

SEC. 2. If no evidence shall be given to establish any demand founded upon contract, or to establish any set off, or if the evidence given be insufficient for that purpose, the court may, upon the application of the party offering such demand or set off, order the opposite party, or any person of such party, to be sworn in relation thereto. If the party thus required refuse to testify, the court shall allow the party offering such demand or set off to be sworn and examined in relation to the same matter. After examination of either party, no further evidence shall be given in relation to such demand or set off.

Opposite party to be sworn.

If he refuse to testify, the other party his own witness.

No further evidence.

Approved December 23, 1839.

[Chap. 10.]

AN ACT relative to Coroners and their duties.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That there shall be elected in each of the organized counties of this territory, at the time and place of holding the general election, a coroner who shall hold his office for two years and until his successor is elected and qualified. He shall, before exercising any of the duties of his office, take an oath faithfully to fulfil the duties of such office; and when called upon to exercise the duties of sheriff he shall execute such bond and security as the clerk of the district court may require.

Election and term of office.

Oath and bond.

SEC. 2. It shall be the duty of the coroner to execute all process in his county in all cases when just exception can be taken to the sheriff or his deputy, or when there is no sheriff.

Duty when sheriff concerned.

SEC. 3. In all cases upon affidavits being made and filed in any court of record in this territory, of the partiality, prejudice, consanguinity or interest of the sheriff or of the deputy of the sheriff of any county when suit is about to be brought or shall have been commenced, it shall be the duty of the clerk to issue and direct original or other process in the suit that would regularly go to such sheriff or deputy, to the coroner, who shall execute the same and attend to the same throughout in the same manner as the sheriff could or ought to have done.

Same.

SEC. 4. The partiality, prejudice, consanguinity or interest of the sheriff or deputy, shall not be cause for change of venue, but the coroner shall per-

Same.

form the duties above described, or if there should be no coroner, some proper person to be appointed by the clerk shall supply the place of the sheriff in like manner as the coroner is hereby required to do.

Inquest on
dead bodies.

SEC. 5. That coroners shall take inquest upon the view of the dead bodies of such persons only as shall be supposed to have come to their death by violence or undue means, and not when the death is believed to have been and evidently was occasioned by casualty.

To summon
jury.

SEC. 6. That as soon as any coroner shall have notice of the dead body of any person supposed to have come to his death by violence or undue means found or lying within his county, he shall make his warrant to any constable of the county where such body is, requiring such constable forthwith to summon six good lawful men of the county, to appear before such coroner at the time and place expressed in such warrant, and the warrant may be issued with or without a seal, and in substance as follows:

TERRITORY OF IOWA, }
County. } ss.

To any constable of said county greeting: In the name of the United States of America, you are hereby required to summon immediately six good and lawful men of your county, to appear before me, one of the coroners of said county, at the dwelling house of (or describe the place where to meet,) then and there to inquire upon the view of the body of there lying dead, and by what means he came to his death. Hereof fail not.

Given under my hand the day of
A. D. 18 . Coroner.

Duty of con-
stable,

SEC. 7. That the constable to whom such warrant shall be directed and delivered shall forthwith execute the same, and shall, at the time mentioned in the warrant, repair to the place where the dead body is, and make return thereof to the coroner, and of his doings thereon under his hand; and any constable who shall unnecessarily neglect or fail to execute

and forfeiture.

Duty of jury,

and forfeiture.

or return such warrant shall forfeit the sum of ten dollars; and if any person summoned as a juror shall fail to appear without a reasonable excuse therefor he shall forfeit the sum of five dollars; which forfeitures may be recovered to the use of the county with costs of suit, by action of debt, or on the case, to be brought by the coroner.

SEC. 8. That when the jurors summoned appear the coroner shall call over their names, and then in view of the body he shall administer to them the following oath:

"You solemnly swear that you will diligently inquire, and true presentment make on behalf [of] the United States of America, when, and how, and by what means the person whose body here lies dead came to his death; and you shall return a true inquest thereof according to your knowledge and such evidence as shall be laid before you, so help you God." If the six jurors shall not all appear, the coroner may require the constable or any other person whom he shall appoint to return jurors from the bystanders to complete that number.

Oath of jury.

SEC. 9. The coroner may issue subpoenas for witnesses returnable forthwith, or at such time and place as he shall therein direct. The persons served with such subpoenas shall be allowed the same fees, and their attendance may be enforced in the same manner by the coroner, and they shall be subject to the same penalties as if they had been served with a subpoena in behalf of the United States of America, to attend a justice's court.

Witnesses.

