

## SHERIFFS.

AN ACT for the appointment and duties of Sheriffs.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be appointed, and commissioned by the Governor, by and with the consent of the Legislative Council, in each of the organized counties of this Territory, a sheriff, who shall hold his office for the term of two years, unless sooner removed, who shall, previous to entering upon the duties of his office, take an oath or affirmation to support the constitution of the United States, and, also, an oath, or affirmation, faithfully to execute the duties of his office.

SEC. 2. Every sheriff, appointed and commissioned as aforesaid, on receiving notice of his commission, shall, within thirty days thereafter, enter into bonds, to the United States, with good and sufficient security, to be appointed by the judge of the district court of his county, at the term next after the dates of such bond, in the penal sum of five thousand dollars, conditional for the faithful discharge of all the duties required, or to be required, of him by law, as sheriff, and shall also, at the time of giving such bond, take and subscribe, before the clerk of the district court, the several oaths required by law: *Provided,* That if no district court be held within the proper county, within thirty days after notice of such commission as aforesaid, the clerk may approve the bond and security aforesaid, which bond, in that case, shall be good and valid, until the end of the next succeeding district court.

SEC. 3. The oaths, so taken, and bond given as aforesaid, shall be filed and recorded by the clerk of the district court, and the taking and subscribing of the oaths, shall be certified by him on the back of the commission, and a certified copy of such bond under the seal of the district court shall be evidence in all courts in this Territory.

SEC. 4. If any sheriff, appointed as aforesaid, shall neglect, or refuse, to enter into bonds, and take the oaths above subscribed, within the time above specified, or if any bond approved by the clerk, as aforesaid, shall be disapproved by the judge of the district court, and such sheriff shall not, during the term of the court, procure such security as the judge shall

Sheriff in each county, by whom appointed and commissioned.

Tenure, and oaths of office.

When bonds, to be given, to whom, and by whom approved.

Penal sum, \$5,000. Condition of bonds.

Proviso, as to approving bond in vacation.

Filing, recording and certifying sheriff's oaths and bonds, by whom performed.

When the office of sheriff shall be deemed vacant.

approve, in all such cases the office shall be deemed vacant.

Duties of sheriff, as regards the execution, and return, of process. Contempt of court. Peace, and power of the county.

SEC. 5. It shall be the duty of every sheriff, when qualified as aforesaid, to execute, and return, all writs, warrants, process, orders and decrees, of every description, that shall, or may be legally directed and delivered to him, within the limits of his county, under pain of contempt of court, under which warrant, writ, process, or decree may have issued, and for the service of such process, and for keeping of the peace, such sheriff may call to his aid the power of the county, when necessary.

Sheriff to give certificate, in what cases.

SEC. 6. Every sheriff, to whom any writ shall be delivered, in the county where it is to be executed, shall, if required by the person delivering the same, give to such person a certificate under his hand, without taking anything therefor, wherein the names of the parties and the day of delivering the writ shall be mentioned.

Neglect, or refusal to pay over money, &c.

SEC. 7. If any sheriff shall neglect, or refuse to pay over any money collected by virtue of any execution, or process, to any person entitled to receive the same, or shall wilfully neglect his duties, to the prejudice, or injury, of any person, such person may, in the court where the bond of such sheriff is filed, and recorded, prosecute the bond of such sheriff, and the same proceedings shall be had thereon, as in other cases of bonds for the performance of covenants, and after judgment had, any person injured and who would be entitled to sue on said bond, may obtain a writ of inquiry of damages, on such judgment, and in every case where damages shall be assessed, execution shall be issued for the amount of such damages, and costs, and collected, for the use of the injured party, or upon the failure of any sheriff, after demand made to pay over any money by him collected, by virtue of any execution, or process whatever, to any person entitled to receive the same, such person may proceed against the sheriff in a summary way, before the district court, by motion, upon giving to such officer three days' notice of the application, and recover the amount so neglected to be paid, with twenty per cent. damages thereof, for such detention, and shall have execution therefor: *Provided*, That in all such cases, if the sheriff shall pay, or satisfy, the amount claimed by the party prosecuting, with costs, under the direction of the court before final judgment, or in any subsequent prosecution

How redress may be obtained, in such cases.

