

that the person so settled shall pay to the said corporation the amount due for said lands, within ninety days from the time the said corporation make a demand for the same.

Approved January 18, 1838.

No. 72.

AN ACT to authorize Levi Moffett to keep a ferry across Skunk river, at Moffett's mill.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That Levi Moffett, is hereby authorized to establish and keep a ferry across Skunk river in the county of Des Moines, in this territory, for the term of ten years; and that the said Moffett shall have exclusive privilege in landing one-half mile each way above and below said mill; and further, that the said Levi Moffett shall ferry all persons free of ferriage, who shall apply to cross the said river having business at the mill, and machinery of the said Moffett, and also all persons summoned as grand and petit jurors of the district court of said county.

SECTION 2. That the said ferry shall be subject to all the conditions and requisitions of the several laws of this territory, regulating the tolls and duties of the keepers of ferries in this territory.

Approved January 18, 1838.

No. 73.

AN ACT concerning grand and petit jurors.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That all persons who are qualified electors in this territory, shall be liable to serve as jurors in their respective counties as hereinafter provided. The following persons shall be exempt from serving as jurors, to wit:

All electors
liable as jurors.

Exceptions.

the governor, secretary of the territory, judges of the supreme and district courts, county commissioners, county treasurers, clerks of the supreme and district courts, and clerks of the boards of county commissioners, judges of probate, sheriffs, under-sheriffs and deputy sheriffs, coroners, constables, the marshal of the United States and his deputies, and all other officers of the United States, counselors and attorneys at law, ministers of the gospel, officers of colleges, (not including trustees or directors thereof) and preceptors and teachers of incorporated academies or universities and one teacher in each common school, practicing physicians and surgeons, and all persons more than sixty years of age, together with all persons not of sound mind or discretion and subject to any bodily infirmity amounting to any disability; and all persons shall be disqualified from serving as jurors who have been convicted of any infamous crime.

SECTION 2. That it shall be the duty of the county commissioners in each of the counties of this territory, wherein a district court is directed to be held, at least thirty days previous to the sitting of said court, to select twenty-three persons possessing the qualifications aforesaid, in their respective counties, and to deliver an attested copy of the names so selected, within three days thereafter, to the clerk of the district court of the proper county; who shall thereupon issue and deliver to the sheriff of the county, a venire or summons, under the seal of the court, commanding him to summon the persons so selected as aforesaid, to appear before the said court, at or before the hour of eleven o'clock, a. m., on the first day of the term thereof, to serve as grand jurors, any sixteen of whom shall be sufficient to constitute a grand jury, which said summons shall be served at least five days previous to the sitting of said court, either by reading it to the person to be summoned, or by leaving an attested copy thereof at his usual place of residence.

SECTION 3. After the grand jury is impaneled, it shall be the duty of the court to appoint a foreman, who shall have power to swear or affirm all witnesses to testify before said grand jury, and whose duty it shall be, when the grand jury or any twelve of them shall find a bill of indictment, to be supported by good and sufficient evidence, to endorse thereon "a

Indictment, how indorsed.

true bill;" and when they do not find a bill to be supported by sufficient evidence, to indorse thereon "*not a true bill;*" and shall in either case be signed by the foreman at the foot of the indorsement, and shall in all cases, where a true bill is returned into court as aforesaid, note thereon the name or names of the witnesses upon whose evidence the same was found.

Oath of grand jury.

SECTION 4. That the oath of the grand jury in all cases, shall be as follows, to wit: "You, as grand jurors for the body of the county of —— (as the case may be,) do solemnly swear that you will diligently inquire into, and true presentment make of all such matters and things as shall come to your knowledge, according to your charge. The counsel of the United States of America, your own counsel and that of your fellows, you shall keep secret, you shall present no person through envy, hatred or malice, neither will you leave any person unrepresented, through fear, favor, or affection or hope of reward; but that you will present things truly, as they come to your knowledge, according to the best of your understanding, and according to the laws of this territory, so help you God."

Oath of petit jury.

SECTION 5. That the oath or affirmation of petit jurors in criminal cases shall be as follows, to wit: "You solemnly swear (or affirm) that without respect to person or favor or fear, you will well and truly try, and true deliverance make, between the United States of America and the prisoner at the bar, whom you shall have in charge, according to the evidence given you in court and the laws of this territory, so help you God."

No presentment upon the information of less than two grand jurors unless under oath.

SECTION 6. No grand jury shall make presentment of their own knowledge, upon the information of a less number than two of their own body, unless the juror giving the information is previously sworn as a witness, in which case if the evidence is deemed sufficient, an indictment may be found thereon as upon the evidence of any other witness who may not be of the jury.

How petit jury selected and summoned.

SECTION 7. It shall be the duty of the board of county commissioners in each of the organized counties in this territory, where a district court is directed to be held, at least thirty days previous to the sitting of the said court, to select twenty-four persons possessing

the qualifications of jurors, who shall compose and constitute two full petit juries, to serve as such at the next succeeding term of the district court in each county respectively; to be summoned in like manner as is hereinbefore directed in the case of grand juries.

