with the clerk before it shall have any effect.

**Proviso as to what it shall contain, and how it shall be verified.**

**Vacancies filled by commissioners; oath, securities and duties of the persons appointed.**

**SEC. 34.** If any collector shall die, or become unable, from bodily infirmity, to perform the duties of his office, the board of commissioners shall forthwith appoint a collector in the place of the one deceased, or infirm, as aforesaid, who shall take the oath of office before said clerk, with like penalty and condition as hereinafter prescribed, and the said collector shall forthwith demand and receive from the person in whose possession the same may be, the precept and duplicate of the assessment rolls as aforesaid, and shall immediately proceed to complete the collections, as commanded by said precept, and such collector shall be liable, under the provisions of this act, for the amount of the assessed taxes of his county, after deducting those which appear from the memorandums of the deceased, or the statements of the infirm collector, to have been collected, and the executors, administrators, heirs, devisees and securities of the deceased collector, and the infirm collector, and his securities, shall be liable, under the provisions of this act, for the amount of taxes collected by them severally, unless the same be paid over, as herein provided; and any person injured by the neglect of any deceased, or infirm collector, to enter credits for taxes paid on the transcripts aforesaid, shall have redress by action on such collector's bond, for the damages thereby sustained, and if any persons, charged with the taxes on the transcript of the deceased, or infirm collector, (no evidence being furnished to the successor of payment thereof, by, or on the part of such collector, deceased or infirm) be able to produce a receipt for such taxes paid such prior collector, the successor aforesaid shall not be charged therewith, but shall take up such receipt, giving his own in lieu thereof, and return the same with said receipt, and the amount thereof shall be recoverable as before provided: *Provided*, however, That this section

**Credits.**

**Receipts.**

**Proviso, as to deputies.**

shall not be so construed as to prohibit any collector, who may be disabled by bodily infirmity from appointing deputies under the provisions of this act, hereinafter provided.

SEC. 35. Every collector of taxes shall receive for any individual, or individuals, orders regularly drawn upon the treasurer of his county, in payment of taxes due said county. Treasury orders, receivable for taxes.

SEC. 36. It shall be the duties of the collectors of the several counties, to pay to the county treasurer the amount of taxes assessed in their respective counties, on or before the first Monday in January, in each year, and if there be any deficiency in the amount thereof, he shall account for the same, by producing to the board of county commissioners a certified statement, to be made by the clerk, attested by his signature, and official seal, of the amount of delinquencies in the payment of taxes, specifying the name of the person, and the property, or tax for which he is delinquent, as appears from such collector's return to the precept, and it is made the duty of the clerk to make out such statement and certificate, and calculate the amount thereof, and if the amount of such certified statement of delinquencies, and the treasurer's receipt for the payment aforesaid, will balance the charges on the books of the county commissioners, they shall give him a receipt for the amount of such taxes. Payments, by collector, when, and to whom made, and the adjustment of his accounts. Treasurer's receipt.

SEC. 37. Each collector shall be entitled to the following fees, for his services: seven dollars for every one hundred dollars, of county tax by him collected, and in the same proportion for less sums, to be retained by him, in making payment, and credited therefor in his settlement with the board of county commissioners, five per centum commission, where goods are distrained, and taxes, commission and charges paid before sale; eight per centum commission on sales of distress and charges for keeping property distrained, together with the tax and charges out of the monies received therefrom; on sales of real estate, five per centum on the amount for which the same is exposed to sale, and twenty-five cents for each certificate of sale under this act, which are to be added to, and estimated in, the sum, for which any tract of land, or lot, or part thereof, shall be sold. Collector's fees.

