# ACTS AND RESOLUTIONS

PASSED AT

THE FIRST SESSION

OF THE

# GENERAL ASSEMBLY

OF THE

# STATE OF IOWA

WHICH CONVENED AT IOWA CITY, ON THE THIRTIETH DAY OF NOVEMBER, A. D. 1846.

---

ANSEL BRIGGS, Governor. | JOSEPH T. FALES, Auditor.
ELISHA CUTLER, JR., Secretary. | MORGAN RENO, Treasurer.

THOMAS BAKER, President of the Senate.
JESSE B. BROWNE, Speaker of the House of Representatives.

PUBLISHED BY AUTHORITY

IOWA CITY:
A. H. PALMER, PRINTER
1847

L 5880

STANFORD LIBRARY

SECRETARY'S OFFICE,
IOWA CITY, May 1st, A. D. 1847.

I HEREBY CERTIFY, That the Acts and Resolutions contained in this volume have been by me compared with the original enrolled acts on file in this office, and that the same are true and correct copies, except that the words enclosed in brackets [thus] have been added to aid the sense.

ELISHA CUTLER, JR.,
Secretary of the State of Iowa.

# CONTENTS


| | Page | Reprint Page |
|---|---|---|
| The Constitution of Iowa | 1 | 11 |
| An Act staying the school fund in the hands of the holders thereof | 19 | 25 |
| An Act repealing "an act authorizing Joel C Walker to transcribe the records of the district court of Lee county" | 20 | 25 |
| An Act concerning the southern boundary of Iowa | 20 | 26 |
| An Act to change the name of Prairie Laporte, in Clayton county | 21 | 26 |
| An act to change the name of the town of Chaldea, in Appanoose county | 21 | 27 |
| An Act concerning the distribution of school funds | 21 | 27 |
| An Act to review and relocate a portion of the territorial road from Rockingham to Iowa City | 22 | 28 |
| An Act to provide for the taking of the enumeration of the white inhabitants of the State of Iowa | 23 | 28 |
| An Act in relation to clerks and prosecuting attorneys | 24 | 29 |
| An Act prescribing the general duties of treasurer of state | 27 | 31 |
| An Act to amend an act of the territorial legislature, entitled "An act for the organization of townships," approved 17th February, 1842 | 29 | 33 |
| An Act to authorize J. A. Lefevre to establish a ferry at the town of Montrose | 29 | 33 |
| An Act prescribing the general duties of the secretary of state | 30 | 34 |
| An Act relative to state seals | 32 | 35 |
| An Act to establish the boundaries and seat of justice of the county of Marion | 32 | 36 |
| An Act to vacate the town of Brooklin, in Polk county | 33 | 36 |
| An Act establishing the boundaries of Polk county | 33 | 36 |
| An Act to indemnify Samuel Riggs, sheriff of Davis county, for losses and expenses incurred in defending himself against prosecutions commenced against him for exercising his office in the disputed territory between Iowa and Missouri | 33 | 37 |
| An Act to establish an additional precinct in Farmington township, Van Buren county, Iowa | 34 | 37 |
| An Act relative to a state road | 35 | 38 |
| An Act to lay out and establish a state road from Knoxville to Newton | 36 | 39 |
| An Act to change the name of Newton city | 36 | 39 |
| An Act to define the boundaries of the counties of Clayton and Fayette | 37 | 39 |
| An Act to locate a state road from Canton to Pioneer Grove | 37 | 40 |
| An Act relative to the county seat of Jones county | 38 | 40 |
| An Act to divide the state of Iowa into judicial districts | 39 | 41 |
| An Act fixing the salaries of certain officers therein named, and providing for their payment | 39 | 42 |
| An Act to locate a state road therein named | 40 | 42 |
| An Act to locate a state road from West Point, in Lee county, to Bonaparte, in Van Buren county | 41 | 43 |
| An Act to define the duties of prosecuting attorneys, and provide compensation for their services | 41 | 43 |