SEC. 10. That an oath to the following effect shall be administered to the witnesses by the coroner: "You solemnly swear that the evidence you shall give to this inquest, concerning the death of the person here lying dead shall be the truth, the whole truth, and nothing but the truth, so help you God."

Their oath.

SEC. 11. That the testimony of all witnesses examined before any inquest shall be reduced to writing by the coroner or some other person by his direction, and subscribed by the witnesses respectively giving it in.

Testimony to be put in writing.

SEC. 12. That the jury, upon inspection of the dead body and after hearing the testimony and making all needful inquiries, shall draw up and deliver to the coroner their inquisition under their hands, in which they shall find and certify when, how and by what means the deceased person came to his death, and his name, if it was known, together with all the material circumstances attending his death; and if it shall appear that he was murdered the jurors shall further state who were guilty either as principal or assessor, if known, or were in any manner the cause of his death, which inquisition may be in substance,

Verdict.

as follows: " ss. An inquisition taken at
 , in county, on the
 day of A. D. 18 , before
 one of the coroners of the said county of
 upon the view of the body of (or a person)
 there lying dead, by the oath of the jurors whose
 names are hereunto subscribed, who being sworn to
 inquire on behalf of the United States of America,
 when, how, and by what means the said
 came to his death, upon their oaths do say (then
 insert when, how and by what person, means, weapon,
 or instrument he was killed,) in testimony whereof
 the said coroner and jurors of the inquest have here-
 unto set their hands the day and year aforesaid."

Witnesses
to recognize.

SEC. 13. That if the jury find that any murder,
 manslaughter, or assault has been committed on the
 deceased, the coroner shall bind over by recognizance
 such witnesses as he shall think proper to appear
 and testify at the next court to be held in the same
 county at which an indictment for such offence can
 be found; he shall return to the same court the
 inquisition, written evidence, all recognizances and
 examinations by him taken; and may commit to the
 jail of the county any witnesses who shall refuse to
 recognize in such manner as he shall direct.

Coroner to
cause accused
to be appre-
hended.

SEC. 14. That if any person charged by the inquest
 with having committed such offence shall not be in
 custody, the coroner shall have the same power as a
 justice of the peace, to issue process for his appre-
 hension; and such warrant shall be made returnable
 before any justice of the peace, or other magistrate
 or court having cognizance of the case, who shall
 proceed therein in the same manner that is required
 of justices of the peace in like cases.

Burial.

SEC. 15. That when any coroner shall take an
 inquest upon the view of the dead body of a stranger,
 or being called for that purpose shall not think it
 necessary, on view of such body, that any inquest
 should be taken, he shall cause the body to be
 decently buried, and all expenses of the inquisition
 and burial shall be paid by the county in which such
 dead body shall be found.

Coroner ab-
sent, any ma-
gistrate to
perform his
duty.

SEC. 16. That in case of the absence of the coroner,
 any magistrate being notified of any dead body as
 before mentioned, shall be authorized and required
 to perform the duty of the coroner as pointed out
 in this act.

SEC. 17. That the coroner, as soon as the verdict of the jury shall have been rendered, shall take immediate measures to have the body buried, the expense attending the burial to be paid out of the deceased person's estate, if sufficient there be, if not by the county: *Provided, however,* That if the friends of the deceased shall request to have the body to bury at their own expense, the coroner shall deliver it to them.

Body to be buried.

SEC. 18. It shall not be lawful for any person to bury or cause to be buried the body of any person whatsoever that may have come to its death by unlawful violence or other suspicious cause without first giving notice to the coroner of his county of such death, or in case the coroner is absent or cannot be had, to some justice of the peace. Every person so offending shall be liable to the sum of fifty dollars, to be recovered before any proper tribunal, one half to the use of the county, and the other half to the use of any person who will sue for the same.

Bodies not to be buried without notice.

Approved December 23, 1839.

[Chap. 11.]

AN ACT to provide for the appointment of Notaries Public, and to prescribe their duties.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the governor of this territory by and with the advice and consent of the Council, may appoint and commission one or more notaries public in each organized county, who shall hold their office three years, unless sooner removed.

Appointment.

SEC. 2. Each notary public, so soon as he receives his commission, shall repair to the office of the clerk of the district court of his proper county and give bond to the governor in the sum of five hundred dollars, with sufficient security to be approved of by such clerk, conditioned for the due and faithful performance of his duty as notary public, which bond shall be filed in the office of the clerk, and, if forfeited, be sued for in the name of the territory and for its use.

Bond.

SEC. 3. It shall be the duty of each notary public whenever any bill of exchange, promissory note, or other written instrument shall be by him protested for non-acceptance or non-payment, to give notice

Notice of protest to maker, &c.