

judges of the qualifications, elections and returns of their own members, and shall hold and conduct the elections at such time and place, and in such manner and form as they may think advisable, agreeable to the foregoing provisions of this act.

**SECTION 6.** All by-laws, ordinances and proceedings of the corporation, shall be fairly and regularly entered into a book, to be kept for that purpose, and no misnomer of the said corporation shall defeat or annul any gift, grant, devise or bequest to the same, nor shall any nonuse of the rights, liberties, privileges, jurisdiction and authority, hereby granted to the said corporation, create, or in any wise cause a forfeiture thereof, and all property belonging to said corporation shall be exempt from taxation.

Approved Jan. 19, 1838.

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## No. 81.

### AN ACT concerning costs and fees.

- SECTION 1.** *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That in all civil cases at law, unless otherwise provided, the party in whose favor judgment is given shall recover costs; and the supreme court, district and justices courts respectively, may give or refuse costs at their discretion upon all motions.
- SECTION 2.** In all prosecutions in the name of the United States or of any individual, for the breach of any law of this territory, where judgment is rendered against the defendant such defendant shall be liable for the costs.
- SECTION 3.** 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, and no more, viz.:
- In the supreme court and in the district courts of the territory, the clerk's fees in cases to which the same apply respectively. For issuing and sealing every writ not comprising more than three hundred words, sixty-two and a half cents.
- Losng party to pay costs.**
- When discretionary with the court.**
- In criminal prosecutions.**
- Compensation as herein prescribed.**
- Clerk's fees.**

For every additional folio of one hundred words, twelve and a half cents.

Docketing a case first time, eighteen and three-quarters cents.

Docketing a case thereafter, twelve and a half cents.

Entering suit without process, thirty-one and a quarter cents.

Filing every paper in any one suit, each, six and a quarter cents.

Entering an appearance to be charged but once against each party to a suit, twelve and a half cents.

Issuing bail piece when required, twenty-five cents.

Swearing and impanneling a jury, fifty cents.

All entries relative to the trial not herein specially provided for, twenty-five cents.

Administering an oath or affirmation to each witness on trial, six and a quarter cents.

Recording a verdict, eighteen and three-quarters cents.

Entering every judgment, fifty cents.

Recording a special verdict for every sheet of one hundred words, twelve and a half cents.

Attending on striking a special jury and delivering copies, fifty cents.

Entering satisfaction on the record, twelve and a half cents.

Entering issue joined, twelve and a half cents.

Taxing costs, thirty-seven and a half cents.

Entering exoneretur, twelve and a half cents.

Entering surrender, twelve and a half cents.

Copy of a rule of reference, thirty-one and a quarter cents.

Signing the final record in each case, twelve and a half cents.

A commission to take depositions, thirty-seven and a half cents.

All the motions in any one suit, eighteen and three-quarters cents.

All the rules in any one suit, eighteen and three-quarters cents.

Each continuance, six and a quarter cents.

The venire facias, thirty-seven and a half cents.

Entering every motion distinct from an action not to include the ordinary motions in a suit, twelve and a half cents.

Making a complete record in each cause for every one hundred words, eighteen and three-quarters cents.

Copy of a record when required for every one hundred words, twelve and a half cents.

Every certificate, twenty-five cents.

The seal when required, twelve and a half cents.

Every subpoena for one or more witnesses, eighteen and three-quarters cents.

A search of the records if a copy be not required (suits and officers of the court excepted,) twelve and a half cents.

Filing the record upon an appeal, writ of error, supersedeas, certiorari or habeas corpus, eighteen and three-quarters cents.

Taking security upon a writ of error, supersedeas or appeal, eighteen and three-quarters cents.

Entering a writ of habeas corpus, writ of error or certiorari and for the return thereof, fifty cents.

For assessment of damages on any reference made to him, thirty-seven and a half cents.

A subpoena in chancery, fifty cents.

