

# LAWS OF IOWA

PASSED AT THE ANNUAL SESSION

OF THE

# LEGISLATIVE ASSEMBLY

WHICH COMMENCED ON THE FIRST DAY OF DECEMBER,  
EIGHTEEN HUNDRED AND FORTY-FIVE

---

JAMES CLARKE, Governor  
JESSE WILLIAMS, Secretary  
STEPHEN HEMPSTEAD, President of the Council  
GEORGE W. McCLEARY, Speaker of the House of Representatives

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PUBLISHED BY AUTHORITY

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SECRETARY'S OFFICE, IOWA CITY, }

FEBRUARY 18TH, 1846 }

IT IS HEREBY CERTIFIED, That the Acts and Resolutions contained in this volume have been compared with the original enrolled acts on file in this office, and are found to be true and correct copies thereof.

JESSE WILLIAMS,  
Secretary of Iowa Territory.

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# LAW OF IOWA

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## [1] CHAPTER 1.

### CRIMINAL PROCEEDINGS.

AN ACT to amend an act entitled "An act regulating criminal proceedings," approved January 4, 1839.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. Persons charged with criminal offence—the fees of witnesses of prosecution shall be paid out of county treasury—proviso; that if the court is satisfied that private prosecutor has maliciously instigated prosecution, the court shall adjudge the cost of such prosecution against the prosecutor. That in the event of the acquittal of a person charged with a criminal offence, the fees of witnesses on the part of the prosecution and of the defendant, shall be paid by the county, provided the court be satisfied from the report of the grand jury, or by other testimony that any person acting in the capacity of a private prosecutor has maliciously instigated any prosecution, the court shall adjudge the costs of such prosecution against such prosecutor and not against the county as above provided.

SEC. 2. Repeals all laws that conflict with the provisions of this act. That all laws or parts of laws that conflict with the provisions of this act be and the same are hereby repealed.

SEC. 3. This act takes effect from its passage. This act to take effect and be in force from and after its passage.

GEORGE W. McCLEARY,  
Speaker of the house of representatives.  
STEPHEN HEMPSTEAD,  
President of the council.

Approved, January 1st, 1846.  
JAMES CLARKE.

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## [2] CHAPTER 2.

### ACTIONS OF RIGHT.

AN ACT to amend an act entitled "An act to allow and regulate the action of right," approved, December 29, 1838.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. If commissions appointed under 56th section of act to assign dower, report that the property is not susceptible of assignment by metes and

bounds as provided in said section, the court shall decree that the widow shall enjoy one-third of the rents and profits—court shall have chancery power to put widow in possession of dower. That if the commissioners appointed under the fifty-sixth section of said act, to assign dower report that the property is not susceptible of assignment by metes and bounds as provided for in said section, the court may order and decree that the widow shall thereafter enjoy one-third of the rents and profits of said property, and the court shall have full chancery power to make any decree or issue any writ to put the widow into the full enjoyment of her dower.

SEC. 2. **Act takes effect from its passage.** This act to take effect and be in force from and after its passage.

Approved, January 1st, 1846.

### CHAPTER 3.

#### CENSUS.

AN ACT to authorize and require the county assessors to take the enumeration of the inhabitants of their respective counties for the purpose of making an apportionment at the next session of the legislature of the territory of Iowa.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

[3] SECTION 1. **County assessors required to take enumeration of inhabitants at the time of taking assessment of property—in counties that are not organized, enumeration to be taken by assessors of adjoining counties.** That the county assessors of the various counties of this territory are hereby authorized and required to take an enumeration of all the inhabitants, of all ages, of their respective counties, at the time they are now required by law to take an assessment of the property of said counties; and in those counties that are not organized it shall be the duty of the assessors residing in the counties next to such counties to take such enumeration in said unorganized counties.

SEC. 2. **Made duty of assessors to make correct return of duties performed under this act, under oath to clerk of county board before 1st September, to receive such compensation as county board may allow.** It shall be the duty of said assessors to make a correct return of the duties performed under this act, under oath, to the clerks of the boards of county commissioners in their counties, on or before the first day of September next, for which service they shall receive such compensation as the boards of county commissioners may allow.

SEC. 3. **Duty of clerk of county board to transmit copy to secretary of the territory before 1st November next.** It shall be the duty of the several clerks of the boards of county commissioners to forward a certified copy of said returns to the secretary of the territory, on or before the first day of November next.

SEC. 4. **Said enumeration to be taken but once under this act.** This act shall only apply to the enumeration of said inhabitants but once as herein provided.

SEC. 5. **Act takes effect from its passage.** This act shall take effect and be in force from and after its passage.

Approved, January 2d, 1846.



## CHAPTER 4.

## FIRING PRAIRIES.

AN ACT to prevent the firing of prairies.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. If any person sets fire to woods and prairies to the injury of others, shall be fined not exceeding fifty dollars, and liable for injury sustained. That if any person or persons shall set on fire, or cause to be set on fire, any woods, prairies, or other grounds whatever, in this territory, other than his own, or shall permit the fire set out by him, to pass from his own prairie or woods, to the injury of any person or persons, every person so offending shall, on conviction thereof, for every such offense be fined in any sum not exceeding fifty dollars, and shall be liable to an action, to the party injured for all damages, which he, she, or they, may have sustained in consequence of such fire.

SEC. 2. Duty of judges to give this act in charge to grand jury. It shall be the duty of the judge to give this act in charge to the grand jury.

SEC. 3. Act to take effect from its passage. This act shall take effect and be in force from and after its passage.

Approved, January 2d, 1846.

## CHAPTER 5.

## MARRIED WOMEN.

AN ACT concerning the rights of married women.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. Married women may be seized of real estate That any married woman may become seized or possessed of any real estate by descent, bequest, demise, gift, purchase or distribution, in her own name and as of her own property: provided, the same does not come from her husband, nor is, nor has been purchased with the funds or property of the husband during coverture.

SEC. 2. Not liable for husband's debts. That hereafter when any married woman shall become possessed of any real estate as aforesaid, or shall have possessed any real estate before coverture, she shall possess the same in her own right, and the same shall in no case be liable to the debts of her husband.

SEC. 3. Rents and profits belong to husband. The control and management of such real estate, and the annual productions and rents and profits of the same, shall remain to the husband agreeably to the laws heretofore in force. All suits to recover the property or possession of such real estate, shall be prosecuted or defended, as the case may be, in the joint names of the husband and wife.

**SEC. 4. Husband to join in conveyance.** The real estate owned by a *feme covert* under the provisions of this act, may be sold by the joint deed of the husband and wife, executed, proved and recorded, agreeably to the laws now in force in regard to the conveyance of real estate.

Approved, January 2d, 1846.

## [5] CHAPTER 6.

### COUNTY TREASURER.

AN ACT to amend "An Act for assessing Territorial tax and for other purposes," approved, 15th February, 1844.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Treasurer to settle with auditor.** That the 5th section of said act be so amended that the county treasurers shall be required to settle with the auditor and treasurer of the territory within sixty days after the 1st Monday of March in each year, instead of within thirty days as is required by said 5th section of said act.

**SEC. 2. Territorial warrants received for taxes.** That the treasurer of the territory shall receive from the treasurers of the respective counties, territorial warrants in payment of territorial taxes and that the seventh section of the act hereby amended, be and the same is hereby repealed.

**SEC. 3. Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved January 2d, 1846.

## CHAPTER 7.

### PUBLIC REVENUE.

AN ACT to amend an act, entitled "An act to amend an act to provide for assessing and collecting public revenue," approved, 28th May, 1845.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Assessment of taxes 1st March.** That the county assessor in each county in this territory, shall on the first day of March, or within fifteen days thereafter, in each year, proceed to assess all the real and personal property within his county subject to taxation; which assessment shall be made at the cash value thereof at the time of assessment, taking into consideration the fertility and quality of the soil, the vicinity to roads, towns, villages, and navigable waters, water privileges on the same, and all other local advantages.

**SEC. 2. County clerk to furnish assessment rolls.** It shall be the duty of the clerk of the board of county commissioners in each county, to deliver the blank assessment roll, to the county assessor on or before the first day of March in each year.

**SEC. 3. Assessor may swear owner of property.** The assessor may require each owner or occupant of property in his county, to render under oath, a true and just account of all the taxable property of which he may be owner or holder on the said first day of March.

**SEC. 4. Repealing clause.** That the 6th section of the "act" to which this is amendatory, and all other "acts" and parts of "acts" which conflict with the provisions of this "act," be and hereby are repealed.

**SEC. 5. In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 2d, 1846.

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## CHAPTER 8.

### MILITIA.

**AN ACT** to repeal all laws in force allowing compensation to military officers in this territory.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Pay of military officers abolished.** That all laws now in force in this territory allowing compensation to any military officer, for any military services whatever, be and the same are hereby repealed.