SEC. 38. If any collector shall fail to make settlement of the taxes assessed in his county, for county Liabilities of collectors, on

**falling to pay over.** purposes, at the time required by this act, it shall be the duty of the board of county commissioners, forthwith, to charge in the account against such collector, five per centum damages, on the amount of balance due from such collector, on account of such taxes for such delinquency, and unless the said debt and damages, and the interest thereon to be paid to the treasurer of the county, the county commissioners shall, with due diligence, cause suit to be commenced upon such collector's bond, against him and his securities, for the debt and damages due as aforesaid, and the said amount shall bear interest from the day at which payment thereof should have been made, at the rate of ten per centum per annum, until paid, and upon the trial of any such suit, the stated account of the collector, against whom the suit is brought, certified by the clerk of the board of commissioners, as truly transcribed from the accounts current against such collector, on the books of said commissioners, authenticated by the county seal, shall be conclusive evidence of the amount against such collector, and his securities; nor shall such collector, or his securities, be permitted to set off, or alledge in payment of such demand, any payment, or claim of credit, unless the same has first been presented to the board of county commissioners, and been allowed, or rejected by them, or the same could not, by using due diligence, have been presented to said board of commissioners for their determination thereon, to be had before trial of such suit.

**Suit on collector's bond.**

**Interest.**

**Evidence of the amount due.**

**Where the collector fails to make a return, or makes a false return.**

**Judg't for full amount.**

**Duty of district attorney.**

**SEC. 39.** If any collector shall fail to return the precept, and duplicate, as hereinbefore directed, or shall make a false return thereto, the judgment, upon the determination of the suits which may be brought, by the board of county commissioners, against such collector, and his securities shall be for the full amount of the taxes for the county revenue, as contained in the transcript of the assessment rolls aforesaid, together with the damages, commission, costs and charges, as hereinbefore provided, and of the amount of said taxes, the stated account of the board of commissioners aforesaid, in the several cases shall be sufficient evidence, and it shall be the duty of the district attorney to aid the board of commissioners in prosecutions under this act, when requested, and to give advice and counsel concerning the revenue, when requested by any officer con-



cerned in the collection thereof, and it shall be the duty of all officers to give information to the grand jury of the proper county of all frauds and offences against this act. Information to grand jury.

SEC. 40. If any officer shall neglect, or refuse to perform any of the duties imposed upon him by this act, he, and his securities shall forfeit and pay to the county not less than fifty, nor more than one hundred dollars, for each offence, besides all damages which may be sustained by the county, or any individual, in consequence of such violation of his duty, the said penalties to be adjudged, within the limitations aforesaid, by the court before whom the adjudication shall be had, and to be recovered, with costs of suit, in an action to be brought upon the official bond of such officer, and this provision shall be construed to extend to all cases of violations of official duties, not provided for by this act. Forfeitures and penalties, for violations of duty.

SEC. 41. All bonds, directed to be taken by this act, shall be made payable to the board of county commissioners of the proper county, and all suits brought thereon shall be prosecuted in the corporate name of the board of county commissioners, and if brought for the use or benefit or by the direction of any person, or persons, such suit shall be brought in the corporate name of the board of county commissioners, on the relation of such person, or persons, and several rights may be prosecuted in the same suit on such bond, and one judgment, entered thereon, shall be no bar to other rights; but the board of county commissioners, or any other person, having right thereto, may have the defendants to such judgment, again summoned by *scire facias*, to show cause why execution should not be had on such judgment, for the debt, or damages, supposed to be due, owing, or belonging to the party complaining, as often as such right may accrue. Bonds, to whom payable, and style of suits thereon. Several rights, and one judg't. Scire factas.

SEC. 42. Any officer, withholding the payment of any monies belonging to the county, after the same shall be demanded, or become due, shall be liable to pay five per centum, in damages, and twenty per centum interest per annum, from the date of such defalcation, to be recovered of such officer, and his securities, or either of them, by action as in other cases; and the accounts, in favor of the county, in all cases of the trial against all and every person, or persons, charged on the books of the board of county commissioners, and certified to be true by the clerk Penalties for withholding money, by any officer.

of said board of commissioners, as above provided, in case of collectors, and authenticated by their seal, shall be evidence, in all cases of debtors, of the charges therein stated, to put the defendant upon his defence, to the demand.