| | Page | Reprint Page |
|---|---|---|
| An Act to provide for the payment of the debt due the Miners' Bank of Dubuque | 43 | 44 |
| An Act prescribing the general duties of the governor | 43 | 45 |
| An Act to establish a state road therein named | 44 | 46 |
| An Act to locate a state road from Walling's landing to Washington | 45 | 46 |
| An Act to amend an act entitled "An act to locate a territorial road therein named," approved January 17, 1846 | 46 | 47 |
| An Act to confer the authority of changing the names of persons, towns and villages upon the district court | 46 | 47 |
| An Act to provide for a loan for the purpose of defraying the expenses and paying the creditors of the state | 47 | 48 |
| An Act to incorporate the town of Fairfield | 49 | 49 |
| An Act to locate a state road from Oskaloosa, in Mahaska county, to Knoxville, in Marion county | 53 | 52 |
| An Act to provide for finishing the public buildings in Washington county. | 53 | 53 |
| An Act to locate a state road from Walling's landing to Columbus city | 54 | 53 |
| An Act to lay out and establish a state road in the counties of Washington and Jefferson | 54 | 53 |
| An Act to continue the territorial road from DeWitt to Lyons across an out lot in the town of Lyons | 55 | 54 |
| An Act to locate and establish a state road from Iowa City to the west line of Dallas county | 56 | 55 |
| An Act to provide for the improvement of Skunk river | 57 | 55 |
| An Act to locate and establish a state road therein named | 58 | 56 |
| An Act to relocate a part of a territorial road from Fairfield to the Indian boundary line | 59 | 57 |
| An Act to provide for the management of the state library and the election of a librarian | 60 | 58 |
| An Act providing that the legal voters in each township determine at each township election, whether the county commissioners shall grant license to retail intoxicating liquors in their respective counties or not. | 62 | 60 |
| An Act for the organization of the county of Dallas | 63 | 61 |
| An Act regulating the election of district judges | 66 | 62 |
| An Act to provide for the holding of a district court in the county of Benton | 68 | 64 |
| An Act to authorize H. H. Ritchie, Thomas Botts and Andrew Jones to convey certain real estate | 68 | 64 |
| An Act to legalize the acts of the justices of the peace of Monroe county | 69 | 65 |
| An Act to vacate the public square in West Point in Lee county | 69 | 65 |
| An Act to locate and establish a state road from Fairview, in Jones county, to Pioneer Grove, in Cedar county | 70 | 66 |
| An Act prescribing the general duties of the auditor of state | 71 | 66 |
| An Act fixing the time of holding the district courts in this state | 74 | 69 |
| An Act for laying out and establishing certain roads therein named | 76 | 70 |
| An act to locate and establish a state road from Wood's mill, in Van Buren county, to Bloomfield, in Davis county | 78 | 72 |
| An Act to require certain officers to keep their offices at the county seat | 78 | 72 |
| An Act to establish a state road from Iowaville to Lancaster, by way of Creaseville | 79 | 73 |
| An Act to lay out and establish a state road from Ottumwa to Well's mills, on Chariton river | 80 | 73 |
| An Act supplementary to "An act to provide for finishing the public buildings in Washington county | 80 | 74 |
| An Act to legalize the acts of Charles W. Hobbs | 81 | 74 |
| An Act to establish new counties and define their boundaries, in the late cession from the Winnebago Indians | 81 | 75 |