**SEC. 2. Act in force from passage.** This act to take effect from and after its passage.

Approved, January 3d, 1846.

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## [7] CHAPTER 9.

### COMMISSIONERS IN STATES AND TERRITORIES.

**AN ACT** to authorize the governor to appoint commissioners to take acknowledgments of deeds, or other contracts and depositions, in other territories or states.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Governor to appoint commissioners.** That the governor shall have power to appoint one or more commissioners in any of the United States or territories who shall continue in office during the pleasure of the governor, and shall have authority to take the acknowledgement and proof of the execution of any deed or other conveyance, or lease of any lands lying in this territory, or of any contract, letter of attorney, or any other writing under seal, or not, to be used or recorded in this territory.

**SEC. 2. Force and effect of commissioner's acts.** Such acknowledgement, or proof, so taken, according to the laws of this territory, and certified to by any such commissioner, under his seal of office annexed to, or endorsed on such instrument, shall have the same force and effect as if the same had been made before a judge or justice of the peace, or any other officer authorized to perform such acts in this territory.

**SEC. 3. May administer oaths and take depositions.** Every commissioner, appointed as before mentioned, shall have power to administer an oath,

which may be lawfully required in this territory, to any person willing to take it, and to take and certify depositions to be used in any of the courts of this territory in conformity to the laws thereof, either on interrogatories proposed under commission from a court of this territory, or by consent of parties, or on legal notice given to the opposite party; and all such acts shall be as valid as if done and certified according to law, by a magistrate in this territory.

**SEC. 4. Commissioner to qualify.** Every such commissioner, before performing any duty, or exercising any power in virtue of his appointment, shall take and subscribe an oath or affirmation, before a judge or clerk of the supreme court of the state or territory, in which such commissioner shall reside, well and faithfully to execute and perform all the duties of such commissioner, under, and by virtue of the laws of the territory of Iowa, which oath, and a description of his seal of office, together with his sig- [8] nature thereto, shall be filed in the office of the secretary of this territory.

**SEC. 5. Fees allowed.** That every such commissioner shall be entitled to receive the same fees for his services as are now allowed for similar services by the laws of the state for which such commissioner is appointed.

Approved. January 9th. 1846.

## CHAPTER 10.

### RELIGIOUS ASSEMBLIES.

AN ACT supplementary to an act entitled "An act to preserve good order in all worshipping congregations in this territory," approved, January 4th, 1839.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Selling liquors etc. within two miles of religious assemblies prohibited.** That no person shall keep any shop, booth, tent, wagon or other carriage, vessel or boat, for the sale of spirituous or other liquors, or any provisions or other articles of traffic whatever, or sell or expose to sale, give, barter or otherwise dispose of, in, or near such shop, booth, tent, wagon or other carriage, vessel or boat, or in any other way or place any spirituous or other liquors or any provisions or other articles of traffic whatever, at or within the distance of two miles from the place where any religious society or people are collected or collecting together for religious worship, in any field or woodland or other place of public worship: provided, that nothing in this act shall affect tavern or grocery keepers, exercising their calling in the places mentioned in their license, nor distillers or manufacturers, or others in the prosecution of their ordinary calling or business from vending or exposing to sale the articles above forbidden, at their usual place of vending the same, or at their residence, nor any person who shall have a written permit from the person or persons having the oversight, charge or management of such religious society, to sell bread or other provisions for the supply of persons attending such religious worship, their horses or cattle, such persons conforming to the legal regulations of said religious assembly and to the laws of the territory.

**SEC. 2. Penalty for violating the law.** That any person who shall be guilty of a breach of this act, shall be notified in writing by the person or persons having the [9] oversight, charge or management of such religious assembly, or by any other person that he, she or they are violating the law;

and if after such notice, such person shall continue in such violation, he, she or they shall forfeit and pay for every such offense a fine not exceeding fifty dollars to the county where such offense shall be committed, for the use of common schools in such county.

**SEC. 3. Mode of prosecution.** All offenses against the provisions of this act shall be prosecuted under the provisions of the act to which this is supplementary.

**SEC. 4. Act in force first of March, 1846.** This act shall take effect and be in force from and after the first day of March next.

Approved, January 15th, 1846.

## CHAPTER 11.

### SCHOOL TAX.

AN ACT to amend an act entitled "An act to establish a system of common schools," approved, January 16, 1840.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa,*

**SECTION 1. Assessment of school tax.** That for the purpose of providing a fund for the support of common schools in the several counties of this territory, that it shall be the duty of the boards of commissioners of the several counties, at the time of levying the tax for county purposes, to levy a tax, not less than one mill, nor more than five mills on the dollar, on the assessed value of all the property real and personal, within their respective counties.

**SEC. 2. Duty of county clerk.** That it shall be the duty of the several clerks of the boards of commissioners, at the time of making out the assessment rolls, to append thereto a column containing the amount of school tax, levied agreeably to the provisions of the first section of this act.

**SEC. 3. Duty of treasurer.** That it shall be the duty of the treasurer to collect the school tax, at the same time, and in the same manner that territorial and county taxes are now collected, and shall be entitled to the same remedies to enforce the collection of the said tax, as is now allowed to the treasurer in the collection of other taxes, to lay before the board [10] of commissioners on the first Monday in January of each year a statement showing the amount of the school tax paid, the amount remaining unpaid, and a complete list of the lands and property on which the school taxes remain unpaid; which shall be filed in the office of the clerk of the board of commissioners, together with a statement of the amount of money in his hands appropriated by law to the use of common schools.

**SEC. 4. Apportionment of school funds.** That it shall be the duty of the clerk of the board of commissioners to make a fair apportionment of the money in the hands of the treasurer, for the use of schools on the first Monday of January, to the different townships, according to the number of children between the ages of five and twenty-one years, as shown by the report of the school inspectors of the townships, and deliver to the chairman of the board of inspectors an order on the treasurer of the county for the amount of money to which his township is entitled.

**SEC. 5. Parents to pay deficiency.** That whenever the amount of money received by any school district, from the fund created by this act, shall be insufficient to pay for the services of the teacher, the deficit shall be

assessed upon the parents or guardians of the children in proportion to the length of time they shall severally have attended school during the term when such deficiency shall have arisen.

SEC. 6. [**Compensation to clerk and treasurer.**] That the board of commissioners shall allow to their clerk out of the county treasury, a fair compensation for the services required by this act, and the treasurer shall be allowed one per cent. for collecting and paying out school funds.

SEC. 7. [**Fines, etc. appropriated to use of school funds; proviso.**] That all fines collected for any breach of the penal laws of this territory, all monies arising from the granting of licenses for the sale of ardent spirits by the county commissioners, and all sums of money in the respective treasuries arising from the sale of water crafts, lost goods and estrays, under the provisions of the 11th section of the act concerning water crafts, lost goods and estrays, be and the same are hereby appropriated to the use of common schools within the county wherein they accrue: provided however, that nothing in this act contained shall be so construed as to prevent the county commissioners from receiving county orders for all fines assessed under this act.

SEC. 8. **Repealing clause.** That the third article of the eighteenth section and all acts and parts of acts that conflict with the provisions of this act, be and the same are hereby repealed.

SEC. 9. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

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[11] CHAPTER 12.

CONSTABLES.

AN ACT defining the term of office of constables.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Constables elected for two years.** That hereafter the constables in all of the townships and precincts of this territory, shall be elected for the term of two years, and shall continue in office until their successors are duly elected and qualified.

SEC. 2. **Part of act of June, 1837, repealed.** Be it further enacted, that so much of an act entitled an act for the election of constables and defining their duties, approved January 29th, 1839, and all subsequent acts as conflict with this act, be and the same are hereby repealed.

SEC. 3. **Act in force 1st April, 1846.** This act shall take effect and be in force from and after the first day of April, 1846.

Approved, January 13th, 1846.

## CHAPTER 13.

## ADDITIONAL TAX.

AN ACT to levy an additional tax for territorial purposes.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Additional tax of  $\frac{3}{4}$  of a mill.** That the county commissioners of the several counties in this territory, shall at the July term next ensuing, examine the assessment rolls returned to them, and assess a tax of three-fourths of one mill per cent. on all property returned to them in such assessment roll, for territorial purposes, for the year 1846, which tax shall be collected and paid as is now or shall hereafter be provided by law.

**SEC. 2. Repealing clause.** All acts and parts of acts coming under the purview of this act, be and the same are hereby repealed.

[12] **SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

## CHAPTER 14.

## COURTS, TERMS IN 1846.

AN ACT fixing the terms of the district courts in the territory of Iowa.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Courts in 1st district, when held.** That the terms of the district court in the first judicial district, composed of the following counties, shall be as follows:

In Henry county on the fourth Monday of February and the first Monday of September.