Filing each bill, answer, replication or other pleading in chancery, six and a quarter cents.

And order to advertise, thirty-seven and a half cents.

Copy of a paper not herein otherwise provided for, for every one hundred words, twelve and a half cents.

For services in naturalization cases, twelve and a half cents.

Filing papers each, six and a quarter cents.

Certificate of application, fifty cents.

Certificate of naturalization, seventy-five cents.

Taking a recognizance, twenty-five cents.

Entering transcript of justices' judgment, twenty-five cents.

Entering an appeal from justice or justices, thirty-seven and a half cents.

Administering an oath other than on the trial of a cause, twelve and a half cents.

Certificate for jurors or constables' pay to be paid by the county, each, twelve and a half cents.

Filing all election returns at each general election to be paid by the county, one dollar.

Calling recognizance and entering forfeiture, eighteen and three-quarters cents.

Respiteing or discharging forfeited recognizance and motion thereto, twelve and a half cents.

Entering discharge by proclamation, twelve and a half cents.

Filing petition and order thereon, twenty-five cents.

Issuing marriage license, one dollar and fifty cents.

#### FEES IN CRIMINAL CASES.

Issuing process, seventy-five cents.

Entering defendant's appearance, twelve and a half cents.

Entering a plea, twelve and a half cents.

Discharge of bail, twenty-five cents.

For entering each suit, civil and criminal on the court calendar, twelve and a half cents.

For other services the same fees as in civil cases: *provided*, that nothing herein contained shall entitle the clerks of the several district courts to exact any fee from grand jurors, petit jurors or witnesses upon the issuing of any certificate entitling them to their fees as such.

#### SHERIFF'S FEES.

For the service of any writ and the return thereof (subpœnas excepted) for one defendant, one dollar.

Each additional defendant, fifty cents.

Every commitment to prison, fifty cents.

Discharging a person from prison, twenty-five cents.

Attending with a person before a judge or court when required, twenty-five cents.

Attending on a witness brought before a court on a writ of habeas corpus or satisfaciendum, fifty cents.

Serving a writ of possession, one dollar.

Serving a writ with the aid of posse comitatus, two dollars and fifty cents.

The copy of any writ or process necessary to complete a record, for every one hundred words, twelve and a half cents.

Serving and returning a subpœna, for each person named therein and actually summoned, eighteen and three-fourths cents.

Summoning a grand jury in the district court to be paid from the county treasury, ten dollars.

Making out a list of a struck or special jury and delivering the same, twenty-five cents.

Summoning and returning a special jury, to be paid by the party putting off or losing the cause, and traveling fees, one dollar.

Traveling fees upon all writs, precepts and subpoenas, not herein otherwise provided for (and not to extend to jurors) to be computed from the place of service to the place of return, per mile, six and a quarter cents.

Serving an execution against the body of every person taken, one dollar.

Selling of land upon execution and mileage, one dollar and fifty cents.

Collecting and paying into the territorial or county treasury any fine or forfeiture, the same per centage as allowed in civil cases. But the per centage on all executions shall be taken only for the sum received and paid over.

Making and executing a deed for land sold or set off on execution to be paid by the purchaser or creditor, one dollar.

Serving any person with an order of court and mileage and making return, twelve and a half cents.

Bringing up a person on a writ of habeas corpus in civil cases and mileage, twenty-five cents.

Summoning a jury in cases of forcible entry and detainer, two dollars.

Serving a writ of restitution with the power of the county, two dollars and fifty cents.

Serving a writ of restitution without the power of the county, one dollar and fifty cents.

Serving an execution for partition of real estate or assigning dower, and mileage, four dollars.

Each appraiser of real and personal estate, per diem and mileage, one dollar.

Each bail bond, replevin bond or attachment bond, fifty cents.

Collecting and paying over all sums upon execution or upon any other writ or process, not exceeding three hundred dollars, five per centum; on all sums exceeding three hundred dollars and not exceeding six hundred dollars, two and a half per centum; and on all sums exceeding six hundred dollars one and one fourth

per centum : *provided*, that the the per centage in no one case shall exceed thirty dollars.

