

and are governed by the provisions of "an act to provide for the government of the several towns in this territory, and for the revision of county government," approved February 18, 1841, shall not be deemed invalid by reason of any informality in conducting said elections, or in the qualifying of any of the officers so elected, or who conducted any of said elections; but the said elections, and the official acts of the several officers elected in said towns are hereby declared to be legal and valid.

APPROVED, April 1, 1843.

## AN ACT to provide for punishing the crime of embezzlement by public officers.

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

§ 1. That if any collector or treasurer of any town or county, or incorporate city, town, or village, or the treasurer or other disbursing officer of the territory, or any other person holding an office under any law of this territory, or any incorporated company, who now is, by virtue of his office, or shall hereafter be, intrusted with the collection, safe keeping, receipt, transfer, or disbursement of any tax, revenue, fine, or other money, shall convert to his own use, in any way or manner whatever, any part thereof, or shall loan, with or without interest, any portion of the money intrusted to him as aforesaid; or who shall wilfully neglect or refuse to pay over the same, or any part thereof, according to the provisions of law, so that he shall not be able to meet the demands of any person lawfully demanding the same, whether such demand be made before or after the expiration of his office, he shall be deemed and adjudged to be guilty of an embezzlement of so much of the said moneys as shall be thus taken, converted, used, loaned, or retained; which is hereby declared to be a felony. Officers liable.

§ 2. That any person who shall be guilty of embezzling any money prohibited by this act, not exceeding in amount the sum of one hundred dollars, shall, upon conviction thereof, be punished by imprisonment in the county jail, not less than three nor over twelve months; and any person who shall be convicted of embezzling a greater sum than one hundred dollars, shall be punished by imprisonment, in the state prison, not more than three years, nor less than one year, and by a fine, in each case, of twice the amount so embezzled; and if the court cannot determine, from the Imprisonment.

- Accessory.** verdict of the jury, or otherwise, the amount of the sum embezzled, they shall impose such fine as, in their discretion, shall be adequate and corresponding, as nearly as may be, with the penalty imposed by this section; and every refusal, by an officer, to pay any sum lawfully demanded, shall be deemed an embezzlement of the sum so demanded.
- § 3. Any person, demanding of any officer any sum of money, which he may be entitled to demand and receive, who shall be unable to obtain the same, by reason of the money having been embezzled, as aforesaid, if he shall neglect or refuse, for thirty days after making such demand, to make complaint against such officer, shall be deemed an accessory, and, upon conviction thereof, shall be fined in a sum not exceeding one hundred dollars.
- Refusal to pay specie.** § 4. The refusal of any officer to pay any demand in specie, where the sum so demanded was actually received by such officer, in good faith, in checks, drafts, certificates of deposit, or currency, which may have depreciated in value, provided payment be tendered in the checks, drafts, certificates of deposit, or currency, received by such officer, shall not be construed to be an embezzlement, according to the intent and meaning of this act.
- Set-offs not allowed.** § 5. That every officer, or other person, shall pay over the same money that he may have received in the discharge of his duties, and shall not set up any account as a set-off against any money so received; and that all justices of the peace, clerks of the county, sheriffs, and other officers, shall pay into the respective treasuries all the moneys collected on fines, within thirty days after said moneys may be collected.
- Prosecution.** § 6. All prosecutions under this act shall be by indictment, and may be commenced by complaint made before any justice of the peace; and the residue of all fines hereby imposed, exceeding the sum of one hundred dollars, shall accrue to the territory, and all fines of one hundred dollars, after deducting the costs of prosecution, and under, shall accrue to the county in which the conviction is had.
- Fine, where paid.**
- Acts repealed.** § 7. All acts and parts of acts, contrary to the provisions of this act, are hereby repealed. This act to take effect and be in force from and after its passage.
- Take effect.**

APPROVED, April 1, 1843.