In Van Buren county on the first Monday in March and second Monday in September.

In Jefferson county on the second Monday of March and third Monday of September.

In Wapello county on the third Monday of March and fourth Monday of September.

In Kishkekosh county on the fourth Monday of March and on the first Friday after the fourth Monday of September.

In Davis county on the first Wednesday after the fourth Monday of March and on the first Monday of October.

In Lee county on the first Monday of April and second Monday of October.

In Des Moines county, on the first Monday of May and the second Monday of November.

**SEC. 2. Second district, when held.** That the terms of the district courts in the second judicial district, composed of the following counties, shall be as follows:

In Washington county on the second Monday of March and on the last Monday of August.

In Keokuk county on the first Monday after the second Monday of March and on the first Monday of September.

[13] In Mahaska county on the second Monday after the second Monday of March and on the second Monday of September.

In Marion county on the third Monday after the second Monday of March and on the first Monday after the second Monday of September.

In Polk county on the fourth Monday after the second Monday of March and on the second Monday after the second Monday of September.

In Jasper county on the fifth Monday after the second Monday of March and on the third Monday after the second Monday of September.

In Iowa county on the 6th Monday after the second Monday of March and on the fourth Monday after the second Monday of September.

In Johnson county on the seventh Monday after the second Monday of March and on the fifth Monday after the second Monday of September.

In Louisa county on the eighth Monday after the second Monday of March and the sixth Monday after the second Monday of September.

In Muscatine county on the ninth Monday after the second Monday of March and on the eighth Monday after the second Monday of September.

SEC. 3. **Third district, when held.** That the times for holding the district courts for each year in the third judicial district, composed of the following counties, shall be as follows:

In Dubuque county on the second Monday in February, on the first Monday in June and on the second Monday of November.

In Linn county on the third Monday in March and on the first Monday in September.

In Cedar county on the second Monday after the third Monday in March and on the third Monday in September.

In Scott county on the third Monday after the third Monday in March and on the fourth Monday in September.

In Clinton county, on the fourth Monday after the third Monday in March and on the first Monday after the fourth Monday in September.

In Jackson county on the fifth Monday after the third Monday in March and on the second Monday after the fourth Monday in September.

In Jones county on the sixth Monday after the third Monday of March and on the third Monday after the fourth Monday of September.

In Delaware county on the seventh Monday after the third Monday in March and on the fourth Monday after the fourth Monday of September.

In Clayton county on the eighth Monday after the third Monday in [14] March and on the fifth Monday after the fourth Monday in September.

In Benton county on the last Monday in August.

SEC. 4. **No error for change of time.** No suits, writs, indictments, recognizances, pleas or other process or proceedings, returnable at, or pending in said district courts for any of the counties above named, shall abate, be made void or in any wise affected in consequence of any change in the time of holding said courts by the provisions of this act, but when the same may have been issued or may have been returnable at any day in accordance with the time heretofore fixed for holding said courts, they shall be considered returnable to the term of the courts respectively named in this act, and all jurors, witnesses and other persons bound in any way or summoned to appear before the courts mentioned above at the next term thereof, shall be bound to appear at the time specified by this act as the time for holding said courts.

SEC. 5. **Repealing clause.** All acts and parts of acts contrary to the provisions of this act, be and the same are hereby repealed.

SEC. 6. **Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.



## CHAPTER 15.

## ATTACHMENTS.

AN ACT to amend an act entitled "An act allowing and regulating writs of attachment" approved, February 16th, 1843.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Affidavit of plaintiff and what it must contain.** That the following shall hereafter be the requisites to be alleged in the affidavit for a writ of attachment.

First—The affidavit must state, that something is due from the defendant to the plaintiff, and as nearly as practicable the exact amount.

Second—It must state, that as deponent verily believes the said defendant is a non-resident of the territory—or, that he is in some manner about to dispose of, or remove his property, with intent to defraud his creditors, or that he has disposed, or removed his property with intent [15] to defraud his creditors, or that he has absconded, so that the ordinary process cannot be served upon him.

**SEC. 2. Substitution of requisites in former act.** That the above requisites shall be substituted for the 1st and 2d class of requisites in the 1st section of the act to which this act is amendatory, and the 1st and 2d class of said requisites are hereby repealed.

**SEC. 3. Damages for unlawfully suing out.** In any trial on an attachment bond, the jury may assess in favor of the plaintiff any damages he may have sustained by reason of the unlawful suing out of such writ of attachment, and may find exemplary damages.

**SEC. 4. Takes effect from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 16.

## LEGISLATURE.

AN ACT to repeal an act entitled "An act to postpone the election of the members of the house of representatives of the territory of Iowa, from August until April."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Repeal of act of June 7, 1845.** That an act entitled an act to postpone the election of the members of the house of representatives of the territory of Iowa from August until April, approved, June 7, 1845, be and the same is hereby repealed.

**SEC. 2. General elections on first Monday in August.** The election for members of the house of representatives shall hereafter be held at the time specified in the act entitled an act to change the time of holding the general elections, approved 29th January, 1844.

**SEC. 3. Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [16] CHAPTER 17.

## MISDEMEANORS.

AN ACT to amend an act entitled "An act defining crimes and punishments," approved, 16th February, 1843.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Penalty for destroying mining fixtures.** That if any person or persons shall wilfully or maliciously cut down, level, demolish or otherwise damage any windlass, timbers, plank or machinery, used for the purpose of mining, or shall fill up or obstruct any shaft, or otherwise injure the same, shall upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned not exceeding three months, or both at the discretion of the court.

SEC. 2. **In force 1st June, 1846.** That this act shall take effect and be in force from and after the first day of June next.

Approved, January 17th, 1846.

## CHAPTER 18.

## DISTRICT PROSECUTORS.

AN ACT relative to district prosecutors.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Prosecuting attorneys not to give bond.** That the several district prosecutors of this territory are not required to give bond as is provided and required in the third section of an act, providing for the appointment of district prosecutors and defining their duties, approved January 15th, 1839, and so much of said act as requires district prosecutors to give bond before they enter upon the discharge of their duties be and the same is hereby repealed.

SEC. 2. **Act in force from passage.** This act shall take effect from and after its passage.

Approved, January 17th, 1846.

## [17] CHAPTER 19.

## DISTRICT PROSECUTORS.

AN ACT to amend an act entitled "An act providing for the appointment of district prosecutors and defining their duties."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Governor to nominate.** That there shall be appointed by the governor, by and with the advice and consent of the council, a suitable per-

son in each county, or organized district as hereinafter provided, to act as public prosecutor, who shall qualify in like manner as district prosecutors now are required to by the act to which this is amendatory, and shall hold their offices for the term of two years, unless sooner removed.

**SEC. 2. Duty of prosecutors.** Such public prosecutors, shall perform all the duties now required by law to be performed by district prosecutors, and be paid by their respective counties or organized districts, in like manner as the district prosecutors now are paid.

**SEC. 3. Territory divided into 20 districts.** Said territory shall be divided into prosecuting attorneys' districts, as follows: the county of Lee shall constitute the first district; the county of Van Buren shall constitute the second district; the counties of Davis, Appanoose, and the counties that may hereafter be organized west of said counties shall constitute the third district; the county of Des Moines shall constitute the fourth district; the county of Henry shall constitute the fifth district; the county of Jefferson shall constitute the sixth district; the counties of Wapello, Kishkeokosh, and the counties that may hereafter be organized west of said counties, shall constitute the seventh district; the county of Louisa shall constitute the eighth district; the county of Washington shall constitute the ninth district; the county of Keokuk shall constitute the tenth district; the counties of Mahaska, Marion, Poweshiek, and the counties that may hereafter be organized west of said counties, shall constitute the eleventh district; the county of Muscatine shall constitute the twelfth district; the county of Scott shall constitute the thirteenth district; the county of Clinton shall constitute the fourteenth district; the county of Cedar shall constitute the fifteenth district; the counties of Johnson and Iowa shall constitute the sixteenth district; the county of Jackson shall constitute the seventeenth district; the counties of Linn, Benton, and the counties [18] that may hereafter be organized west of said district shall constitute the eighteenth district; the counties of Jones, Dubuque, Delaware and the counties that may hereafter be organized west of Dubuque and Delaware shall constitute the nineteenth district; and the county of Clayton and the counties that may hereafter be organized west shall constitute the twentieth district.

**SEC. 4. Repealing clause.** That the first section of the act to which this is amendatory, and all other acts and parts of acts conflicting with this act, be and the same are hereby repealed.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, December 17th, 1845.