On each action for opening the court, to be charged once every term and to be paid by the plaintiff and taxed against the defendant if the plaintiff recover, twelve and a half cents.

The appearance of the plaintiff or defendant to be paid by the party appearing and taxed in favor of the party recovering, twelve and a half cents.

Returning a writ "not served," for every defendant, six and a quarter cents.

Actual traveling in such case for every mile going and returning, six and a quarter cents.

All copies of summons when required for every one hundred words, twelve and a half cents.

Attending on the district court, to be paid out of the territorial treasury, per day, one dollar and fifty cents.

Attendance of as many of his deputies on the district court as may be required by the court to be paid out of the county treasury, per day, one dollar and fifty cents.

Taking bond for the prison limits and procuring the approval of the justices thereto, seventy-five cents.

Drawing petition for a poor debtor to two justices and giving notice thereof to the plaintiff with mileage, twenty-five cents.

Serving notice of the order of the justices to the plaintiff with mileage, twenty-five cents.

Bringing prisoners before the justices to take the benefit of the poor debtors' law, twenty-five cents.

Receiving a prisoner on surrender by the bail, twenty-five cents.

Taking a new bail and giving a bail piece, fifty cents.

For keeping and providing for a criminal in jail or any other person committed for a criminal offense when the prisoner is unable to support himself, where it shall be made to the satisfaction of any two justices of the peace, to be paid out of the treasury of the county where the offense may be committed, per day, fifty cents.

And in no case shall traveling fees be charged by any officer except for the number of miles actually traveled going and returning, only as is provided by this act.

## CORONER'S FEES.

For the view of each body and for taking and returning the inquisition, three dollars.

Every subpoena and warrant, twenty-five cents.

Traveling each mile to and from the place of view, six and a quarter cents.

Issuing venire, twenty-five cents.

Swearing each witness, not to exceed in any one case thirty-seven and a half cents, six and a quarter cents.

Taking recognizance, twenty-five cents.

The fees of the coroner and constable for taking inquests shall be paid out of the county treasury, and in other cases the coroner shall receive the same fees as are allowed to the sheriffs in similar cases.

## FEES OF MASTERS IN CHANCERY.

For attending and hearing every argument on any subject referred to him and reported thereon, one dollar and fifty cents.

Reporting when the proceeds ex parte, thirty-seven and a half cents.

Drawing every report, for every one hundred words, eighteen and three-quarters cents.

Copies of any papers, for every one hundred words, twelve and a half cents.

Swearing a complainant to a bill, defendant to an answer, taking an affidavit or swearing a witness, twelve and a half cents.

Every advertisement for a public sale, fifty cents.

Attending at the time and place of sale of property and adjourning it at the request of parties, for good cause, or by order of the court, one dollar and fifty cents.

Every deed of real estate sold by him under a decree or order when prepared by him at the request of the parties, five dollars.

Signing and acknowledging a deed when prepared by another person, seventy-five cents.

And to the clerk of the supreme court, and to the clerk of the district court respectively the fees herein allowed to the master in chancery when the services are rendered by such clerks.

**FEEES OF COMMISSIONERS OF BAIL.**

For taking bail, fifty cents.

Issuing bail piece, twenty-five cents.

Administering an oath or affirmation, six and a quarter cents.

Taking a surrender, twenty-five cents.

A commitment, fifty cents.

**FEEES OF DISTRICT ATTORNEYS.**

For every indictment, two dollars.

Arguing the matter when the defendant shall submit, two dollars.

Every trial arguing a demurrer or in opposition, in arrest of judgment or for a new trial, two dollars.

Which fees shall be paid into the county treasury.

**FEEES OF JUSTICES OF THE PEACE—IN CIVIL CASES.**

For a summons or a warrant, twenty-five cents.