SECTION 8. It shall be the duty of the clerk of the district court, at the commencement of each term, to write the name of each petit juror on a separate ticket, and put the whole into a box, or other place for safe keeping; and as often as it may be necessary to impanel a jury, the clerk shall, in presence of the court, draw by chance twelve names out of such box, which shall designate the twelve to be sworn on the jury; and in the same manner for each subsequent jury in their turn, as the court may from time to time direct.

How chosen for each trial.

SECTION 9. In all cases where the sheriff or other officer shall be commanded to execute any summons as aforesaid, he shall be required to make timely return thereof, to the clerk who may have issued the same, with an endorsement thereon certifying on whom it has been served, and the time when; and in default of so doing, such sheriff, or other officer, shall be considered as being guilty of a contempt, and may be fined for the use of the proper county, in any sum not less than ten, nor more than fifty dollars; unless such sheriff or other officer shall make his excuse to the satisfaction and acceptance of the court.

Sheriff to make return.

Penalty for default.

SECTION 10. If a sufficient number of grand or petit jurors do not appear, when selected and summoned as aforesaid, or if by challenges or any other cause, there shall not appear a sufficient number of qualified persons to make up the panels, the court may order the sheriff to return without delay such number of good and lawful men of the county as may be necessary for that purpose. And when the sheriff is interested, or related to either of the parties, the court may direct the coroner to make such return. And if any district court shall at any time sit before the board of county commissioners shall have made a selection of grand or petit jurors as aforesaid, or if on any account the whole panel in either case shall fail to attend, the court may order the sheriff or other officer to summon from the by-standers, being qualified persons as aforesaid, a sufficient number to supply such deficiency, who shall continue to serve for the remainder of the

When there is a deficiency in the regular panel.

When coroner to act.

When by-standers may be summoned.

term, unless they shall be sooner discharged by the court.

Penalty for default of juror.

SECTION 11. Every person, who shall fail to appear when lawfully summoned as a grand or petit juror as aforesaid, without having a reasonable excuse, shall be considered as being guilty of a contempt, and shall be fined by the court in any sum not exceeding twenty dollars, for the use of the proper county, unless good cause be shown for such default, at or before the next term of said court; and it shall be the duty of the clerk, to issue a summons against such delinquent, where such person shall not come in without process, to show cause at the next succeeding term of said court, why he or they should not be fined for such contempt: *provided*, that the oath or affirmation of any such delinquent, shall at all times be received as competent evidence in his favor.

When necessarily absent others to be substituted.

SECTION 12. In case of the death, sickness or non-attendance, of any grand or petit juror after he shall have been sworn upon the jury, or where any such juror being sworn as aforesaid, shall for any reasonable cause be dismissed, or discharged, it shall be lawful for the court to cause others, if necessary, to be summoned and sworn in his or their stead.

Compensation of juror, how certified and paid.

SECTION 13. It shall be the duty of the clerk of the district court at the end of each term of said court or within ten days thereafter, to make out a certificate to each juror, certifying the number of days and amount of compensation do to each juror, which certificate shall be presented to the board of county commissioners, and allowed as other demands against said county: *provided*, that no juror shall be paid out of the county treasury for any day's attendance as a juror in the district court of the territory for which he may have received, or may be entitled to receive pay, as a juror of the district court of the United States.

Proviso.

Privileges of jurors.

SECTION 14. All grand and petit jurors shall be privileged from arrest, in all cases except for breach of the peace, treason, felony and other criminal offenses, during their attendance at said court, going to and returning from the same; and all arrests in such cases shall be deemed as illegal and void.

Jurors to be selected in rotation.

SECTION 15. It shall be the duty of the board of county commissioners to arrange and select the grand and petit jurors as aforesaid in such manner as to

make the qualified persons of the county perform duties as jurors as nearly as may be in rotation, and so that the same may not be unnecessarily burdensome to any of the citizens of the county, according to the best information that the said commissioners can obtain.

SECTION 16. Before the election of county commissioners for the year 1838, the duties herein required of the boards of county commissioners, and their clerks, shall be performed by the boards of supervisors of the several counties and their clerks, in cases where the election and organization of the boards of county commissioners, in any county shall not take place at least thirty days before the first day of the term of any district court to be held in that county. When supervisors to act.

SECTION 17. This act to be in force from and after its passage, and all laws contravening the provisions of this act be and the same are hereby repealed. Repealing clause.

Approved, Jan. 19, 1838.

No. 74.

AN ACT to regulate ferries.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That no person shall keep or use any ferry for transporting across any stream or lake, within or bordering this territory for profit or hire, unless licensed in the manner directed by this act, under the penalty of five dollars for each offense, recoverable by action of debt with costs by and in the name of any person who shall sue for the same before any justice of the peace of the county where such offense shall be committed; or if the same shall be committed on waters dividing two counties, then in either of such counties, which penalty when recovered to be paid into the county treasury; and if the offense shall happen on waters dividing two counties the one-half of the penalty shall be paid into the county treasury of such counties respectively. Unlicensed ferries prohibited. Penalty, how recovered, and how disposed of.

SECTION 2. The board of county commissioners in each of the counties in this territory shall grant licenses for keeping ferries in their respective counties, to as License, how granted.