## CHAPTER 20.

### PENITENTIARY.

#### AN ACT to lease the penitentiary.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. John W. Cohick, appointed keeper and lessee.** That from and after the fifteenth day of March next, John W. Cohick shall be keeper and lessee of the penitentiary of the territory of Iowa for the term of three years, with full power to have the sole management, control and profits for the term aforesaid, subject to the restrictions, conditions and limitations here-

inafter provided. The said lessee shall have possession and control of all the lots or lands reserved for the penitentiary.

**SEC. 2. Lessee to take possession of warden's house.** The said keeper shall have the use of the warden's house, and all the buildings and improvements within and without the walls of the said penitentiary, and shall take proper care to preserve all the improvements, buildings and property of every kind appurtenant to the [19] penitentiary, in condition and repair, to prevent waste, etc., and shall restore the same to the territory in good condition and repair, the natural wear and decay, and unavoidable accidents excepted.

**SEC. 3. Duty of lessee.** It shall be the duty of every keeper, overseer, guard, and other person employed in or about the said penitentiary, to faithfully and diligently perform the duties of his office, and studiously guard the interest of the territory, and constantly endeavor to prevent all improper conduct on the part of the convicts.

**SEC. 4. Police and discipline.** The keeper of the penitentiary shall have the management, control and superintendence of the penitentiary, and all the convicts confined therein, and shall, at his own expense, clothe, feed and attend them; shall employ all necessary overseers, guards, and physicians, when necessary, and defray all the necessary contingent expenses of the penitentiary; and shall in all respects, keep the same from becoming chargeable to the territory. He shall have the same control and authority over said penitentiary, as has heretofore been possessed by law, by the warden thereof; he shall guard and watch the convicts, take proper steps to preserve a strict police and proper discipline among them, and prevent all improper intercourse. He shall pay strict attention to the habits, health and cleanliness of the convicts, treat them with proper humanity, render them all necessary medical aid and attention in sickness, and keep their rooms properly ventilated and warmed.

**SEC. 5. Lessee to give bond and security.** Before said keeper enters on the discharge of his duty, he shall execute to the territory of Iowa, a good and sufficient bond, in the penalty of three thousand dollars, with at least one or more good securities, conditioned, that he will faithfully perform all the duties imposed on him by or under this act; said bond and securities, shall be approved by the governor of the territory, and filed in the office of the auditor of the territory and by him recorded.

**SEC. 6. On failing to give bond, office forfeited.** The keeper shall within thirty days after the passage of this act, execute and deliver to the governor, bond and security required by this act, and if he shall fail to do so, his contract shall be forfeited.

**SEC. 7. Lessee, subject to legislature.** Said keeper shall hold the penitentiary subject to such rules, regulations and mode of discipline as shall from time to time be prescribed by law.

**SEC. 8. Pardoning power not limited or restrained.** Nothing in this act shall be so construed, as in any manner to limit or restrain the pardoning power of the governor, and the said keeper shall not require the convicts to labor on the Sabbath day, and he shall on that day at suitable hours, permit clergymen to preach to the convicts, when they can be obtained by said keeper.

**SEC. 9. How keeper may employ convicts.** Said keeper shall be at liberty, and may employ said con-[20]-victs, or any portion of them, in any and all honorable species of labor, and shall have the benefits and profits resulting from their labor.

**SEC. 10. Salary of keeper \$100 per annum.** There is hereby appropriated to the said keeper the sum of one hundred dollars, to be paid annually for three years, in quarterly payments, of twenty-five dollars, to be paid out of all moneys in the territorial treasury not otherwise appropriated.

**SEC. 11. Commissioners appointed to take inventory.** That William T. McGaugh, of the county of Jefferson, William Chambers, jr., of the county of Muscatine, and Daniel Shelby, of the county of Van Buren, be and they are hereby appointed commissioners, to take an inventory of all the manufactured articles, stock and raw materials belonging to the territory, now in said penitentiary; together with all the beds, kitchen furniture, tools, goods, wares, merchandise pertaining to such institution; and fix a fair valuation and appraisement, on or before the fifteenth day of March as aforesaid. Said commissioners shall be entitled to three dollars per day, for the time necessarily engaged in the duties assigned them by this act.

**SEC. 12. Commissioners to deliver property to Cohick.** The commissioners having been first sworn, faithfully and impartially, to execute the trust reposed in them, shall, after having made the inventory and appraisement as above required, deliver over to said Cohick, as keeper of said penitentiary, all of the manufactured articles, stock and materials, belonging to the territory, and beds and bedding, furniture, goods, tools, wares, and merchandise invoiced by them, and shall take his receipt therefor, and shall file said inventory and receipt in the office of the auditor of public accounts.

**SEC. 13. Keeper may sell manufactured articles.** The said keeper of the penitentiary hereby appointed, may sell, use and dispose of said manufactured articles, goods, wares and merchandise to him delivered as aforesaid, except the beds and bedding, furniture and tools belonging to said institution, for his own use and benefit.

**SEC. 14. Keeper to be responsible for property wasted or lost.** At the expiration of the term of the said keeper, the governor shall appoint three commissioners to examine and make out a list of all the property belonging to said penitentiary, and if it shall appear that any part of the property delivered up to the said keeper, by the commissioners named in this act, has been lost, wasted or otherwise misplaced by any neglect of the said keeper, or any person under him, or by him employed, he shall forfeit and pay to the territory of Iowa, all damages which may have been sustained by reason of such neglect.

**SEC. 15. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [21] CHAPTER 21.

### ESTRAYS.

AN ACT to amend an act entitled "An act concerning water crafts found adrift, lost goods and estray animals," approved, January 22d, 1839.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Liability of persons taking up estray animals.** That if any person taking up any estray animal, or animals, shall sell the same, abuse or suffer to be abused, either by working, riding, or neglecting to feed, or in any other manner so that such estray, in consequence thereof die, or be lessened in value; either take, or cause such estray to be taken out of the county more than three days at any one time, or shall by his or her neglect suffer such estray to escape; and any person who may knowingly purchase any estray or estrays contrary to the provisions of the act to which this is amendatory, the persons so offending shall be liable to the action of the

party injured—and upon conviction thereof shall pay the full amount of damages sustained and the costs of suit. If any person who may have taken up any horse, mare, gelding, or work cattle, shall in any manner work or use the same, such person shall be debarred from recovering any compensation for keeping such estray or estrays.

**SEC. 2. Act in force first April.** This act to take effect and be in force from and after the first of April next.

Approved, January 17th, 1846.

## CHAPTER 22.

### PERCH OF MASON WORK.

AN ACT to define a perch of mason work in Iowa territory.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Perch of mason work twenty-one cubic feet.** That from and after the passage of this act it shall not be lawful for any person or persons, to charge for, or count a less number of cubic feet as a perch of mason work, than twenty-one [22] cubic feet, and it is hereby declared that twenty-one cubic feet shall form a perch of mason work as established by this act.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 23.

### CONFLICT OF JURISDICTION.

AN ACT to authorize the governor of Iowa territory to employ counsel in cases growing out of the disputed boundary between this territory and the state of Missouri.

**Preamble—Missouri difficulties.** Whereas, the sheriff of Davis county in this territory, has been arrested and held to bail by the authorities of Missouri, while in the act of executing the laws of this territory: and whereas, other matters of litigation may result from the present dispute between this territory and said state of Missouri, in relation to the boundary line between said state and territory—therefore,

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Governor to employ counsel.** That the governor of this territory be, and he is hereby authorized, to draw upon the territorial treasurer for the sum of \$1,500, to be taken from any moneys not otherwise appropriated, and that the same or any amount thereof, at the discretion of the governor, shall be used in the employment of competent counsel, to conduct all cases in which this territory, or any citizen or citizens thereof, shall be a party against the state of Missouri, or the authorities thereof.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [23] CHAPTER 24.

## DIVORCE AND ALIMONY.

AN ACT to amend an act entitled "An act relative to divorce and alimony and other purposes," approved, 20th January, 1843.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Act of January, 1843, amended.** That the sixth clause of the second section be amended by striking out after the word "drunkenness," the following: "provided that said habitual drunkenness shall be contracted after marriage."

SEC. 2. **Further amendments.** That the second section of said act be amended as follows: add as a ninth cause for divorce from the bonds of matrimony, the following:—when it shall be made fully apparent to the satisfaction of the court, that the parties cannot live in peace or happiness together, and that their welfare requires a separation between them.

SEC. 3. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 25.

## WIDOWS.

AN ACT to amend an act entitled "An act relative to the probate of wills, executors, administrators, guardians, trustees of minors, and probate courts, and for defining their duties," approved, February 13th, 1843.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **To select other articles or money.** That when any one shall die leaving a widow in this territory, but shall not at the time of their decease be possessed of all of the articles of personal property as specified in said act to which this is an amendment, to be set apart to the widow—said widow may select any other personal property to the amount of, or have the same set apart to her in money, so as to make up said deficit, and it shall be the [24] duty of said executor or administrator to set apart the property so selected, or pay its value in money, at the option of said widow, should there be property enough to sell for that amount.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 26.