Precept to summon a jury, thirty-seven and a half cents.

Every subpoena in which any number of witnesses may be inserted, twelve and a half cents.

Swearing any jury, twenty-five cents.

Hearing a matter concerning which a jury is summoned, fifty cents.

Receiving and entering their verdict, twelve and a half cents.

Endorsing any warrant issued from another county, twelve and a half cents.

For taking and certifying the acknowledgment of any instrument which is required to be acknowledged before a justice, twenty-five cents.

Administering an oath out of court, twelve and a half cents.

Administering an oath and certifying the same, twenty-five cents.

For swearing each witness, six and a quarter cents.

Entering judgment on trial, twenty-five cents.

Every other judgment, twelve and a half cents.

Granting and issuing execution, twenty-five cents.

Every rule of reference, thirty-seven and a half cents.



Every continuance or adjournment at the request of a party, twelve and a half cents.

Rule to take depositions where the witness is out of the territory, fifty cents.

Taking bail, recognizance or security, thirty-seven and a half cents.

Copy of the proceedings in any case when demanded for an appeal or any other purpose, per folio of one hundred words, twelve and a half cents.

Taking an examination, deposition or confession, per folio, of one hundred words, twelve and a half cents.

Granting certificate thereof, twelve and a half cents.

Entering discontinuance or satisfaction, twelve and a half cents.

Entering amicable suit, twenty-five cents.

Transfer of judgment, twenty-five cents.

Opening judgment after default, twelve and a half cents.

Marrying and making return thereof, two dollars.

For filing every paper required to be filed with him, each, six and a quarter cents.

For taxing a bill of costs, twelve and a half cents.

Issuing writ of attachment, fifty cents.

For holding inquisition in case of forcible entry and detainer in addition to other fees, per day, two dollars.

Writ of restitution, including execution for costs, thirty-seven and a half cents.

Recording the proceedings in such case per folio of one hundred words, twelve and a half cents.

#### FEES OF JUSTICES OF THE PEACE—IN CRIMINAL CASES.

For a warrant, twenty-five cents.

Taking a recognizance, twenty-five cents.

Commitment to jail, twenty-five cents.

For a search warrant, thirty-seven and a half cents.

Entering judgment for fine or punishment, twenty-five cents.

Discharging a prisoner, twelve and a half cents.

Warrant for punishment, eighteen and three quarters cents.

Order of discharge to the jailor, twenty-five cents.

And in all cases mileage (circular,) six and a quarter cents.

For other services the same fees as in civil cases.

## CONSTABLES' FEES—IN CIVIL AND CRIMINAL CASES.

For serving a warrant or other writ not herein provided for, on each person therein named, thirty-seven and a half cents.

For a copy of every summons delivered on request or left at the place of abode of defendant, twelve and a half cents.

Traveling for the service of process, computing from the place of service to the place of return, per mile, three cents.

And when two or more persons are named in such process and the traveling is in the same direction, mileage to be allowed only from the most remote place of service.

Serving a subpoena or summons on each person named therein, and mileage, twelve and a half cents.

Serving an attachment, and mileage, fifty cents.

Posting up copy of attachment, for each copy, and mileage, twenty-five cents.

For serving execution on body or goods and mileage, twenty-five cents.

Commitment to prison and mileage, thirty-seven and a half cents.

Summoning a jury, fifty cents.

Attending upon a jury, fifty cents.

On all sums made on execution and paid over to be charged upon the defendant, four per centum.

Advertising and selling property, one dollar.

Attending the district court when thereunto warned, to be paid out of the territorial treasury, each day, one dollar.

The services herein required to be performed by the constable, when done by the sheriff, the same fees that are allowed to the constable shall be allowed to the sheriff, and no more.

For notifying a plaintiff of the service of a warrant and mileage, twelve and a half cents.

## WITNESSES' FEES.

For each witness for every day's attendance, one dollar.

Attendance before a justice of the peace for every half day, fifty cents.