**Collector's oath, securities, and bond.** SEC. 43. The sheriff, before he enters upon the duties of his office as collector, shall take an oath or affirmation before some person authorized to administer the same, that he will well and truly perform the duties of his office, as collector, and shall enter into bond, to be filed with the clerk, with security, to be approved of by the board of county commissioners, in the penalty of fifteen thousand dollars; conditioned for the faithful performance of the duties of his office, as prescribed by law, and such collector may appoint as many deputies as he may think necessary, or proper, who shall be sworn, and possess the same power and authority as his principal; such collector being at all times responsible for the acts of deputies, and should any deputy fail to pay over any monies collected by him, as such, for county revenue, such principal is hereby authorized to proceed against him in the same summary manner, as is provided for proceeding against collectors in like cases.

**Condition.**

**May appoint deputies.**

**Their duties, &c.**

**License, to whom granted, for what purposes.** SEC. 44. That no merchant, store keeper, pedlar, company, or corporation, shall hereafter be permitted to vend, sell, or retail, at private sale, any goods, wares, or merchandise, without first having obtained a license for that purpose from the board of county commissioners of the proper county, in which such goods, wares, or merchandise may be offered for sale; for which he, or they, at the granting thereof, shall pay into the county treasury, for the use of such county, such sum as shall be assessed by the said board, not less than ten, nor more than fifty dollars, which license, when thus procured, shall authorize the applicant, or applicants, to whom the same may be granted, to vend, sell, and retail goods, wares and merchandise, in such county, for the term of one year, from the time of granting the same; but no such license, as aforesaid, shall authorize any person, or persons, to vend, or peddle clocks, in this Territory, but, in order to authorize any person to vend or peddle clocks, he shall procure a special license for that purpose, in the manner herein prescribed, and the board of county commissioners may grant license to venders and pedlars of clocks for any term not less than three months, nor more than

**And for how long.**

**Special license, for vending clocks.**

one year, which shall authorize such person, or persons, to vend and peddle clocks within the county for the time specified in such license. The person, or persons, so applying, shall pay a sum not less than twenty-five, nor more than seventy-five dollars per quarter of a year for the use of the county, but any resident in this Territory may sell, or peddle, without license, any articles not prohibited by law, except clocks, if such articles shall have been produced or manufactured within this Territory, by the person selling, or peddling the same.

SEC. 45. In all cases, when the said board of commissioners shall not be in session when application is about to be made for a license as aforesaid, it shall be lawful for the clerk of such board to grant a written permission to such applicant, or applicants, to vend, sell and retail goods, wares and merchandise, as aforesaid, until the next meeting of said board of county commissioners, to be holden after the granting of such permit, and for one year from the date thereof, if the said board of commissioners, at their said next meeting, shall, upon examination and consideration, approve the same: *Provided*, Such applicant, or applicants, shall first pay into the county treasury, for the use aforesaid, such sum as the said clerk, in his discretion, shall direct, in conformity with the rate prescribed in the foregoing section, and as shall be usual in similar cases, for each of which permits, or licenses, when granted, the clerk shall receive one dollar to be paid by such applicant.

SEC. 46. When a permission is granted, by the clerk in vacation, as aforesaid, it shall be the duty of the board of commissioners, at their next session thereafter, to examine such permit, and to proceed, forthwith, to assess the amount of the tax to be paid in such case, as in the case of an original application, and if the tax, thus assessed, correspond with the amount fixed by the clerk, as aforesaid, they shall cause a license to be issued to the applicant, or applicants, for the term of one year, commencing with the date of the permit: If a greater sum shall be assessed than that fixed by the clerk, the applicant, or applicants, shall forthwith be required to pay over the residue to the county treasurer, under the penalty of forfeiting the amount already paid, and of his having his, her, or their permit revoked; but if a less sum shall be assessed, it shall be the duty of the board of commissioners, to order a warrant to be

Non-residents,  
and residents.

Clocks except-  
ed.

When clerk  
may grant a  
permit, or spe-  
cial license.