## REPORTS OF SUPREME COURT.

AN ACT to provide for the printing, publication and preservation of the decisions of the supreme court of Iowa territory.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Court to appoint a reporter.** That it shall be the duty of the judges of the supreme court, to appoint a reporter to said court, whose duty it shall be to report all the decisions of said court, in such manner and form as the said court may direct.

**SEC. 2. Entitled to copyright.** That the reporter thus appointed, shall be entitled exclusively to the copyright of said reports when published.

**SEC. 3. Governor to subscribe for 100 copies.** That the governor of the territory shall be and he is hereby authorized and required to subscribe on behalf of the territory of Iowa, for one hundred copies of said reports for the use of the citizens of this territory, which shall be deposited in the territorial library, subject to the order of the legislature: provided however, that the governor shall not subscribe for such reports, if the cost of the same shall exceed one cent per page, or five dollars for each volume containing 500 pages octavo.

**SEC. 4. Reporter to receive order on treasury.** That upon the delivery of the volumes to the secretary of the territory, the reporter shall be entitled to an order on the territorial treasury to the amount subscribed for.

**SEC. 5. Governor may subscribe for 50 additional copies.** That the governor is hereby authorized to subscribe for fifty additional copies of said reports, to be exchanged for the reports of the several states and territories, and of the United States.

[25] **SEC. 6. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 27.

## JURIES.

AN ACT to amend an act entitled "An act to amend an act entitled an act concerning grand and petit jurors," approved, February 13th, 1844.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Judges not to select same persons in succession.** That the judges of election in making their selection of jurors shall not select the same persons in succession, until all the persons who in their judgment are competent jurors within their respective townships, have been selected in their turn.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.



## CHAPTER 28.

## GROCERY LICENSE.

AN ACT to amend an act entitled "An act to regulate grocery license," approved January 4th, 1840.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Persons to take out county license.** That it shall be lawful for the county commissioners of the several respective counties in this territory, to require each and every person or persons wishing to keep a grocery within the county, or within any city or incorporated town within their respective counties, to take out a county license, all laws giving exclusive rights to any city or incorporated town to the contrary notwithstanding; and that the provisions of this act shall extend to all persons and property enumerated in the first section of an act entitled "an act to provide for assessing and collecting county and territorial revenue," approved February 13, 1843.

SEC. 2. **Not to sell in less quantities than one gallon without license.** That if any person or persons, shall vend or sell any spirituous liquors in less quantity than one gallon, without having first obtained a license so to do, such person so offending shall be liable to a fine of not less than thirty dollars nor more than fifty dollars, to be recovered before any justice of the peace for the use or the common schools, at the suit of any county or township officer in said county.

SEC. 3. **In force from passage.** This act to be in force and take effect from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 29.

## TERRITORIAL CREDITORS.

AN ACT to provide for the payment of the claims of the creditors of the territory.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Creditors may purchase lots and offset claims.** That all bona-fide creditors of the territory of Iowa, whose claims were contracted in the erecting of the capitol at Iowa City, and who may purchase lots at the sale authorized by the act to which this is supplemental, shall have the right to offset the claims, so far as they may extend, against any debts they may contract in the purchase of said lots: provided, said creditors produce the certificate of the territorial agent, setting forth the amount due for services performed in the erection of said capitol: provided also, that creditors holding notes against the office of territorial agent, or having claims against said office, allowed, or that may be allowed by Morgan Reno, present "ex-officio" territorial agent, shall be entitled to all the privileges of this act.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [27] CHAPTER 30.

## LIMITED PARTNERSHIPS.

AN ACT in relation to limited partnerships.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Limited partnership authorized.** That limited partnerships are hereby authorized for the transaction of any business which may be lawfully carried on by general partners.

**SEC. 2. Any number of persons may associate.** Any number of persons may associate in this manner, and may make such regulations as they please for the management of their business, consistent with a legal and honest purpose.

**SEC. 3. May render their interest transferable.** They may render their interest in their association transferable.

**SEC. 4. Death not to terminate.** The death of any of the partners shall not terminate the partnership.

**SEC. 5. May sue in partnership name.** It may sue and be sued in its partnership name.

**SEC. 6. Private property not liable.** The private property of the partners shall not be liable for the debts of the partnership: provided, the requisites of this act are substantially complied with.

**SEC. 7. Shall adopt articles of association.** Previous to commencing business as a partnership, they shall adopt articles of association, which shall be recorded in the office of the recorder of deeds for the county in which such partnership shall be formed.

**SEC. 8. Notice to be published in newspaper.** A notice shall be published for four weeks in some newspaper in each county where their business is to extend; or if there is no newspaper therein, then such publication shall be made in some newspaper as convenient as practicable to such place of business.

**SEC. 9. What notice shall contain.** Such notice shall contain:

[28] First—The name of the partnership.

Second—The general nature of the business to be transacted.

Third—The amount of capital actually paid in, and the times and conditions on which the remainder is to be paid.

Fourth—the place where the articles of association are deposited as above required.

Fifth—The time of commencement and termination of the partnership.

**SEC. 10. Publication on renewal of partnership.** A like publication shall be made upon a renewal or essential alteration of the articles of association.

**SEC. 11. Limited to ten years.** The association shall not be permitted to continue for more than ten years at once; but may be renewed by the unanimous consent of the partners.

**SEC. 12. Cannot be dissolved previously.** The partnership cannot be dissolved previous to the period first agreed upon, without giving the same previous publicity of its dissolution as is required of its creation.

**SEC. 13. Penalty for fraud.** Intentional fraud in the transaction of the affairs of the partnership shall subject those guilty thereof, to fine or imprisonment, or both, at the discretion of the court. Any person who receives an injury from such fraud, may also recover damages therefor in a civil suit.

**SEC. 14. Process may be served on any officer.** Legal process may be served upon any officer of the association, or if there are no officers, then upon any member thereof.—This shall be deemed a sufficient service upon the partnership.

**SEC. 15. Payment of dividends.** The payment of dividends which shall leave insufficient funds to meet the liabilities of the partnership, shall be deemed fraudulent.

**SEC. 16. Civil suits for fraud.** The perpetration of any fraud, shall render the individual property of all those engaged in, or cognizant of, such perpetration, liable for the partnership debts.

**SEC. 17. Execution against company, how served.** Whenever an execution shall be issued against the company, and after reasonable inquiries no partnership property can be found sufficient to satisfy the same, it shall be lawful to levy in the first instance upon the individual property of any of the partners. This property shall only be released from the effects of the levy, by either.

First—Pointing out sufficient partnership property whereon to levy; in which case the costs thus far made by the first levy shall be added to the amount to be collected from the company by the execution, or,

Second—By informing the officer who made the levy, that the funds of the partnership are wholly exhausted. In this latter case the officer shall forthwith make return of that fact to the court from whence the [29] execution issued. He shall thereupon suspend all further proceedings under the execution, and the property shall be treated as though held by virtue of a writ of attachment, until the further order of the court.

**SEC. 18. Plaintiff may direct release of property.** The plaintiff may direct a release of the property thus taken in execution, or he may appear before the court at the return day of the execution, or as early as practicable afterwards, and in answer to a rule to show cause why the property should be sold, may allege such matters as will render the private property of the partners liable, or that the funds of the partnership are not exhausted; and issue shall thereupon be joined to be tried by a jury.

**SEC. 19. Company to exhibit books and papers.** Upon such trial, it shall be necessary for the company to exhibit their books and papers if required, and to explain by those, or some other means, the fairness and regularity of their business transactions.

**SEC. 20. Remedy for partner when he pays a firm debt.** Whenever the private property of one of the partners is thus held, he shall have a claim for indemnity against the company.

**SEC. 21. Any of the partners may sue company at law.** Any of the partners may sue the company at law for a private demand against the partnership.

Approved, January 17th, 1846.

## CHAPTER 31.

### GARNISHEES.

AN ACT to amend an act entitled "An act regulating practice in the district courts of the territory of Iowa."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa,*

**SECTION 1. Garnishee required to appear—facts to be tried by jury.** That a garnishee clause in an execution issued from any court of record, shall re-

quire the garnishee to appear at the next term of the court from which said writ issued, and the plaintiff in execution may deny the answer of such garnishee, and the issue shall be tried in the same manner as other issues of fact are tried; and if it shall be found that such garnishee had under his control, or in his possession, any money, property, right or credit of any name, kind or description, or any right, either legal or equitable, to any real estate be- [30] longing to said defendant in execution, the same shall be bound for the payment of such judgment from the day of the service of such summons of garnishee. And the said garnishee shall be responsible for the same to the plaintiff in execution, and the court shall adopt such rules, and make such orders, as shall be necessary to compel a full and complete exhibition of the rights of the defendant in execution of every kind, kept or held back, or which may be in any manner in the hands of the garnishee for the present or future benefit of the defendant in execution.