And for traveling each mile coming only from his or her place of residence to the place of trial, eight cents.

But the attendance of only two witnesses to each particular fact shall be taxed in the bill of costs; and if one witness shall attend upon two or more cases on the same day before the same justice or court, his fees shall be equally proportioned among the parties who shall summon him.

#### FEEES OF NOTARIES PUBLIC.

For every protest of a bill of exchange or promissory note registering real or other service, one dollar.

Attesting letters of attorney and seal, fifty cents.

Notarial affidavit to an account under seal, twenty-five cents.

Registering protest of a bill of exchange or promissory note for non-acceptance or non-payment, seventy-five cents.

Noting a bill of exchange, note or other thing, properly protestable either for non-acceptance or non-payment, fifty cents.

Drawing and taking the proof of acknowledgment of a bill of sale, bottomry, mortgage, hypothecation of a vessel or charter party, one dollar and fifty cents.

Certifying power of attorney for transferring and selling stock or other securities, thirty-seven and a half cents.

Drawing and certifying affidavit one dollar.

Each oath or affirmation, twelve and a half cents.

Being present at demand, tender or deposit and noting the same, seventy-five cents.

Every certificate with seal annexed, fifty cents.

Other services the same fees as are allowed to other officers in similar cases.

#### FEEES OF THE JUDGES AND REGISTER OF PROBATE.

For granting letters of administration when there is no litigation, seventy-five cents.

When contested, one dollar and seventy-five cents.

Hearing complaint against spendthrift or lunatic, one dollar.

Appointing guardian to minor, lunatic or spendthrift, fifty cents.

And when one guardian is appointed to more than one minor, lunatic or spendthrift, the judge shall receive for each minor, lunatic or spendthrift after the first, twenty-five cents.

Decree for the probate of a will when not contested, seventy-five cents.

The same when contested, one dollar and seventy-five cents.

Decree for settling an estate of an intestate, seventy-five cents.

Partition of real estate, seventy-five cents.

Order of distribution, seventy-five cents.

Examining and allowing an inventory for the first page, twenty-five cents.

For every additional page, twelve and a half cents.

Administering an oath to executor, administrator or other person, twelve and a half cents.

Examining and allowing accounts of executors or administrators, not exceeding one page, fifty cents.

For each additional page of the same, twelve and a half cents.

A citation, summons or process, twenty-five cents.

A quietus, fifty cents.

Warrant to appraise or divide estates, thirty-seven and a half cents.

Issuing commission to receive and examine claims of creditors when an estate is represented to be insolvent, fifty cents.

Granting an appeal, fifty cents.

Approving securities of an executor or administrator, twenty-five cents.

Assignment of dower in real estate, twenty-five cents.

Assignment of personal estate to widows, thirty-seven and a half cents.

Appointment of trustees on partition of real estate, twenty-five cents.

Order for sale of personal estate, twenty-five cents.

Certificate of necessity for sale of real estate, thirty-seven and a half cents.

Extending letters of administration, fifty cents.

Granting a reference of executors' or administrators' account or allowing report thereon, fifty cents.

Disallowing application for letters of administration or probate of will, to be taxed against the party failing to sustain the application, fifty cents.

Every continuance, twelve and a half cents.

For the bonds upon letters of administration or the appointment of a guardian, fifty cents.

Probate of will and letters testamentary thereon or letters of administration, fifty cents.

Seal for the same, twenty-five cents.

Drawing a decree representing the probate of a will or codicil, fifty cents.

Bond for the execution, fifty cents.

A warrant to divide an intestate estate among the heirs; a warrant to set off the widow's dower, or a warrant to receive and examine the claims on an insolvent estate, thirty-seven and a half cents.

Drawing a decree on the settlement or partition of an estate, fifty cents.

A citation or summons for the first person named therein, twenty-five cents.

Each other person named therein, twelve and a half cents.

