

so lost shall have the same force and effect under the duplicate execution as under the original. When the lost execution shall have expired by limitation and such affidavit is filed, an execution may issue as it might if such lost execution had been duly returned."

Approved April 13, A. D. 1907.

CHAPTER 168.

ACTIONS OF MANDAMUS.

H. F. 72.

AN ACT to amend section forty-three hundred and forty-one (4341) of the code relating to actions of mandamus.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Tried as equitable actions. That section forty-three hundred and forty-one (4341) of the code be, and the same is hereby amended by adding thereto the following:

"All such actions shall be tried as equitable actions."

Approved February 23, A. D. 1907.

CHAPTER 169.

JUSTICES OF THE PEACE AND CONSTABLES.

H. F. 231.

AN ACT to repeal section forty-six hundred (4600) of the code relative to the accounting for fees, and compensation of justices of the peace, and constables, and to enact in lieu thereof the following.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Repealed. That section forty-six hundred (4600) of the code, relative to the accounting for fees and compensation of justices of the peace and constables be and the same is hereby repealed and the following enacted in lieu thereof:

"**SEC. 2. Accounting for fees—compensation.** Justices of the peace and constables in townships having a population of twenty-eight thousand, shall pay into the county treasury all criminal fees collected in each year. Justices of the peace and constables in townships having a population of under twenty-eight thousand, shall pay into the county treasury all fees collected in each year in excess of the following sums: In townships having a population of ten thousand and under twenty-eight thousand, justices, one thousand dollars; constables, eight hundred dollars; those having a population of four thousand and under ten; justices, eight hundred dollars; constables, six hundred dollars; in all townships having a population of under four thousand, justices six hundred dollars; constables, five hundred dollars. In townships having a population of twenty-eight thousand or more, justices of the peace and constables shall receive in full compensation for their services performed in criminal cases during the year, the following sums which shall be paid quarterly out of the county treasury. In townships having a population of thirty-five thousand or more, justices, fifteen hundred dollars; constables, twelve hundred dollars; in townships having a population of twenty-eight thousand and under

thirty-five, justices, twelve hundred dollars; constables, one thousand dollars. Justices and constables in all townships having a population of twenty-eight thousand (28,000) and over shall retain such civil fees as may be allowed by the board of supervisors, not to exceed five hundred (\$500) dollars per annum, for expenses of their offices actually incurred, and shall pay into the county treasurer all the balance of the civil fees collected by them.

"**SEC. 3. Annual report to board of supervisors.** All justices of the peace and constables shall under oath make an annual report to the board of supervisors, upon blanks furnished by the county auditor, of all criminal fees taxed and collected during the year, which report shall also show that all criminal fees and fines collectible by law have been received, such annual report to be made on the first Monday in January, and before the annual settlement shall be made, and accompanied with the receipts of the treasurer for all money paid in to him.

"**SEC. 4. Quarterly report to county auditor.** Justices of the peace shall make, under oath, quarterly reports, upon blanks furnished by the county auditor, and shall file same with the county auditor, which reports shall contain a true and correct transcript of all criminal proceedings which have been instituted or adjudicated in their courts, with the names of all attending witnesses and jurors and fees taxed in their favor."

Approved April 13, A. D. 1907.

CHAPTER 170.

DESERTION.

S. F. 5.

AN ACT defining desertion, providing punishment therefor, and permitting a husband or wife to be a witness in such cases. [Additional to chapter two (2) of title twenty-four (XXIV) of the code relating to offenses against the lives and persons of individuals.]

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Desertion defined—penalty. Every person who shall, without good cause, willfully neglect or refuse to maintain or provide for his wife, she being in a destitute condition, or who shall, without good cause, abandon his or her legitimate or legally adopted child or children under the age of sixteen years, leaving such child or children in a destitute condition, or shall, without good cause, willfully neglect or refuse to provide for such child or children they being in a destitute condition, shall be deemed guilty of desertion and, upon conviction, shall be punished by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for not more than six months.

SEC. 2. Husband or wife may be witness. In all prosecutions under this act, the husband or wife shall be a competent witness for the state and may testify to any relevant acts or communications between them, anything in previous statutes to the contrary notwithstanding, provided however that no husband or wife shall be called or compelled to testify against the other under this act except upon consent of such witness.

SEC. 3. Bond given conditioned on support. If after arrest and before trial, or after conviction and before sentence, the party so arrested or convicted shall appear before the court in which the case is pending or the conviction had, and enter into a bond to the state of Iowa in a sum to be fixed by the court, which in no event shall exceed the sum of one thousand dollars,