Damages and costs.

Proviso.

before inquest found, all further proceedings on such bond or judgment shall be stayed by the court.

SEC. 8. If any sheriff shall fail to settle with, and pay over, to the board of county commissioners, according to law, any money which he may have collected, or received, belonging to such county, it shall be lawful for the board of county commissioners of such county, to proceed against such sheriff in a summary way before the district court, by motion, upon giving such sheriff three days' notice of such application, and recover the amount due such county, with twenty per cent. damages thereon, for such neglect, and shall have execution therefor, or may proceed against such sheriff, and his securities, for such delinquency, upon his bond of office.

Sheriff's settlement with county commissioners.

Summary proceedings, in such cases; and election of remedies.

SEC. 9. It shall be the duty of each and every sheriff, in this Territory, to make a settlement with the board of county commissioners of his county, for the taxes, and moneys by him, collected, or due the county, at the April term of such board, annually, and as often thereafter as he shall be required by the board of commissioners.

Annual settlement in April, for taxes, &c.

SEC. 10. The several sheriffs shall be conservators of the peace, in their respective counties, and to keep the same, by causing all offenders against the law, in their views, or within their knowledge, to enter into recognizance, with sufficient sureties for keeping the peace, and appearing at the next term of the district court of the proper county, and to commit, in case of refusal, and return said recognizance, certified to the said court; and it shall also be the duty of all sheriffs to suppress all riots, routs, affrays, fightings, and all crimes and breaches of the peace, and to do and perform all such other duties as are, or may be, required of them by law.

Duties of sheriffs, in preserving the peace, and their powers herein.

SEC. 11. It shall be the duty of the sheriff of each county to attend all district courts, probate courts, and boards of county commissioners, in his county, at the terms and sessions of such courts, or boards, and he shall have the care and custody of the court house, and jail, and shall appoint a keeper of the jail, for whom he shall answer.

Sheriffs to attend courts, and have charge of court house, and jail.

SEC. 12. No sheriff, or other officers, by color of their office shall directly, or indirectly, ask, demand, or receive, for any services, or acts to be by them performed, in pursuance of any duty of their office, any greater, or more fees, than are allowed by law, on pain of forfeiting, for such offence, to the party

Penalties for taking unlawful fees.

how, and by whom, recoverable.

aggrieved, his treble damages, together with costs of suit; and also the sum of two hundred and fifty dollars, the one moiety to the county wherein the sheriff, or officers, shall reside, and the other moiety to the party who shall sue for the same, to be recovered with costs of suit, in any court of record, having cognizance thereof, by action of debt

Sheriffs not to purchase at their own sales.

SEC. 13. No sheriff shall become the purchaser, nor procure any person to become the purchaser, for him, of any property, real or personal, by him exposed to sale, by virtue of any execution, or other process, and all such purchases made by any sheriff, or by any other person, in his behalf, shall be absolutely null and void.

Sheriffs may appoint deputies, in what manner, &c.

SEC. 14. The sheriff of each county in this Territory may, as soon as may be, after he has taken upon himself the office, by writing under his hand and seal, make some proper person deputy sheriff of the same county, who shall also be his deputy during the pleasure of the said sheriff, and as often as such deputy sheriff shall die, or be removed from his office, or move out of the county, or become incapable of executing the duties of his office, another shall be appointed in his place, in manner aforesaid, and every such deputation, or appointment, shall be recorded in the office of the clerk of the district court of the proper county; and in case of the death of the sheriff of any county, the deputy sheriff of the county shall, in all things, execute the office of sheriff of the same county, in the name of the deceased sheriff, until another shall be appointed and commissioned, and shall take upon himself the said office, and the faults and misdemeanors, in office, of such deputy sheriff in the mean time, as well as before, shall be adjudged a breach of the condition of the bond and security given by the sheriff who appointed him; and in case there shall be no such deputy sheriff of any county, at the time of the death

Vacancies.

Where recorded.