Drawing an order of distribution, thirty-seven and a half cents.

Drawing a quietus, fifty cents.

Entering and filing a caveat, twelve and a half cents.

Proportioning an insolvent estate among the creditors, seventy-five cents.

Filing an inventory, twelve and a half cents.

Entering the account of an executor, administrator or guardian, for every one hundred words, twelve and a half cents.

Entering an oath of an executor or administrator, twelve and a half cents.

Searching the records, twelve and a half cents.

Copies of papers when required for every one hundred words, twelve and a half cents.

Seal to an exemplification, twenty-five cents.

Recording wills, codicils, and the proof thereof, letters of administration, of guardianship, deeds, and other matters, for every one hundred words, twelve and a half cents.

And where any will, deed or other matter is in any other than the English language, then for every sheet containing one hundred words, in addition, six and a quarter cents.

And when a translation of any such will, deed, or other writing is required, he shall be entitled to receive for every one hundred words, twenty-five cents.

Appeal bond, fifty cents.

But no fee shall be demanded for taking from the files in his office, or transferring to the place of sitting of the probate court, such papers as are necessary in the settlement of an estate or account in the said court. And no fee shall be taken by the judge of probate in any case where it shall appear, by the oath or affirmation of any person applying for letters testamentary or of administration that the goods, chattels and credits of the testator or intestate do not exceed the value of forty dollars.

SECTION 4. All fees shall be paid by the party requiring the service on the same being rendered, and the bill of particulars presented if required. Fees to be paid by the party requiring service.

SECTION 5. In all cases where an officer in the execution of his office shall be required to write or set up an advertisement, such officer shall be allowed therefor, (if not otherwise provided for,) twenty-five cents each; and if any advertisement is required to be published in a newspaper, the money therefor, shall be paid by the party and taxed in the bill of costs. Costs of advertising.

SECTION 6. For all services required to be performed by law and not herein enumerated, the officer performing the same shall be allowed such reasonable fees as the supreme or district courts may tax therefor. Fees for services not herein enumerated.

SECTION 7. When any prosecution instituted in the name of the United States for breaking any law of this territory shall fail, or where the defendant shall prove insolvent, or escape, or be unable to pay the fees when convicted, the fees shall be paid out of the territorial treasury. When fees to be paid out of territorial treasury.

SECTION 8. Every officer whose fees are hereinbefore ascertained, limited and appointed, shall publish and set up in his office, fair tables of his fees according to this act, within six months after the passage thereof, in some conspicuous part, for the inspection of all persons who have business in such office, upon pain Officers to set up list of fees.

Penalty. of forfeiting for each day the same shall be missing, through such officers' neglect, a sum not exceeding two dollars; which may be recovered by action of debt, in the name of any person, before any justice of the peace of the proper county.

Penalty for taking greater fees. SECTION 9. If any officer shall willfully or corruptly take greater fees than are herein before expressed and limited for any service to be done by him in his office, or if any person shall charge or demand and take any of the fees herein before ascertained, where the business for which such fees are chargeable shall not have been actually done and performed, such officer, for every such offense, shall on conviction thereof before any justice of the peace of the proper county, forfeit and pay a sum not exceeding fifty dollars: *provided* that nothing herein contained shall be so construed as to prevent clerks from taxing in the bill of costs to be recovered by the successful party, the fee for making up records.

Proviso.

When payment may be refused. SECTION 10. It shall be lawful for any person to refuse payment of fees to any officer who shall not have made out and presented a bill of the particulars, signed by him; and on payment such officer shall if required give a receipt therefor.

What fees to be paid to witness to make him liable. SECTION 11. The traveling fee to a witness together with the fee for one day's attendance shall in all civil cases, be paid to him if required before he shall be liable to any penalty for non-attendance; and after he shall have attended two days, the fee for one day's attendance shall be paid to him if required, on or before the succeeding day, and so from day to day for as many days as he may be required to attend.

