

with interest thereon, after deducting from such tolls so received one-half, as a compensation to said company for tending and keeping in repair said bridge, then said bridge shall become the property of the public, and shall forever remain a free bridge, and shall be open to the passage of all persons free of toll.

SEC. 10. Toll gatherer to take oath. Said corporation shall cause such person as they may employ as a toll gatherer, to take and subscribe an oath before some justice of the peace in the township where said bridge shall be situated, to keep a correct account of all moneys and tolls received by him, and to record the same in the proper book kept for that purpose.

SEC. 11. Injury to, how redressed; penalty for. That if any person shall wilfully or maliciously destroy or injure said bridge, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court, not less than six months nor more than ten years.

SEC. 12. To be completed in two years. Said bridge shall be completed within two years from the date of the passage of this act, and a failure of its completion shall be deemed a violation of this incorporation.

SEC. 13. Power of repeal reserved. Any future legislature may alter, amend, or repeal this act, in case the corporation shall abuse or misuse its privileges: provided, such alteration, amendment or repeal, shall not impair the title of said bridge, nor change the tolls by this act established.

Approved, 15th February, 1844.

[142] CHAPTER 124.

MADISON COUNTY.

AN ACT for the formation of the county of Madison.

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

SECTION 1. Boundaries and name of. That all that part of the county of Lee known as the Half Breed Tract, bounded as follows, to wit: Beginning in the middle of the main channel of the Mississippi river at the lower mouth of the Des Moines river; thence north along the middle of the main channel of the said Mississippi river to a point where the northern line now known as the boundary of the said Half Breed Tract intersects the Mississippi river below the town of Fort Madison; thence west along said line to where the same intersects the Des Moines river; thence to the middle of the main channel of the said river Des Moines; thence down the middle of the main channel of the river Des Moines, to the mouth thereof; thence east to the middle of the main channel of the Mississippi river, to the place of beginning, shall constitute a new county, to be called Madison.

SEC. 2. First election in, where and when held, by whom and how conducted, number of officers, how elected, term of office, powers and duties. There shall be an election held at the different places of voting for justices of the peace and constables in the limits of said county of Madison, the first Monday of August next. The election shall be conducted by the present judges of election in said county, who have been appointed by the county of Lee according to the law regulating general elections in this territory. The legal voters of the county of Madison shall elect all

county officers for the county, who shall hold and be qualified and commissioned as similar officers are in other counties of this territory. Said officers, so elected and qualified, shall hold their offices until the next general election, and shall have the same [143] jurisdiction, and discharge all the duties, in the limits of the county of Madison, that are required by law of similar officers in other counties of this territory.

SEC. 3. Returns of election, when and to whom made; where, when, and by whom opened. Within ten days after said election, the judges of election at the different places of voting shall return the poll books of said election to A. Kerr, Joseph A. Clarke and Johnson Meeks, three acting justices of the peace. The said justices shall meet in the town of Nashville within ten days after said election, and proceed to open said election returns, and to do and perform all the duties in relation to said returns that are required by law of the clerks of the board of county commissioners in relation to similar returns.

SEC. 4. On notice of organization judge to appoint clerk; district court, when and where held; to be part of first district. As soon as the county officers shall have been elected and qualified, the said county of Madison shall be considered as organized, and the clerk of the board of commissioners shall give notice to the judge of the first judicial district, who shall appoint a clerk of the court, and shall hold court at the town of Nashville at such time next fall as he may think proper, in the said county of Madison, and such other times as may suit his convenience, until the county seat of the said county of Madison shall be permanently located. The said county of Madison shall form a part of the first judicial district until otherwise ordered by law.

SEC. 5. Suits pending in Lee county not affected. Suits and indictments that have been commenced in the district court of the county of Lee by any of the citizens living in the limits of the county of Madison, before the organization thereof, shall not be affected by this act; but all suits so commenced shall be decided in the district court in the county where they were commenced.

SEC. 6. Justices residing in new county to retain their offices. All justices of the peace and constables elected in the county of Lee, who reside in the limits of the county of Madison, shall hold their offices, and have jurisdiction in said county of Madison, as though they had been originally elected in the said county.

SEC. 7. First election for county seat, where and when held, how conducted—if two places voted for, then a second election; where and when held, and how conducted; majority to determine county seat. After the organization of the county of Madison, it shall be the duty of the clerk of the board of county commissioners, within thirty days, to issue writs of election to the judges of election in the several townships in said county, to hold an election on the first Monday in April, 1845, to be conducted in all respects by the law regulating general elections, to locate the seat of justice of the county of Madison. The place receiving a majority of all the legal votes polled shall be the permanent seat of justice of the county of Madison; but if more than one place shall have been voted for, and no one place having received a majority of all the votes polled, the clerk aforesaid shall issue writs of election as in the first case for a second election, to be held on the first Monday in August, eighteen hundred and forty-five; but if no place or places shall be voted for but the two, the one having a majority of all the legal votes polled at the said second election shall be and remain the county seat of Madison county.

SEC. 8. First electoral district to be composed of Lee and Madison; representation in legislature and convention. The counties of Lee and Madison

shall form the first electoral district, and shall be entitled to two members of the council, and three members of the house of representatives, and also eight members of the convention to form a constitution and state government: provided, the people vote in favor of said convention, as provided by law.

[144] **SEC. 9. Election on the division of Lee county, when and where held, how conducted; returns when made, by whom opened and canvassed; effect of act to depend on result of election.** It shall be the duty of the judges of election in the different townships in the county of Lee, at the April election for the year 1844, to open a poll in each township for "division" or "no division," at which election all the qualified voters of Lee county may write on their ticket "division" or "no division;" and the judges of election shall make return of said tickets, together with the result of the votes in each township, sealed up, within five days after said election to the clerk of the board of county commissioners for Lee county; and said clerk shall proceed, on the 6th day after said election, in the presence of two justices of the peace for said county, to open and canvass said returns; and it shall be the duty of the clerk to carefully preserve the same. If it shall appear by such returns that a majority of the votes cast are in favor of division, then this act to be in full force and virtue; but if it shall appear by such returns that a majority of the votes cast are opposed to division, then this act to be void and of no effect.

SEC. 10. Failure of judges of election or clerk of board of commissioners to perform duties required, penalty for, how recovered and applied; disqualification of persons convicted. If any of the judges of election of the different townships of the county of Lee, or the clerk of the board of commissioners of said county, shall wilfully fail to perform any of the duties required of them by the provisions of the 9th section of this act, or shall knowingly receive the vote of any person not qualified as an elector by the laws regulating elections in this territory, he shall be deemed guilty of a misdemeanor, and liable to a fine not exceeding five hundred dollars, at the suit of any person feeling himself aggrieved, one half for the use of the person suing, and the balance for the use of the county; and the persons so convicted shall forever thereafter be disqualified from holding any office of honor, profit or trust, in this territory.

SEC. 11. At division election names of electors to be written on back of ticket; election, how contested. It shall be the duty of the judges of the different townships in Lee county to write on the back of each ticket presented for "division" or "no division," the name of the person voting said ticket; and the result of said election may be contested in the same manner that elections of county officers may be contested under the provisions of the law regulating general elections; and for that purpose those persons contesting said election shall have the use of all the tickets voted at said election.

SEC. 12. Court house at Madison not to be sold for 18 months. The court house at Fort Madison shall not be sold by the county commissioners of said county, nor by their authority, for the space of eighteen months from and after the date thereof.

Approved, 15th February, 1844.