| | Page | Reprint Page |
|---|---|---|
| An Act for the relief of John Wilson | 82 | 76 |
| An Act for a state road therein named | 83 | 76 |
| An Act in relation to the duties and powers of the district judges | 84 | 77 |
| An Act to divide the state into two congressional districts | 84 | 77 |
| An Act to provide for the location of the seat of government of the state of Iowa, and for the selection of land granted by congress to aid in erecting public buildings | 85 | 78 |
| An Act to authorize county commissioners to lay off their counties into county commissioners' districts | 87 | 79 |
| An Act to repeal the charter of the town of Davenport | 88 | 80 |
| An Act concerning the justices of the peace | 89 | 81 |
| An Act in relation to the duty of state and county officers in certain cases | 90 | 82 |
| An Act to amend the charter of the city of Burlington | 91 | 82 |
| An Act to provide for the election of United States senators and other officers | 92 | 83 |
| An Act to complete the change from a territorial to a state government | 94 | 85 |
| An Act to incorporate the city of Farmington, Van Buren county, Iowa | 95 | 85 |
| An Act to change the name of Bellview, in Jackson county | 101 | 90 |
| An Act authorizing general incorporations | 101 | 90 |
| An act to incorporate the city of Dubuque | 104 | 92 |
| An Act to establish the boundaries of certain counties therein named | 114 | 100 |
| An Act for the organization of Pottawattamie and other counties | 115 | 100 |
| An Act regulating state roads | 116 | 101 |
| An Act to authorize general incorporations for other purposes than those of pecuniary profit | 118 | 102 |
| An Act amendatory to the practice in the district and supreme courts of this state | 119 | 103 |
| An Act to make good in law the acts of Enoch Frazee, etc | 120 | 104 |
| An Act authorizing Robert Reed, or his successors in office, to collect the delinquent tax of T. J. Pearce, late collector of taxes, and John Carlin, deceased, late treasurer and collector of Jackson county, for A. D. 1846 | 120 | 104 |
| An Act to locate the seat of government of Buchanan county | 121 | 105 |
| An Act to provide for criminal returns | 122 | 105 |
| An Act to amend an act providing for the partition of real property, approved January 4th, 1839 | 123 | 106 |
| An Act to repeal an act authorizing the appointment of a county agent in and for the county of Johnson | 124 | 107 |
| An Act to locate a state road therein named | 124 | 107 |
| An Act to locate a state road therein named | 125 | 108 |
| An Act to locate a state road therein named | 125 | 108 |
| An Act to amend an act entitled "An act for the collection of demands against boats and vessels" | 126 | 109 |
| An Act in relation to the Salt Springs granted to this state | 126 | 109 |
| An Act supplementary and amendatory to an act to establish common schools | 127 | 110 |
| An Act to provide for levying and collecting revenue for state and county purposes | 136 | 116 |
| An Act in relation to the penitentiary | 147 | 125 |
| An Act to authorize the auditor to audit certain certificates of indebtedness, on account of expenses connected with the penitentiary | 149 | 126 |
| An Act to provide for the repeal of the charter of Fort Madison | 149 | 126 |
| An Act to provide for the place of holding district courts in Jones county | 150 | 127 |
| An Act for the relief of the poor | 150 | 127 |
| An Act to amend an act relative to the probate of wills, executors and administrators, approved July 13, 1843 | 151 | 128 |

| | Page | Reprint Page |
|---|---|---|
| An act to repeal an act therein named | 152 | 129 |
| An Act to extend the powers of the Board of County Commissioners in regard to licensing and regulating ferries | 152 | 129 |
| An Act defining the time of holding elections for state, district and county officers | 153 | 130 |
| An Act to incorporate the city of Keokuk | 154 | 130 |
| An Act to provide for the management and disposition of the school fund | 160 | 134 |
| An Act authorizing the secretary of state to procure a state seal | 164 | 137 |
| An Act creating a board of public works, and providing for the improvement of the Des Moines river | 165 | 138 |
| An Act to provide for the election of electors of president and vice president of the United States | 170 | 142 |
| An Act making an appropriation for the public buildings at Iowa City | 173 | 144 |
| An Act fixing the times of holding district courts in the First judicial district | 174 | 145 |
| An Act incorporating towns | 174 | 145 |
| An Act to lay out a state road from the county seat of Benton county to Quasqueton, in Buchanan county | 179 | 149 |
| An Act to discontinue certain territorial or state roads in the county of Jones | 180 | 149 |
| An Act to provide for a term of the supreme court, and to change the time of holding the same | 180 | 150 |
| An Act making appropriations for the support of the state government, for the years 1847 and 1848 | 181 | 150 |
| An Act to provide compensation to an agent to select lands for the use and support of a university | 184 | 151 |
| An Act requiring the county commissioners of the county of Des Moines to purchase lands upon which to locate a farm for the use of the poor of said county | 182 | 151 |
| An Act to provide compensations of members, officers and printers of the General Assembly, and for other purposes | 183 | 152 |
| An Act to locate and establish a state university | 188 | 156 |
| Joint Resolution authorizing the secretary of state to effect a loan to defray postage, and for other purposes | 191 | 159 |
| Joint Resolution accepting the grant of land for the improvement of the navigation of the Des Moines river | 191 | 159 |
| Joint Resolution instructing our representatives in congress to procure the establishment of a certain mail route | 192 | 160 |
| Joint Resolution asking a donation of land for the improvement of Muscatine Island, on the Mississippi river | 193 | 160 |
| Joint Resolution requiring the auditor to audit certain accounts | 193 | 161 |
| Joint Resolution relative to printing the laws | 194 | 161 |
| Joint Resolutions instructing our representatives in congress to use their exertions to obtain six months pay for the volunteer company of cavalry disbanded at Fort Atkinson, on the 5th of October, 1846 | 194 | 161 |
| Joint Resolution in relation to obtaining privilege from the state of Missouri to erect dams across the Des Moines river | 195 | 162 |
| Joint Resolution in relation to a certain mail route | 195 | 162 |
| Joint Resolution relating to a mail route from Iowa City, in the state of Iowa, to Albany, in the state of Illinois | 196 | 163 |
| Joint Resolution providing for a mail route from Fairfield to Bloomfield | 196 | 163 |
| Preamble and Joint Resolution for a military road from Iowa City, via Fort Des Moines, in Polk county, to some point upon the Missouri river | 197 | 164 |
| Joint Resolution providing for a mail route from Fairfield to Oskaloosa | 198 | 164 |