**SEC. 2. Fees of witnesses to be taxed on party against whom judgment is rendered, unless otherwise ordered by court.** All necessary witnesses, summoned, sworn and examined, or sworn and examined without being summoned, shall be taxed in the general bill of costs, and paid by the party against whom judgment is given, unless the court for good cause shown, shall otherwise order.

**SEC. 3. Act in force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## CHAPTER 32.

### ELECTORAL DISTRICTS.

AN ACT to amend an act entitled "An act to district the territory of Iowa into electoral districts, and to apportion the representatives of each."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Third, fourth, fifth sixth electoral district apportioned.** That the third district composed of the county of Des Moines, shall be entitled to one member of the council and four members of the house of representatives.

The fourth district composed of the county of Henry, shall be entitled to one member of the council, and two members of the house of representatives.

The fifth district composed of the counties of Jefferson, Wapello and Kishkekosh, shall be entitled to one member of the council, and two members of the house of representatives.

The county of Jefferson shall elect one member, and the counties of Wapello and Kishkekosh one member to the house of representatives.

That the sixth district, composed of the counties of Louisa, Washington, Keokuk, Mahaska and Marion shall be entitled to one member of the council, and three members of the house of representatives; the [31] county of Louisa shall elect one member; the counties of Washington and Keokuk shall elect one member, and the counties of Mahaska and Marion shall elect one member of the house of representatives.

**SEC. 2. Davis and Appanoose set apart.** That the counties of Davis and Appanoose are hereby set apart from the county of Van Buren in the election of members of the house of representatives, and shall be entitled to one

member, and the county of Van Buren to two members of the house of representatives, and the three shall elect two members of the council; as directed in the act to which this is amendatory.

**Sec. 3. In force from its passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## CHAPTER 33.

### APPRAISEMENT and REDEMPTION.

AN ACT to amend an act entitled "An act subjecting real and personal estate to execution."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Appraisement law repealed.** That the third and fourth sections of an act entitled "An act subjecting real and personal estate to execution," commonly called the valuation law, be and the same, are hereby repealed; and also, so much of the ninth section of said act, as requires the officer to notify in writing the defendant in execution, of the time, and place of sale: provided, that nothing in this act contained, shall be so construed as to affect any rights which may have accrued under and by virtue of the said sections, hereby repealed, but the same shall be prosecuted as though this act had not been passed.

**SEC. 2. Duty of sheriff on sales under execution.** When any real estate shall be sold on execution, under this act, the sheriff shall give to the purchaser a certificate, showing the amount for which said real estate was sold and, that the purchaser will be entitled to a deed, at the expiration of fifteen months from said sale, unless redeemed, as hereinafter provided: and the said purchaser shall not be required to have said certificate recorded.

**SEC. 3. Right of redemption in one year.** It shall be lawful for any defendant in execution, whose [32] real estate may be sold on execution, to redeem the same within one year after the sale thereof; by paying to the clerk of the court, who issued the same, for the use of the purchaser, the amount of said sale, with ten per cent per annum added thereto; and the said clerk shall give said defendant a certificate of redemption, which shall be a full satisfaction of said sale; and said clerk shall enter on his judgment docket, a memorandum, stating said real estate was redeemed, and the date of such redemption.

**SEC. 4. Judgment creditors may redeem.** That, if the real estate so sold, shall not be redeemed, by the defendant in execution, within one year from the sale as above:—provided, any judgment creditor may, within three months thereafter redeem the same, by paying to the clerk of the court, from which the execution issued, for the use of the purchaser the amount of the purchase money, with ten per cent. per annum, added thereto; and the said clerk, shall give said judgment creditor, a certificate of redemption, showing the amount paid by him, and that he will be entitled to a deed, at the expiration of fifteen months from the sale, if not redeemed from him by some other judgment creditor; and the said clerk shall enter a memorandum of the same on his judgment docket; and any other judgment creditor may in the same manner, within the said three months, redeem from the first or any other judgment creditor, by paying to the said judgment creditor,

the amount of his debt, in full satisfaction thereof, and the amount paid by said judgment creditor, to the clerk as aforesaid, with ten per cent. per annum added thereto, and at the expiration of said fifteen months, from the sale, the sheriff shall make a deed to the purchaser, or to the judgment creditor, who last redeemed, as the case may require.

SEC. 5. In force 1st April, 1846. This act to be in force from and after the first day of April next.

Approved, January 19th, 1846.

[33] CHAPTER 34.

JUDGMENT LIENS.

AN ACT concerning the lien of judgments.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. Judgment not a lien upon defendant's equitable interest in real estate if not upon record in county where judgment rendered. That no judgment in the district court in any county in this territory shall be a lien upon the equitable interest of the defendant in real estate: provided, said equitable interest does not appear of record in the county wherein said real estate is situated.

SEC. 2. Not a lien upon real estate after the expiration of ten years. No such judgment shall be a lien upon the real estate of the defendant after the expiration of ten years from the rendition thereof.

SEC. 3. Judgment to be a lien ten years from rendition, upon real estate in county where rendered. Such payment shall be a lien upon the real estate of the defendant situated in any county where such judgment shall be rendered ten years from the rendition thereof.

SEC. 4. Act in force from passage. This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

CHAPTER 35.

TERRITORIAL AND COUNTY ROADS.

AN ACT relative to re-locations of territorial and county roads.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. Duty of county commissioners in the re-location of roads for less distance than three miles. That when any person or persons present to the commissioners of any county in this territory for an alteration or re-location of any county or territorial road for a less distance than three miles. the commissioners may, at their discretion, appoint [34] viewers and surveyor, as is now provided for by law. Said reviewers, after notification of their appointment, shall at their earliest convenience, meet at such time and place as a majority of them shall agree, and after being sworn according to

law, shall proceed to examine said route and report for or against, as their judgment shall determine: provided, that no reviewer, surveyor or other person employed, shall have any claim upon the county treasury for such services; but all expenses of such reviewers shall be paid by the petitioners in advance, if required.

**SEC. 2. Compensation to reviewers and surveyors.** That the compensation allowed under the provisions of this act shall not exceed that now fixed by law, and may be such as the parties may agree upon.

**SEC. 3. Act in force from passage.** This act to take effect and be in force from and after the first day of June next.

Approved, January 19th, 1846.

## CHAPTER 36.

### APPROPRIATIONS, 1845-6.

AN ACT to provide for the compensation of the members of the present legislature, and for other purposes.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Pay of council.** That the following sums are hereby appropriated, out of any moneys in the hands of the secretary of the territory of Iowa, for the following purposes, viz:

For pay, and mileage of the members of the council, two thousand four hundred and six dollars.

**SEC. 2. Officers of council.** For the pay of the officers of the council, seven hundred and thirty-two dollars.

**SEC. 3. Pay of representatives.** For pay and mileage of the members of house of representatives, four thousand five hundred and forty-six dollars and fifty cents. For pay of the officers of the house of representatives, seven hundred and forty-seven dollars.

**SEC. 4. Pro tem officers of council.** For pro tem officers of the council, twenty-seven dollars.

**SEC. 5. Pro tem officers of the house.** For pay of pro tem officers of the house of representatives, eighteen dollars.

**SEC. 6. Speaker of the house—speaker pro tem of house.** For extra pay to the speaker of the house of representatives of the present session, one hundred and forty-four dollars. For extra pay to J. M. Robinson as speaker pro tem of the house of representatives, six dollars.

**SEC. 7. Jesse Williams.** To Jesse Williams, for moneys paid out for sundries, as per bills and receipts rendered, one hundred and sixty-five dollars.

**SEC. 8. John Taylor.** To John Taylor, for purchase of stationery at St. Louis, ten dollars.

**SEC. 9. Lyman Holt, Williard Barrow, maps, J. L. Campbell, Isaac Havens.** To Lyman Holt, for crepe furnished for council and house of representatives, eight dollars and seventy-five cents; to Williard Barrows, for maps furnished the legislature, of the last session, seventy-five dollars; to J. L. Campbell, for cash paid for brush and letter bags, one dollar and fifty cents; to Isaac Havens, for axe handles furnished, fifty cents.

**SEC. 10. A. P. Wood.** To A. P. Wood, for papers furnished the members of the present legislature, one hundred and thirteen dollars.

SEC. 11. **Palmer, Palmer.** To Messrs. Palmer, for papers furnished the members of the present legislature, two hundred and four dollars; for incidental printing, one hundred and forty dollars and sixty-three cents.

