

person or persons for the fractional southeast quarter of section four, in township sixty-seven north of range four west, situated in the county of Lee, and Territory aforesaid, and containing thirty-four acres more or less.

SEC. 2. When to take effect. This act to take effect and be in force from and after its passage.

Approved February 12, 1842.

CHAPTER 62.

AN ACT to revive and amend "an act to incorporate the Bloomington Insurance Company," approved January 13, 1840.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Act revived—Names of commissioners—when and where books to be opened. That an act entitled "an act to incorporate the Bloomington Insurance Company," be and the same is hereby revived and declared to be of full force and effect, and that John W. Richman, John W. Brady, Robert C. Kinney, Adam Oglevie, Hezekiah Musgrove, John Zeigler, George W. Humphreys, David Clark, or any four of them, are hereby appointed commissioners to open books for subscription of stock, and to superintend the business of the stockholders, until a board of directors shall have been chosen; which books shall be opened in the town of Bloomington, on or before the first day of April, A. D. 1843, and to be kept open until all the shares are taken.

SEC. 2. Stockholders personally responsible. That if said company shall become insolvent, and fail to adjust any of its liabilities, then and in that case, the stockholders shall be personally responsible for the same.

Approved February 15, 1842.

CHAPTER 63.

AN ACT to amend an act entitled "an act regulating criminal proceedings," passed January 4, 1839.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Duty of justice of the peace—when an indictable offence has been committed—duty of officer arresting suspected person. That whenever by affidavit, it shall be rendered probable to a justice of the peace, that an indictable offence has been [50] committed within any county in this Territory, he shall, by his warrant, cause said person to be arrested; and it shall be the duty of the officer arresting such person, to take him before said justice of the peace who issued the warrant, or before the next nearest justice of the peace, if the justice of the peace who issued the warrant shall be absent or from any other cause shall be unable to attend.

SEC. 2. Duty of officer when arrest is made out of county—where prisoner shall be committed. If the arrest of the person charged with a criminal offence shall be made, out of the county where it is charged to have been committed, it shall be the duty of the officer making the same, to take the prisoner to some justice of the peace most convenient for the attendance of the witnesses in favor of the prosecution, and the justice of the peace, if he shall commit

the prisoner to jail, shall direct the warrant of commitment to the jail of the county, where the offence is charged to have been committed, if there be a jail in said county; and if there be none in said county, then in the next nearest county jail.

SEC. 3. Recognizance of witnesses in behalf of prosecution to be taken—security to be given for appearance in certain cases. It shall be the duty of the justice to take the recognizance of all the witnesses in behalf of the prosecution; and he may in all cases of felony, in his discretion, require the witnesses for the prosecution to give security for their appearance at the next term of the District Court for the proper county.

SEC. 4. No bill of indictment to be quashed or judgment averted by failure of county commissioner, District Court or prisoner to perform their duty—proviso. No bills of indictment shall be quashed, nor shall any judgement be averted by reason of a failure on the part of the county commissioners, to make out and deliver to the clerk of the District Court, a certificate of the appointment of the grand jury, nor by reason of any other informality in selecting or summoning the grand jury; nor by reason of the neglect of the District Court to have the prisoner duly arraigned; nor by reason of a failure on the part of the prisoner to plead not guilty; provided, said prisoner shall make his defence before the petit jury.

SEC. 5. Grand jury to be sworn—venire to be issued in certain cases to sheriff to summon jurors—venire to be issued when the public good requires it. It shall be the duty of the District Court to cause each member of the grand jury to be sworn and examined as to his qualifications to serve as a juror; and if the county commissioners' court shall neglect to make out and deliver to the clerk of the District Court, a list of the grand and petit jurors, it shall be the duty of the District Court at any time during the term, to issue a venire to the sheriff to summon the proper number of grand and petit jurors; and if after the grand jury shall have been discharged, a case shall arise during the term of the court, requiring immediate investigation by the grand jury, it shall be in the power of the District Court to have another venire issued, if in the opinion of said court, the public good shall require it.

SEC. 6. Costs not to be rendered, in case of acquittal, against private prosecutor unless maliciously done—compensation of officer arresting prisoner out of county or Territory. No costs shall be rendered by the court, in the event of the acquittal of a person charged with a criminal offense, against the private prosecutor, unless the court is satisfied that the prosecution is malicious, or the county or the Territory; except that when any officer in arresting or endeavoring to arrest a person charged with a crime, shall go out of his county, he shall be allowed his necessary traveling expenses out of the county treasury.

SEC. 7. Defendant admitted to bail and discharged in certain cases—proviso. In capital cases, the defendant shall be admitted to bail, unless indicted, and tried by the third term after his arrest; in other cases under like circumstances, he shall be discharged absolutely, unless tried by the fourth term after his arrest; provided, that in any of the above cases, the delay of indictment or trial has not been occasioned by the defendant himself.

[51] **SEC. 8. Defendant committed unless fines and costs are paid.** When a pecuniary fine constitutes a portion of the punishment in the case of conviction upon an indictment, the court may direct the defendant to stand committed for any period of time, not exceeding sixty days, in the jail of the county where the offence is tried, if there be a jail, and if there be none, in the jail of the next nearest county in which there may be a jail, unless the fine and costs are sooner paid.

SEC. 9. Privileges and restrictions of jury. In trials for misdemeanors, the court may permit the jury to separate for food and refreshment; but in trials for felonies, the jury shall not be separated until there is no prospect of their

agreement to a verdict, and it shall be the duty of the court to provide them all suitable refreshments.

SEC. 10. This act to take effect and be in force from and after its passage. Approved February 15, 1842.

CHAPTER 64.

AN ACT to amend an act concerning costs and fees.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. When to take effect—Clerk's fees in Supreme and District Courts. That from and after the passage of this act, the fees and compensation to the several officers and other persons hereinafter mentioned, shall be as follows, to wit:

In the Supreme Court and in the District Courts of the Territory, the clerk's fees in all cases, to which the same apply respectively:

For issuing and sealing every writ not exceeding 300 words	\$.50
For each additional folio of 100 words.....	.12½
Docketing case, first time.....	.12½
Each subsequent time, not exceeding three times in each cause06¼
Entering judgment on a suit without process.....	.25
Entering cause on judgment docket.....	.18¾
Entering each order, or rule of court, for every continuance, rule to plead, default to plead, retraxit, non-suit, or discontinuance; or any other order actually entered in the progress of a suit, and counting the whole as one entry18¾
Filing each paper in a suit, except appeals from justices, and in no case shall such fees exceed twenty-five cents..	.06¼
Filing all papers in appeal or certiorari from justices....	.06¼
Issuing bail piece when required.....	.25
Entering special bail.....	.12½
Swearing and empanneling each jury.....	.18¾
Administering oath to each witness on trial.....	.06¼
Entering verdict of jury and judgment.....	.50
Entering satisfaction of judgment.....	.06¼
Issuing writ of execution.....	.25
Taxing costs.....	.25
Entering exonerator.....	.06¼
Entering surrender.....	.06¼
A commission to take deposition.....	.50
All motions in one suit.....	.18¾
[52] All the rules in one suit.....	.18¾
If there be only one.....	.06¼
A venire for a jury.....	.25
Making a complete record in each cause when ordered by the court, for every 100 words.....	.10
Copy of record when required, for 100 words.....	.10
Every certificate with seal.....	.25
A subpoena to include all the witnesses called for at the	