| | Page | Reprint Page |
|---|---|---|
| Preamble and Joint Resolution relative to the improvement of the Iowa river | 198 | 164 |
| Joint Resolution relative to a certain mail route | 199 | 165 |
| Joint Resolution relative to a certain mail route | 199 | 165 |
| Joint Resolution relative to Cedar river | 200 | 166 |
| Joint Resolution for a mail route from Keokuk to Fairfield | 200 | 166 |
| Preamble and Joint Resolution asking a donation of land for a military road from the Missouri to the Mississippi river | 201 | 167 |
| Joint Resolution to pay Charles A. Robbins for a set of seals | 202 | 167 |
| Joint Resolution concerning the taking effect of acts public and private | 202 | 168 |
| Joint Resolution for superintending the printing and distributing the laws | 203 | 168 |
| Joint Resolution in relation to finishing the state house in Iowa City | 203 | 168 |
| A Memorial to Congress for a grant of land upon which to locate the seat of government for the state of Iowa | 204 | 168 |
| Statement of receipts and expenditures | 205 | 169 |
| Index | 209 | 173 |

# CONSTITUTION

OF THE

# STATE OF IOWA

---

## ARTICLE I.

### PREAMBLE AND BOUNDARIES.

**Preamble.** We, the people of the territory of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the state of Iowa, the boundaries whereof shall be as follows:

**Boundaries.** Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the state of Missouri—as established by the constitution of that state, adopted June 12th, 1820—crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the state of Missouri, as established at the time aforesaid, until an extension of said line intersect the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the said Big Sioux river, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes until said parallel intersect the middle of the main channel of the Mississippi river; thence down the middle of the main channel of said Mississippi river to the place of beginning.

---

## [2] ARTICLE II.

### BILL OF RIGHTS.

1. **Rights.** All men are, by nature, free and independent, and have certain unalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

2. **Object of Government.** All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people,

and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

3. **Religion.** The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or for the maintenance of any minister or ministry.

4. **Religious test, etc.** No religious test shall be required as a quilification for any office or public trust, and no person shall be deprived of any of his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

5. **Duels.** Any citizen of this state who may hereafter be engaged, either directly or indirectly, in a duel, either as principal, or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this state.

6. **Laws.** All laws of a general nature shall have a uniform operation.

7. **Liberty of speech and the press.** Every person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and, if it appear to the jury that the matter charged as libelous was true, and was published with good motives and for justifiable ends, the party shall be acquitted.

8. **Seizures and searches.** The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the papers and things to be seized.

9. **Jury trial.** The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts.

[3] 10. **Rights of accused.** In all criminal prosecutions, the accused shall have a right to a speedy trial by an impartial jury; to be informed of the accusation against him; to be confronted with the witnesses against him; to have compulsory process for his own witnesses, and to have the assistance of counsel.

11. **Criminal offences.** No person shall be held to answer for a criminal offence, unless on presentment or indictment by a grand jury, except in cases cognizable by justices of the peace, or arising in the army or navy, or in the militia, when in actual service, in time of war or public danger.

12. **Second trial—bail.** No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences where the proof is evident or the presumption great.

13. **Habeas corpus.** The writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety may require it.

14. **Army.** The military shall be subordinate to the civil power. No standing army shall be kept up by the state in time of peace; and, in time of war, no appropriation for a standing army shall be for a longer time than two years.

15. **Soldiers.** No soldiers shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

16. **Treason.** Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person

shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

17. **Bail—fines.** Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

18. **Property.** Private property shall not be taken for public use without just compensation.

19. **Imprisonment for debt.** No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

20. **Right to assemble.** The people have the right freely to assemble together, to counsel for the common good; to make known their opinions to their representatives, and to petition for redress of grievances.

21. **Ex-post facto.** No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed.

22. **Foreigners.** Foreigners who are, or who may hereafter become, residents of this state, shall enjoy the same rights in respect to the possession, enjoyment and descent of property as native born citizens.

[4] 23. **Slavery.** Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this state.