SEC. 12. **Malcolm Murray, Lyman Holt, E. C. Lyon, J. Weineke, John Powell, Lyman Holt.** To M. Murray, for sprigs, pulley, etc., one dollar and fifty cents; to Lyman Holt, for half ream letter paper, two dollars and fifty cents, and to E. C. Lyon for an additional half ream of paper, two dollars and fifty cents, and to Julius Weineke, for cutting wood for secretary's office and library, eighteen dollars and seventy-five cents; to John Powell, for shovel, tongs, and sundries, per bill rendered, three dollars and three cents; to Lyman Holt, for quills, two dollars.

SEC. 13. **S. C. Trowbridge, postage.** To S. C. Trowbridge, for postage on documents, papers, [36] letters, etc., the sum of one hundred and seventy-four dollars and fifty cents.

SEC. 14. **Hughes and Waters.** To Hughes and Waters, for papers furnished the members of the legislature, for the present session, six dollars and fifty cents.

SEC. 15. **George Greene.** To George Greene, for papers furnished the legislature, four dollars.

SEC. 16. **H. Crittendon.** To H. Crittenden, for stationery furnished for use of legislative assembly, two hundred and twenty-two dollars and seventy-five cents.

SEC. 17. **Peter Jackson.** To Peter Jackson, for freight on boxes of stationery, five dollars and twenty-three cents.

SEC. 18. **J. H. Fisher.** To J. H. Fisher, service under direction of legislature, six dollars.

SEC. 19. **E. M. Ingrahm.** To E. M. Ingrahm, for ink, fifty cents.

SEC. 20. **E. C. Lyons.** To E. C. Lyon, for furniture for use of legislature, as per bill, seventeen dollars and eighty-four cents.

SEC. 21. **Peter Roberts.** To Peter Roberts, for repairing desk-locks three dollars.

SEC. 22. **Theodore Sanxay.** To Theodore Sanxay, for articles furnished for the use of the legislature, eleven dollars and thirty-four cents.

SEC. 23. **J. Reid.** To J. Reid, for ink furnished for the use of the legislature, twenty-two dollars and ninety cents.

SEC. 24. **D. Cox.** To D. Cox, for repairing three fire-places, of the capitol, per order of the secretary of the territory, three dollars each, nine dollars.

SEC. 25. **J. Hughes.** To J. Hughes, for eight volumes of Nile's Register for the use of the library, twenty-three dollars and twelve cents.

SEC. 26. **James Trimble.** To James Trimble, for services in swearing in members, three dollars.

SEC. 27. **William Thompson.** To Wm. Thompson, the sum of two hundred and eighty-three dollars, for pay for indexing, superintending, and distributing the journals of the house.

SEC. 28. **Peter Conboy.** To Peter Conboy the sum of fifteen dollars.

SEC. 29. **A. P. Wood.** To A. P. Wood, for papers furnished the members of the council, during the present session, the sum of thirty-three dollars.

SEC. 30. **S. C. Trowbridge.** To S. C. Trowbridge, for postage on documents, papers, letters, etc., during the present session, one hundred and eleven dollars and eighteen and one-fourth cents.

SEC. 31. **Palmer, printers.** To A. H. and G. D. Palmer, for incidental printing, and papers furnished members of the council, four hundred and thirty-three dollars and thirty-eight cents.

[37] SEC. 32. **Palmer, printers.** To A. H. and G. D. Palmer, forty-seven dollars and fifty cents; being the balance due for printing for council during the last session.



SEC. 33. **J. S. Stephenson.** To John S. Stephenson, the sum of eighteen dollars, as expenses, etc., in attending the remains of J. M. Robertson, deceased, member of the house of representatives, to his residence in Scott county.

SEC. 34. **J. F. Kinney.** To J. F. Kinney, two hundred and fifty dollars, for preparing the journals of the council of the present session, for the press, superintending the publication thereof, and indexing and distributing the same.

SEC. 35. **Hunor and Davis.** That Jacob Hunor, of Lee county, and E. W. Davis, of Des Moines county, be allowed the sum of three dollars per day each, for nineteen days' services as members of committee to examine the affairs of the penitentiary.

SEC. 36. **William Greene.** To William Greene, for binding eight volumes of Nile's Nat. Register for territorial library, \$1.25, per volume, \$10.00.

Approved, January 19th, 1846.

## CHAPTER 37.

### CONVENTION.

**AN ACT** to provide for the election of delegates to a convention to form a constitution and state government.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Election of delegates first Monday April.** That there shall be a poll opened at the township election in April next, for the election of delegates to a convention, to form a constitution for the future state of Iowa; and the notice for said election for delegates, shall be given at least twenty days before the holding thereof, and the manner of giving said notice, and all other proceedings connected with said election, shall be in accordance with the provisions of the law providing for the election of members of the council and house of representatives in this territory, so far as the same may be applicable.

[38] SEC. 2. **Apportionment of members.** That the convention shall consist of thirty-two members; to be elected within the several organized counties in this territory as follows, to-wit:

Des Moines	3
Lee	3
Van Buren	3
Jefferson	2
Henry	2
Davis	1
Appanoose and Kishkekosh	1
Wapello	1
Iowa, Marion, Polk and Jasper	1
Mahaska	1
Keokuk	1
Washington	1
Louisa	1
Muscatine	1
Johnson	1
Linn and Benton	1

Cedar .....	1
Scott .....	1
Clinton .....	1
Jackson .....	1
Jones .....	1
Clayton .....	1
Dubuque, Delaware, Buchanan, Fayette and Blackhawk .....	2

The said delegates shall be citizens of the United States and shall have resided six months within this territory, before the election aforesaid.

**SEC. 3. Duty of judges of election.** That the judges of election, in the several townships and precincts shall certify the votes for delegates, in the same manner, as is provided by law for the election of members of council and house of representatives, and shall send returns of said election, so certified to the clerk of the board of county commissioners, who shall open said returns, and certify the election of delegates, in the same manner as is provided by law, for the election of members of the legislative assembly; and in case of a tie vote between any of the candidates for delegates, it shall be the duty of the clerk of the board of county commissioners, to order a new election for the purpose of effecting an election in said tied vote, which election shall be held within twenty days after said first election.

[39] **SEC. 4. Meeting of convention first Monday in May.** That the said delegates elect, shall meet at Iowa City, on the first Monday of May, A. D. 1846, and proceed to form a constitution, and state government for the future state of Iowa.

**SEC. 5. Publication and vote on constitution.** That when a constitution, and form of state government shall have been adopted by said convention, they shall cause the same to be published, and at the next general election succeeding the formation of a constitution and state government by said convention, the qualified electors who may have resided thirty days in this territory next preceding said election, and who are entitled in all other respects to vote for members of the legislative assembly of said territory, shall be, and they are hereby authorized, to vote for or against a convention. The vote for and against a constitution shall be counted, and returned to the clerk of the board of county commissioners, who shall, in the same manner, transmit the returns of said votes for and against the constitution, to the secretary of the territory; who shall open and count the same, as soon as they are all received from the several counties in this territory, in the presence of the governor; who shall issue his proclamation declaring the result.

**SEC. 6. Qualification of voters.** That all electors, qualified as aforesaid, may vote for or against said constitution in any county in said territory, whether a resident of such county or not. But in the election of delegates to the convention the said electors shall not vote out of the counties wherein they have their residence.

**SEC. 7. Election how held.** That the several elections, provided for in this act, shall in all respects, be conducted in accordance with the provisions of an act regulating general elections in this territory, so far as the same is applicable, and except as is herein specially provided for.

**SEC. 8. Presentation of constitution to congress.** That said constitution and form of state government, shall, if ratified at the election specified in the fifth section of this act, be presented to the congress of the United States, at the next ensuing session thereof, for admittance into the Union upon an equal footing with the original states; and with such other provisions and conditions as may be provided for by the convention, framing said constitution, and form of state government; but shall not be presented for admittance until the same shall be accepted and ratified, by the qualified electors of this territory.

**SEC. 9. Duty of secretary of territory.** That it shall be the duty of the secretary of the territory, to provide a suitable room for the meeting of the convention; also to provide the same with furniture, stationery, and all other things necessary for the comfort and convenience of the convention.

**SEC. 10. Pay of delegates.** That the members of said convention shall be entitled to [40] three dollars for every twenty miles travel to and from the place of holding said convention, and three dollars per diem for their services, to be paid in the way and manner as may hereafter be provided for by the legislative assembly of the territory or state of Iowa.

**SEC. 11. In force from passage.** This act shall take effect, and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 38.