Clerk's and sheriff's fees when limited. SECTION 12. In cases where there is a confession of judgment at the first term, or where the cause is settled by the parties before or during the first term, the whole fees to the clerk, after the return of the writ shall not exceed one dollar and fifty cents; and the whole fees to the sheriff, after the return of the writ, shall not exceed fifty cents.

Access to records to be free. SECTION 13. Every citizen of this territory shall have free access to all public records, without being taxed any fee therefor.

Books of record to be procured, & by whom. SECTION 14. The judges of probate and county clerks shall procure good and well bound books, to be approved of by the judges of the supreme court,

the judges of probate and the judges of district courts respectively, which books shall be the property of the territory in the case of the books of the supreme court, and of the county in the case of the books of the probate and district courts; and when either of the said officers shall vacate his office, leaving a portion of his books unfilled, he shall be paid by his successor an equitable compensation for the same, to be adjusted by the judges respectively.

SECTION 15. No officer, witness or other person shall hereafter have any claim upon the territorial treasury for services rendered in any other court, than the supreme and district courts of the territory of Wisconsin, which officers and persons are designated in the succeeding section. When officers to have a claim upon the territorial treasury.

SECTION 16. The sheriff shall be allowed two dollars and fifty cents per diem for every day he shall actually attend upon the supreme court, and one deputy sheriff in the absence of the sheriff shall be allowed two dollars per day, and the crier, two dollars per day, which compensation shall be paid from the territorial treasury. Sheriff and deputy at supreme court.

SECTION 17. The sheriffs in the several counties in this territory shall be allowed for every day such sheriff shall attend the district court one dollar and fifty cents per day; and in the absence of the sheriff one deputy sheriff shall be allowed one dollar and fifty cents per day, for the days which such officer shall actually attend, to be paid out of the county treasury of the proper county: *provided always*, that if the district court shall deem it expedient such court may make an order to command any number of constables to attend said court, not exceeding three, to be entitled to a per diem allowance of one dollar and fifty cents per day, each, for every day such constables shall actually attend, if the court shall think that number necessary, as shall appear by their records. Every petit juror in criminal cases to be allowed seventy-five cents per day, to be paid out of the county treasury of the proper county. The crier in the district court shall be allowed one dollar per day, to be paid from the county treasury: *provided always*, that the sheriff, deputy sheriff, constables, jurors and witnesses are entitled to the ordinary fees allowed by law exclusive of the fees named in this section; and the fee allowed to The same at district court. Proviso. Crier. Proviso.



Jurors' fees.  
Docket fee.

jurors upon each issue, shall be paid into the county treasury, and in addition thereto, a docket fee shall be paid to the clerk at the time of issuing writ, of three dollars, to be paid into the county treasury, which docket fee shall be charged in the bill of costs against the unsuccessful party or parties.

For recording mortgages.

SECTION 18. Hereafter the fees for recording any deed, mortgage or other instrument required to be recorded, shall be paid at the time of presentment for record, if required by the register.

When prosecutor to pay costs.

SECTION 19.. When any prosecution instituted in the name of the United States, or of individuals for breaking any laws of this territory shall fail, the judge shall determine from the circumstances of the case whether the prosecutor, the county or the territory shall pay the costs.

Repeal.

SECTION 20. So much of any act as provides for the payment to the clerks of the district court by the county commissioners for the books to be used in their offices, is hereby repealed and all other acts and parts of acts regulating the fees of officers whose fees are herein prescribed, be and the same are hereby repealed.

Approved Jan. 19, 1838.

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## No. 82.

AN ACT to establish the ferries herein named.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That Joseph Webster, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river at the town of Fort Madison, within the following limits, viz. : commencing on the west side of Broadway street and with the course of said river, two miles down the same; and that the said Webster, his heirs and assigns, have the exclusive privilege of ferrying within the above limits for the term of ten years.

SECTION 2. That Aaron White, his heirs and assigns, be and they are hereby authorized to establish