Death of sheriff, and duties of deputies.

of the sheriff of such county, or if such deputy sheriff shall die, or remove out of the county, or become incapable of executing the office before another sheriff of the same county shall be appointed, and commissioned, and have taken upon himself the said office, then, and in every such case, the coroner of such county shall, in all things, execute the office of sheriff of the same county, until a sheriff thereof shall be appointed and commissioned, and shall take upon himself the said office: *Provided*, That nothing

When coroners to act as sheriffs, and their powers and duties.

Proviso, as to

in this act contained shall be so construed as to prevent any sheriff from appointing so many deputies as he may deem proper, and further, that no person deputed to do a particular act only, shall be required to take the oath, or affirmation, to be taken by the deputies of sheriffs.

SEC. 15. Whenever the office of any sheriff shall have expired, it shall be lawful for the same person, whether re-appointed or not, and his deputy, or deputies, to continue to perform all the duties of sheriff, until his successor shall be commissioned and qualified as hereinbefore directed, and whenever any sheriff shall go out of office, and his successor in office shall be qualified as aforesaid, the clerk of the district court shall issue a notice in writing stating that ——— has been appointed sheriff, and is qualified according to law, which notice shall be served by the new sheriff, and the former sheriff shall, thereupon, transfer and deliver to the new sheriff all the writs, process, and papers belonging to his office, except as hereinafter excepted, and also the possession of the court house, and jail of his county, and shall take from the new sheriff, a receipt specifying the papers so delivered over, and the prisoners in custody, if any, which receipt shall be sufficient indemnity to the person taking the same.

SEC. 16. Every sheriff, going out of office, at the expiration of his term, and having any writ of *feri facias*, or fee bill, which he may have levied, but not collected, or any tax list, uncollected, shall be and is hereby authorized to proceed on and collect such execution, fee bill, or tax list, in the same manner as if his office had not expired.

SEC. 17. Sheriffs, and jailors, shall receive from any constable, or other officer, without taking anything therefor, and safely keep in prison, all felons indicted, or taken in the fact, who shall be taken by any constable, or other officer, and shall not, of their own authority, let out of prison any person in their custody, by virtue of any process, for any felony, or upon any condemnation, or committed by special order, of any court, or justices, upon pain of being punished by fine and imprisonment, and to answer the damages of the party aggrieved, if any be thereby aggrieved.

SEC. 18. It shall not be lawful for any sheriff, or jailor, to confine male and female prisoners, who are, or shall be imprisoned, except husband and wife, in

general and special deputations.

Expiration of sheriff's office, and his powers and duties, &c.

New sheriff, notice hereof.

Transfer of papers, prisoners, jail, &c., and receipt for the same.

Executions, fee bills, tax lists, &c., when to be retained.

Duty of sheriffs and jailors, in regard to prisoners, &c.

Penalties.

Male and female prisoners, to be kept in

separate rooms any jail in this Territory, in the same prison room, and in case any sheriff, or jailor, shall offend in the premises, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined at the discretion of the court, before whom such conviction shall be had.

Penalty. **SEC. 19.** All prisoners who shall be committed to any prison, shall be actually detained within such, until they shall be from thence discharged, by due course of law, and if at any time the keeper of any prison permit, or suffer any prisoner committed to his custody to go, or to be at large, out of his prison, except by virtue of some writ of *habeas corpus*. or otherwise, agreeably to law, every such going or being out of prison, shall be adjudged, and is hereby declared, an escape.

What shall be deemed an escape. **SEC. 20.** If any sheriff, or any keeper of any prison, shall take any sum of money, reward, or gratuity whatsoever, or any security for the same, to procure, assist, connive at, or permit any escape of any person in his custody, and shall be thereof lawfully convicted, every such sheriff, or keeper, shall, for every such offence, forfeit the sum of two hundred and ninety dollars, and liable to all the pains and penalties of perjury, and be forever after incapable of executing the said office.

Penalties, on conviction for escapes. **SEC. 21.** That whenever the commissioners of any county in this Territory, shall neglect or refuse to provide a sufficient jail for the confinement of prisoners, or where they shall fail to direct the necessary measures for the preservation of the prisoners, when confined in jail, then and in that case, it shall be the duty of the sheriff, and he is hereby authorized, with the approbation of the judge of the district court, to employ such means for the safe keeping of all prisoners committed to his custody, either by repairs to the jails, or by confinement in some secure place within his county, and also, in his discretion, to provide for the health of the prisoners, as aforesaid.