24. This enumeration of rights shall not be construed to impair or deny others, retained by the people.

## ARTICLE III.

### RIGHT OF SUFFRAGE.

1. **Electors.** Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the state six months next preceding the election, and the county in which he claims his vote twenty days, shall be entitled to vote at all elections which are now, or hereafter may be, authorized by law.

2. **Privilege.** Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

3. **Military duty.** No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

4. **U. S. soldiers.** No person in the military, naval or marine service of the United States, shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place or station within this state.

5. **Exceptions.** No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

6 **Ballot.** All elections by the people shall be by ballot.

## ARTICLE IV.

### OF THE DISTRIBUTION OF POWERS.

1. **Powers.** The powers of the government of Iowa shall be divided into three separate departments—the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one

of these departments, shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

## LEGISLATIVE DEPARTMENT.

1. **Legislative.** The legislative authority of this state shall be vested in a senate and house of representatives, which shall be designated the general assembly of the state of Iowa; and the style of their laws shall commence in the following manner: "Be it enacted by the General Assembly of the State of Iowa."

[5] 2. **Sessions.** The sessions of the general assembly shall be biennial, and shall commence on the first Monday of December next ensuing the election of its members; unless the governor of the state shall, in the interim, convene the general assembly by proclamation.

3. **Members H. R.** The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, on the first Monday in August; whose term of office shall continue two years from the day of the general election.

4. **Qualifications.** No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years; be a free white male citizen of the United States, and have been an inhabitant of this state or territory one year next preceding his election; and at the time of his election, have an actual residence of thirty days in the county or district he may be chosen to represent.

5. **Senators.** Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

6. **Number.** The number of senators shall not be less than one-third, nor more than one half the representative body; and at the first session of the general assembly, after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, so that one half shall be chosen every two years.

7. **Senators increased.** When the number of senators is increased, they shall be annexed by lot to one of the two classes, so as to keep them as nearly equal in number as practicable.

8. **Officers and contested elections.** Each house shall choose its own officers and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

9. **Quorum.** A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

10. **Powers.** Each house shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and with the consent of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the general assembly of a free and independent state.

11. **Protest.** Every member of the general assembly shall have the liberty to dissent from, or protest against, any act or resolution which he may [6] think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house,

on any question, shall, at the desire of any two members present, be entered on the journals.

12. **Privileges.** Senators and representatives, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

13. **Vacancies.** When vacancies occur in either house, the governor, or the person exercising the functions of the governor, shall issue writs of election to fill such vacancies.

14. **Secrecy.** The doors of each house shall be open, except on such occasion as in the opinion of the house, may require secrecy.

15. **Adjournment.** Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

16. **Bills.** Bills may originate in either house, except bills for revenue, which shall always originate in the house of representatives, and may be amended, altered, or rejected by the other; and every bill having passed both houses, shall be signed by the speaker and president of their respective houses.

17. **Veto.** Every bill which shall have passed the general assembly shall, before it become a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it with his objections, to the house in which it originated, which shall enter the same upon the journal and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house present, it shall become a law notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, Sunday excepted, the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return.

18. **Receipts, etc.** An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at every regular session of the general assembly.

19. **Impeachment.** The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

20. **Officer's liability.** The governor, secretary of state, auditor, treasurer, and judges of the supreme and district courts, shall be liable to impeachment for [7] any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this state; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment, according to law. All other civil officers shall be tried for misdemeanors in office in such manner as the general assembly may provide.

21. **Appointments.** No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

22. **Who ineligible.** No person holding any lucrative office under the United States, or this state, or any other power, shall be eligible to the general assembly: provided, that offices in the militia, to which there is attached no annual salary, or the office of justice of the peace, or postmasters whose compensation does not exceed one hundred dollars per annum, shall not be deemed lucrative.

23. **Defaulters.** No person who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this state, until he shall have accounted for and paid into the treasury, all sums for which he may be liable.

24. **Appropriations.** No money shall be drawn from the treasury but in consequence of appropriations made by law.

25. **Compensation.** Each member of the general assembly shall receive a compensation to be fixed by law, for his services, to be paid out of the treasury of the state. Such compensation shall not exceed two dollars per day for the period of fifty days from the commencement of the session, and shall not exceed the sum of one dollar per day for the remainder of the session: when convened in extra session by the governor, they shall receive such sum as shall be fixed for the first fifty days of the ordinary session. They shall also receive two dollars for every twenty miles they shall travel, in going to and returning from their place of meeting, on the most usual route: provided, however, that the members of the first general assembly under this constitution shall receive two dollars per day for their services during the entire session.