Proviso, as to  
payment.

Duty of com-  
missioners, as  
to permits,  
granted by  
their clerk.

Forfeiture.

**Overplus.** drawn on the treasurer, in favor of such applicant, or applicants, for the overplus, payable out of any money in the county treasury, not otherwise appropriated.

**Penalties for selling without license; and how, by, and before whom, recoverable.** SEC. 47 If any store keeper, merchant, pedlar, company, or corporation, keep a store, or shall sell or retail any goods, wares, or merchandise, (except as hereinbefore excepted,) without being duly authorized by a license, or permit, as aforesaid, such person, or persons, company, or corporation, so offending, shall forfeit and pay any sum not exceeding one hundred dollars, nor less than ten dollars; to be recovered by action of debt, in the name of the board of commissioners of the proper county, for the use of the county, before any justice of the peace, or court of record, having jurisdiction of the same, in all of which cases it shall be the duty of the county commissioners, sheriffs, coroners, justices of the peace, and clerks of the several courts in this Territory, and lawful for any other person, or persons, in case of their neglect, to cause such offenders to be sued, and the suit, or suits, prosecuted to effect, and bail may be required, in such cases, without affidavit, if the court, or justice, in their discretion, shall deem the same necessary, to secure the county in the ultimate payment of any such penalty.

**Applications for license, and preliminary rec'pt from treasurer.** SEC. 48. That no person, or persons, applying for a license, or permit, shall be entitled to the same, until he, she, or they file with the clerk of the board of commissions, a receipt from the county treasurer, for the amount ordered to be paid by such applicant, agreeable to the provisions of this act, and such receipt shall be charged in account against said treasurer, on the books of said board of commissioners.

APPROVED, January 24, 1839.

## REVENUE.

AN ACT to provide for a Territorial Revenue.

**5 per cent. of the gross am't of taxes, in each county, to be appropriated for Territorial purposes.** SEC 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa.* That, for the purpose of raising a Territorial revenue, to defray the expenses authorized by law to be paid out of the Territorial Treasury, it shall be the duty of the county commissioners of each of the counties of this Territory, at the time of the filing of the assessment

roll, to deduct from the gross amount of taxes there charged, five per cent. to be set apart, by the said county commissioners, as a debt due from said county to the Territory.

SEC. 2. The county commissioners shall furnish the Treasurer of the Territory, immediately after the same may be filed, with a copy of the duplicate for their respective counties, for the current year, together with the sum which will be due from said county to the Territory, for that year.

Duty of county commissioners, as to duplicate.

SEC. 3. The first moneys which may be returned by the collector, collected from the duplicate of any year, to the amount due the Territory for that year, from the county, shall be retained by the Treasurer of each county for the use of the Territory, and the county treasurers shall pay over the same upon the drafts or warrant of the Treasurer of the Territory.

Money to be retained, and paid over, on draft.

SEC. 4. The duties, herein enjoined upon the county treasurers, shall be so considered, that a departure therefrom shall be deemed a breach of the conditions of their official bonds, so that they, and their securities, shall be liable to the Territory for any loss which may accrue therefrom; and any county treasurer who shall dishonor, or refuse to pay, the drafts of the Territorial Treasurer, for any money which may be in his hands, and due from said county, at the time, to the Territory, shall be amerced in damages of fifty per cent.

Official bonds of county Treasurer,—their duties, &c.

Damages charged at 50 per cent.

APPROVED, January 25, 1839.

## RIGHT.

AN ACT to allow and regulate the action of right.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That hereafter the proper remedy for recovering any interest in lands, tenements, or hereditaments, shall be by an action of right.

Action of right, for interest in lands, &c.

SEC. 2. No person shall recover in this action, unless, at the time of commencing it, he shall have had a valid subsisting interest in the property claimed, and the right to recover the immediate possession thereof.

What right is required there-in.

SEC. 3. The action shall be brought in the district court of the county where the property claimed is situated. It shall be commenced by summons, and

Action where bro't, and how.