APPROVED, January 21, 1839.

## SHERIFFS,

AN ACT providing for the relief of the sheriffs of Lee and Scott counties.

Further time allowed for *SEC. 1. Be it enacted by the Council and House of Representatives of the Territory of Iowa, That Praxton W. Gillock, sheriff of Lee county, and Frazer*

Wilson, sheriff of Scott county, be and they are hereby allowed further time until the April term of the board of the county commissioners' court, for the year eighteen hundred and thirty-nine, to make their delinquent returns and final settlement with the said court for the year 1838. final settlement with the court.

APPROVED, January 23, 1839.

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## SHERIFFS.

AN ACT for the relief of the sheriff of Cedar county.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the taxes now remaining due and unpaid on any personal property, in the county of Cedar, for the year A. D. 1838, shall be collected and returns thereof made on or before the first day of October, 1839. Taxes for 1838, to be collected before Oct. next.

SEC. 2. It shall be the duty of the sheriff to proceed to collect the same, and make returns thereof before the time specified in the foregoing section. Duty of sheriff.

APPROVED, January 23, 1839.

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## SHERIFFS.

AN ACT to provide for the compensation of sheriffs of the different counties of this Territory, for ordering elections and posting up notices.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be paid out of any monies that have been, or may hereafter be appropriated by Congress, for defraying the expenses of the present Legislative Assembly: Sums to be paid to the sheriffs of the several counties.

To James Cameron, sheriff of Des Moines county, one hundred dollars. Des Moines.

To James Davis, sheriff of Muscatine county, fifty dollars. Muscatine.

To George W. Cummins, sheriff of Du Buque county, fifty dollars. Du Buque.

To Frazer Wilson, sheriff of Scott county, fifty dollars. Scott.

To Joshua Owens, sheriff of Lee county, fifty dollars. Lee.

To Andrew Kennedy, sheriff of Henry county, fifty dollars. Henry.

- Van Buren.** To Henry Heffleman, sheriff of Van Buren county, fifty dollars.
- Louisa.** To Martin Harless, sheriff of Louisa county, fifty dollars.
- Jackson.** To William A. Warren, sheriff of Jackson county, fifty dollars.
- Cedar.** To J. W. Tallman, sheriff of Cedar county, fifty dollars.
- Clayton.** To J. B. Griffith, sheriff of Clayton county, fifty dollars.
- Johnson.** To Samuel C. Trowbridge, sheriff of Johnson county, twenty-five dollars.
- APPROVED, January 25, 1839.

### STEAM BOATS.

AN ACT to prevent disasters on steam boats, navigating the waters within the jurisdiction of the Territory of Iowa.

- Duties of masters, as regards officers, crew, boilers, engine, tackle, &c.** *SEC. 1. Be it enacted by the Council and House of Representatives of the Territory of Iowa.* That it shall be the duty of the owners, of steam boats, navigating on the rivers and lakes within the jurisdiction of this Territory, to have a competent master, officers, and crew on board, and to have a substantial and sufficient engine, boiler, or boilers, and to have the same, at all times, in good and safe order and condition, and have the vessel supplied with all necessary boats, tackle and furniture, and in every respect sea worthy.
- Boats, ascending and descending, how regulated, in passing each other.** *SEC. 2.* In ascending and descending navigation, the said boats shall conform to the following regulations: The descending boat shall keep the shore, or bar, she may be on, until the ascending boat passes, and, when both boats are running, the descending boat shall keep the middle of the channel, or in the deepest water, and, in all cases, when it is practicable, leave room for the ascending boat to pass on either side.
- Boats passing in narrow channels, and in the night, how managed.** *SEC. 3.* When two boats meet in a contracted part of the river, or in any narrow, or intricate channel, both boats shall stop their engines, or work them very slow, until they pass each other, and in the night time the descending boat shall not take any of the small chutes, but shall keep the main channel, in order to avoid the ascending boats.
- Duty of passengers, in the** *SEC. 4.* It shall be the duty of the masters, and officers of all steam boats, to keep their vessels, at