26. **Object and title of laws.** Every law shall embrace but one object, which shall be expressed in the title.

27. **Publication.** No law of the general assembly, of a public nature, shall take effect until the same shall be published and circulated in the several counties of this state, by authority. If the general assembly shall [8] deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the state.

28. **Divorce.** No divorce shall be granted by the general assembly.

29. **Lotteries.** No lottery shall be authorized by this state, nor shall the sale of lottery tickets be allowed.

30. **Oath of office.** Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, (as the case may be,) that I will support the constitution of the United States, and the constitution of the state of Iowa, and that I will faithfully discharge the duties of senator, (or representative, as the case may be,) according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the said oath or affirmation.

31. **Census—apportionment.** Within one year after the ratification of this constitution, and within every subsequent term of two years, for the term of eight years, an enumeration of all the white inhabitants of this state shall be made, in such manner as shall be directed by law. The number of senators and representatives shall, at the first regular session of the general assembly, after such enumeration, be fixed by law, and apportioned among the several counties according to the number of white inhabitants in each; and [the general assembly] shall also, at every subsequent regular session, apportion the house of representatives, and every other regular session the senate, for eight years; and the house of representatives shall never be less than twenty-six, nor greater than thirty-nine, until the number of white inhabitants shall be one hundred and seventy-five thousand; and after that event, at such ratio that the whole number of representatives shall never be less than thirty-nine nor exceeding seventy-two.

32. **Districts.** When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

33. **Viva voce.** In all elections by the general assembly, the members thereof shall vote viva voce, and the votes shall be entered on the journal.

34. **Salaries.** For the first ten years after the organization of the government, the annual salary of the governor shall not exceed one thousand dollars; secretary of state, five hundred dollars; treasurer, four hundred dollars; auditor, six hundred dollars; judges of the supreme and district courts, each one thousand dollars.

---

## [9] ARTICLE V.

### EXECUTIVE DEPARTMENT.

1. **Governor.** The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the governor of the state of Iowa.

2. **Election.** The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office four years from the time of his installation, and until his successor shall be qualified.

3. **Who is eligible.** No person shall be eligible to the office of governor, who has not been a citizen of the United States, and a resident of the state two years next preceding the election, and attained the age of thirty years at the time of said election.

4. **Returns of election.** The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in presence of both houses of the general assembly. The person having the highest number of votes shall be governor; but in case any two or more have an equal and the highest number of votes, the general assembly shall, by joint vote, choose one of said persons so having an equal and the highest number of votes, for governor.

5. **Commander.** The governor shall be commander-in-chief of the militia, the army, and navy of this state.

6. **Duty of governor.** He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department, upon any subject relating to the duties of their respective offices.

7. **As to laws.** He shall see that the laws are faithfully executed.

8. **As to vacancies.** When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

9. **Extra session.** He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

10. **Message.** He shall communicate by message to the general assembly, at every session, the condition of the state, and recommend such matters as he shall deem expedient.

11. **As to adjournment.** In case of disagreement between the two houses, with respect to [10] the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he may think proper, provided it be not beyond the time fixed for the meeting of the next general assembly.

12. **Persons disqualified.** No person shall, while holding any other office under the United States, or this state, execute the office of governor, except as hereinafter expressly provided.

13. **Pardons.** The governor shall have power to grant reprieves and pardons, and commute punishments after conviction, except in cases of impeachment.

14. **Compensation.** The governor shall, at stated times, receive for his services, a compensation which shall neither be increased nor diminished during the time for which he shall have been elected.

15. **Seal.** There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the state of Iowa.

16. **Grants and Commissions.** All grants and commissions shall be in the name and by the authority of the people of the state of Iowa, sealed with the great seal of this state, signed by the governor and countersigned by the secretary of state.

17. **State officers—duty of secretary.** A secretary of state, auditor of public accounts, and treasurer, shall be elected by the qualified electors, who shall continue in office two years. The secretary of state shall keep a fair register of all the official acts of the governor, and shall, when required, lay the same, together with all papers, minutes and vouchers relative thereto, before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law.

18. **Vacancy of governor.** In case of the impeachment of the governor, his removal from office, death, resignation, or absence from the state, the powers and duties of the office shall devolve upon the secretary of state, until such disability shall cease, or the vacancy be filled.

