

5. AND BE IT ENACTED, That every clerk or register who shall neglect or delay to perform the several duties hereby required, shall forfeit and pay a sum not exceeding fifty dollars for every refusal or neglect, to be recovered by bill of indictment in the proper court of the county in which he shall officiate, and to be applied to the use of this state.

CHAP. 139.
Penalty for neglect

6. AND BE IT ENACTED, That if any sheriff, coroner, or other officer, to whom any such writ or other process shall be directed and so delivered, shall neglect or delay to serve the same, and to make a due return thereof to the court to which the same shall be returnable, on or before the second day of the session of such court, such neglect or delay shall be considered and adjudged a contempt of the court, and such sheriff, coroner, or other officer, shall for such contempt forfeit and pay a fine not exceeding fifty dollars; and such court shall cause due entry to be made on the record of their proceedings of the issuing, transmitting, and delivery, of any such writ or other process, and of the neglect or delay of such officer to make due return thereof, and of the adjudication of such neglect, as a contempt of the court, and of the fine imposed upon such officer in consequence thereof; and such court shall thereupon order a transcript of such entry to be transmitted to the justices of the county court of the county wherein such sheriff, coroner, or other officer, shall reside; and the justices of the same county court, to whom the said transcript shall be transmitted, or any one or more of them, shall forthwith cause such sheriff, coroner, or other officer, to appear before them, or otherwise to be brought before them by process of attachment, and require him to pay the said fine, or commit him to the prison of their county until the payment thereof, and of the fees lawfully accruing by such proceeding; and such fine shall be paid to the clerk of such court, and accounted for by him to the treasurer of his respective shore, in like manner as other sums of money received by him for the use of this state; and if the officer so offending be the sheriff, he shall be committed to the coroner of the county, in whose custody he shall remain, without bail or mainprize, until the payment of the fine and fees aforesaid.

On sheriffs and others, for neglect in not serving writ, &c.

7. AND BE IT ENACTED, That it may be lawful for every such sheriff, coroner, or other officer, to return any writ or other process, so directed to him to be served, to the clerk of the court to which the same is made returnable, by the mail, in a letter or cover sealed up and duly addressed; but the non-return of such process, by the time herein before limited, shall not be excused by any evidence which such sheriff, coroner, or other officer, may offer, to prove that such writ or process was deposited in the post-office to be so transmitted, except the positive affidavit, in writing, of such officer himself, setting forth substantially the process so transmitted, the return endorsed thereon, the manner in which the same was covered and addressed, and the actual time when the same was deposited in the post-office; and if the justices of the court, before whom such sheriff, coroner or other officer, shall appear, or be brought by process of attachment as aforesaid, shall be satisfied of the facts contained in such affidavit, and that such process was deposited in the proper post-office in due time, to be transmitted to the court, to which the same was made returnable, then and in such case the said justices

Sheriffs, &c. to make return by mail