19. **Further vacancy.** If, during the vacancy of the office of governor, the secretary of state shall be impeached, displaced, resign, die, or be absent from the state, the powers and duties of the office of governor shall devolve upon the president of the senate; and should a vacancy occur by impeachment, death, resignation, or absence from the state, of the president of the senate, the speaker of the house of representatives shall act as governor till the vacancy be filled.

---

## [11] ARTICLE VI.

### JUDICIAL DEPARTMENT.

1. **Courts.** The judicial power shall be vested in a supreme court, district courts, and such inferior courts, as the general assembly may from time to time establish.

2. **Justices.** The supreme court shall consist of a chief justice and two associates, two of whom shall be a quorum to hold court.

3. **Supreme judges how elected—jurisdiction—powers.** The judges of the supreme court shall be elected by joint vote of both branches of the general assembly, and shall hold their courts at such time and place as the general assembly may direct, and hold their offices for six years, and until their successors are elected and qualified, and shall be ineligible to any other office during the term for which they may be elected. The supreme court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may by law prescribe. The supreme court shall have power to issue all writs and process necessary to do justice to parties, and exercise a supervisory control over all inferior judicial tribunals, and the judges of the supreme court shall be conservators of the peace throughout the state.

4. **District court, judge elected—jurisdiction and powers—districts.** The district court shall consist of a judge, who shall be elected by the qualified voters of the district in which he resides, at the township election, and hold his office for the term of five years, and until his successor is duly elected and qualified, and shall be ineligible to any other office during the term for which he may be elected. The district court shall be a court of law and equity, and have jurisdiction in all civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law. The judges of the district courts shall be conservators of the peace in their respective districts. The first session of the general assembly shall divide the state into four districts, which may be increased as the exigencies require.

5. **Attorney and clerk.** The qualified voters of each county, shall at the general election, elect one prosecuting attorney and one clerk of the district court, who shall be residents therein, and who shall hold their several offices for the term of two years and until their successors are elected and qualified.

6. **Style of process.** The style of all process shall be, "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

## [12] ARTICLE VII.

### MILITIA.

1. **Military.** The militia of this state shall be composed of all able bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this state, and shall be armed, equipped, and trained, as the general assembly may provide by law.

2. **Scruples.** No person or persons conscientiously scrupulous of bearing arms, shall be compelled to do militia duty in time of peace: provided, that such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

3. **Officers elected.** All commissioned officers of the militia, (staff officers excepted,) shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor.

## ARTICLE VIII.

### STATE DEBTS.

1. **Debts.** The general assembly shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate with any previous debts or liabilities, exceed the sum of one hundred thousand dollars, except in case of war, to repel invasion, or suppress insurrection, unless the same shall be authorized by some law for some single object or work to be distinctly specified therein; which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrepealable until the principal and the interest thereon shall be paid and discharged; but no such law shall take effect, until at a general election, it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall

be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one is published therein, throughout the state, for three months preceding the election at which it is submitted to the people.

---

## [13] ARTICLE IX.

### INCORPORATIONS.

1. **Banks prohibited.** No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing, or putting in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money. The general assembly of this state shall prohibit, by law, any person or persons, association, company or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

2. **Corporations, how created—liabilities.** Corporations shall not be created in this state by special laws, except for political or municipal purposes; but the general assembly shall provide by general laws, for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited. The stockholders shall be subject to such liabilities and restrictions as shall be provided by law. The state shall not directly or indirectly become a stockholder in any corporation.

---

## ARTICLE X.

### EDUCATION AND SCHOOL LANDS.

1. **Superintendent public instruction.** The general assembly shall provide for the election, by the people, of a superintendent of public instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the general assembly may direct.

2. **Encouragement and appropriations.** The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this state, for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of congress distributing the proceeds of the public lands among the several states of the Union, approved, A. D. 1841, and all estates of deceased persons, who may have died without leaving a will, or heir; and also such per cent. as may be granted by congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.

3. **Common schools.** The general assembly shall provide for a system of common schools, by which a school shall be kept up and supported in each school [14] district, at least three months in every year; and any school district neglecting to keep up and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

4. **Moneys appropriated.** The money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, in the proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the general assembly shall, from time to time, provide by law.

5. **School lands—university.** The general assembly shall take measures for the protection, improvement, or other disposition, of such lands as have been or may hereafter be reserved or granted by the United States, or any person or persons, to this state, for the use of a university; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

## ARTICLE XI.

### AMENDMENTS OF THE CONSTITUTION.

1. **Amendments.** If at any time, the general assembly shall think it necessary to revise or amend this constitution, they shall provide by law for a vote of the people for or against a convention, at the next ensuing election for members of the general assembly. In case a majority of the people vote in favor of a convention, said general assembly shall provide for an election of delegates to a convention, to be held within six months after the vote of the people in favor thereof.

## ARTICLE XII.

### MISCELLANEOUS.

1. **Jurisdiction of justices.** The jurisdiction of justices of the peace shall extend to all civil cases, (except cases in chancery, and cases where the question of title to any real estate may arise,) where the amount in controversy does not [15] exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding five hundred dollars.

2. **New counties.** No new county shall be laid off hereafter, nor old county reduced to less contents than four hundred and thirty-two square miles.

3. **Settlers' claims.** The general assembly shall not locate any of the public lands which have been or may be granted by congress to this state, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant, so exempted, shall not exceed three hundred and twenty acres.

## ARTICLE XIII.

### SCHEDULE.

1. **Change of government.** That no inconvenience may arise from the change of a territorial government to a permanent state government, it is declared that

all writs, actions, prosecutions, contracts, claims and rights shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this constitution, be issued under the authority of the territory of Iowa, shall be as valid as if issued in the name of the state.

2. **Laws in force.** All the laws now in force in this territory, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the general assembly of this state.

3. **Fines, etc.** All fines, penalties and forfeitures accruing to the territory of Iowa, shall accrue to the use of the state.

4. **Bonds, prosecutions, etc.** All recognizances heretofore taken, or which may hereafter be taken, before the organization of the judicial department under this constitution, shall remain valid, and shall pass to and may be prosecuted in the name of the state. And all bonds executed to the governor of this territory, or to any other officer in his official capacity, shall pass over to the governor of the state, or other proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which may have arisen, or may arise, before the organization of the judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

5. **Officers.** All officers, civil and military, now holding their offices and appointments in this territory, under the authority of the United States, or under the authority of this territory, shall continue to hold and [16] execute their respective offices and appointments, until superceded, under this constitution.

6. **Election—returns.** The first general election under this constitution shall be held at such time as the governor of the territory by proclamation may appoint, within three months after its adoption, for the election of a governor, two representatives in the congress of the United States, (unless congress shall provide for the election of one representative,) members of the general assembly, and one auditor, treasurer, and secretary of state. Said election shall be conducted in accordance with the existing laws of this territory; and said governor, representatives in the congress of the United States, auditor, treasurer and secretary of state, duly elected at said election, shall continue to discharge the duties of their respective offices for the time prescribed by this constitution, and until their successors are elected and qualified. The returns of said election shall be made in conformity to the existing laws of this territory.

7. **Apportionment.** Until the first enumeration of the inhabitants of this state, as directed by this constitution, the following shall be the apportionment of the general assembly:

The county of Lee shall be entitled to two senators and five representatives;

The county of Van Buren, two senators and four representatives;

The counties of Davis and Appanoose, one senator and one representative, jointly;

The counties of Wapello and Monroe, one senator, jointly, and one representative, each;

The counties of Marion, Polk, Dallas and Jasper, one senator and two representatives, jointly;

The county of Des Moines, two senators and four representatives;

The county of Henry, one senator and three representatives;

The county of Jefferson, one senator and three representatives;

The counties of Louisa and Washington, one senator, jointly, and one represenative, each;

The counties of Keokuk and Mahaska, one senator, jointly, and one representative, each;

The counties of Muscatine, Johnson and Iowa, one senator and one representative, jointly, and Muscatine, one representative, and Johnson and Iowa, one representative, jointly;

The counties of Scott and Clinton, one senator, jointly, and one representative, each;

The counties of Cedar, Linn and Benton, one senator, jointly; the [17] county of Cedar one representative, and the counties of Linn and Benton one representative, jointly;

The counties of Jackson and Jones, one senator and two representatives;

The counties of Dubuque, Delaware, Clayton, Fayette, Buchanan and Blackhawk, two senators and two representatives, jointly;

And any country attached to any county for judicial purposes shall, unless otherwise provided for, be considered as forming part of such county, for election purposes.

8. **First meeting general assembly.** The first meeting of the general assembly under this constitution shall be at such time as the governor of the territory may by proclamation appoint, within four months after its ratification by the people, at Iowa City, in Johnson county, which place shall be the seat of government of the state of Iowa until removed by law.

Done in convention, at Iowa City, this eighteenth day of May, in the year of our Lord one thousand eight hundred and forty-six, and of the independence of the United States of America the seventieth.