### ROADS.

AN ACT to amend an act entitled "An act to prevent and punish the obstruction of roads and highways."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Penalty for obstructing roads.** That if any person or persons, shall obstruct any public road, or highway in this territory, by falling any tree, or trees across the same, or by encroaching upon, or fencing, or ploughing up the same, or by placing any other obstruction thereon, or who shall destroy or injure any bridge or causeway, or remove any plank or timber therefrom, without being legally authorized so to do, shall upon conviction thereof, before any court having competent jurisdiction, be fined, in any sum not exceeding one hundred dollars, nor less than ten dollars, and shall be imprisoned in the county jail until the fine and costs are paid.

**SEC. 2. Repealing clause.** That the first section of the act to which this is amendatory, be and the same is hereby repealed.

**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 1st, 1846.

## [41] CHAPTER 39.

### FRANCES E. ANDERSON.

AN ACT for the relief of Mrs. Frances E. Anderson.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Mrs. Anderson empowered to convey a lot.** That Mrs. Frances E. Anderson, widow of the late Jeremiah G. Anderson, of Lee county, be, and she is hereby authorized and empowered to convey by deed in fee simple, to Mr. W. R. and F. P. Johnson of Brown county, Kentucky, a certain brick house and lot, with all the appurtenances thereunto belonging, in the town of Nashville, in the county of Lee, and territory of Iowa; being the one

occupied by James Anderson, deceased, previous to the time of his death, and now occupied by John Smith, and by reference to the records of said county, the description of which will more fully appear; providing however, that said sale shall in no wise effect any lien, or incumbrance now existing against said property.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 2d, 1846.

## CHAPTER 40.

### ROADS.

AN ACT to legalize territorial and county roads.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Certain roads declared legal.** That the territorial and county roads, which have been laid out by authority of the territorial legislature, or by order of the board of commissioners of any county of this territory, the return of the reviewers and the surveyors plat of which roads have been accepted by the commissioners of the counties through which such roads [42] may run, shall be, and are hereby, declared legal roads, as fully and effectually as though the said returns and plats had been recorded at length in the respective counties.

**SEC. 2. Alterations when legal.** That all alterations of territorial or county roads, made by order of any board of commissioners of the proper county, the returns and plats of which have been accepted by said board, shall be, and are hereby declared legal, as though said alterations had been recorded, as provided for in the laws of this territory regulating roads and highways.

**SEC. 3. Roads to be recorded.** That it shall be the duty of the board of commissioners of the respective counties within this territory, to furnish their clerks with suitable record books, to be kept for the purpose of recording all roads, and alterations thereof, which may be made within their respective counties.

**SEC. 4. Clerks to record and allowance for.** That it shall be the duty of the several clerks of the board of county commissioners, in all counties where a record of territorial and county roads has not been kept, immediately on the receipt of the record books provided for in the third section of this act, to record all the surveyors plats of roads on file in their offices, and which roads have not been vacated; for which services, he shall be allowed such compensation as is now provided by law for similar services.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 2d, 1846.

## CHAPTER 41.

## ELI AND LUCY P. DOW.

AN ACT to dissolve the bonds of matrimony existing between Eli Dow and Lucy P. Dow of the county of Lee.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Mr. and Mrs. Dow divorced.** That the bonds of matrimony, existing between Eli Dow, and Lucy P. Dow, of the county of Lee, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 3d, 1846.

## [43] CHAPTER 42.

## E. G. WHITE.

AN ACT to change the name of E. G. White, of Dubuque county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Name changed from White to Anderson.** That the name of E. G. White, of Dubuque county, shall be changed to that of E. G. Anderson.

SEC. 2. **Not to affect his indentures.** That this act shall not in any manner, affect said minor's indenture.

SEC. 3. **In force from passage.** This act to be in effect from its passage.

Approved, January 3d, 1846.

## CHAPTER 43.

## DUBUQUE COUNTY.

AN ACT to repeal an act entitled "An act to authorize the board of commissioners of the county of Dubuque to levy a tax on all real estate and personal estate," approved, May 26, 1845.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Repeal of act of May 26th, 1845.** That an act, entitled "An act to authorize the board of commissioners of the county of Dubuque to levy a tax on all real estate," &c., approved May 26, 1845, be and the same is hereby repealed: provided, that nothing in this act contained, shall be so construed as to prevent the collection of the tax, assessed for the year eighteen hundred and forty-five, but the same shall be collected, as though this act had not been passed.

**SEC. 2. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 9th, 1846.

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[44] CHAPTER 44.

MARION COUNTY.

AN ACT to amend an act entitled "An act to organize the County of Marion," approved, June 10th, 1845.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Mahaska to have cognizance of crimes.** That the county of Mahaska shall have cognizance and jurisdiction, of all crimes or violations of the criminal laws of this territory, committed within the limits of the said county of Marion, prior to the organization of said county of Marion, in all cases where prosecutions have been commenced, under the judicial authorities of said Mahaska county, prior to the passage of this act.

**SEC. 2. Marion to have, where prosecutions had not been commenced, etc.** That the county of Marion shall have cognizance and jurisdiction of all crimes or violations of the criminal laws of this territory, committed within the limits of the said county of Marion prior to the organization of said county in all cases, when prosecutions have not been commenced under the judicial authorities of the county of Mahaska.

**SEC. 3. Treasurer of Mahaska, to collect taxes.** That the treasurer of Mahaska county, be and he is hereby authorized, to collect all uncollected taxes or revenue assessed in the county of Marion, prior to the organization of said county, as fully and effectually as if the act to which this is amendatory, had not been passed.

**SEC. 4. Repealing clause.** That all acts and parts of acts, contravening the provisions of this act, be and the same are hereby repealed.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 9th, 1846.

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[45] CHAPTER 45.

WYOMING ROAD.

AN ACT to establish and confirm an alteration in the Wyoming road.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Certain survey of established.** That the alteration in the Wyoming road, from the town of Wyoming, in the county of Muscatine, to Iowa City, recommended by reviewers, appointed by the board of commissioners of the county of Johnson, at the farm of Governor Robert Lucas, near Iowa City, be and the same is hereby established, and confirmed, as a part of said Wyoming road.

**SEC. 2. In force from passage.** This act to be in force from and after its passage.

Approved, January 9th, 1846.

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CHAPTER 46.

TREASURER, AUDITOR AND WARDEN.

AN ACT requiring certain officers therein named, to make their annual reports to the executive of the territory of Iowa.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Treasurer, auditor and warden of penitentiary to report annually to the governor.** That the territorial treasurer, territorial auditor, and warden of the Iowa penitentiary, are hereby required to make their annual reports, containing a correct synopsis of all the important matters pertaining to their respective offices, with such suggestions as they may deem proper, to the executive of the territory, on or before the first day of November in each year.

**SEC. 2. Repealing clause.** All acts conflicting with this act, be and the same are hereby repealed.

**SEC. 3. Act in force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 9th, 1846.

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[46] CHAPTER 47.

KEOKUK COUNTY.

AN ACT to provide for the appointment of commissioners, to re-locate the county seat of Keokuk county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Commissioners to relocate county seat.** That Joseph Foster, of the county of Van Buren, Joshua Owens, of the county of Lee, and John Brophy, of the county of Clinton, be and they are hereby appointed commissioners, to relocate the county seat of Keokuk county.

**SEC. 2. Commissioners to meet at Sigourney.** Said commissioners or a majority of them, shall meet at the town of Sigourney, in said county, on the second Monday of May next; or at such other time thereafter, as a majority may agree upon, and before entering upon the discharge of their duties, shall take and subscribe before some justice of the peace of said county, or other person authorized by law to administer the same, the following oath—"You do solemnly swear or affirm, that you are not, either directly or indirectly interested in the location of the county seat of said county, that you are not, directly or indirectly interested in any land, or lands, or land claims of any description, within the limits of the same; and that you will faithfully and fully discharge the duties incumbent upon you, without

favor or affection, to the best of your judgment," which oath so taken and subscribed, shall be filed in the office of the clerk of the board of county commissioners in said county.

**SEC. 3. Duty of commissioners.** Said commissioners when qualified as aforesaid, shall proceed to select a suitable site for the county seat of said county; taking into consideration, the relative advantages, and disadvantages, of different points, the present and future interest and convenience of the population of said county; and among the several points, so examined, including the town of Sigourney: they shall select such point as they may deem most suitable, for the county seat of said county.

**SEC. 4. To name the new location.** That as soon as said commissioners shall agree upon such point, for the county seat of said county, they shall reduce a proper and particular description of the same to writing, giving said point a name, [47] which description, properly certified as the point selected, shall be filed with the clerk of the board of county commissioners.

**SEC. 5. Electors to decide between the two points.** That if the commissioners shall determine that the town of Sigourney is a proper and suitable point, for the county seat of said county said decision properly certified, shall be reduced to writing, and filed with the clerk of the board of county commissioners of said county, and the same shall be and remain the county seat of said county, as provided by law; but if any other point should be selected, as aforesaid, then, the clerk of the board of county commissioners, shall give at least twenty days' notice, by posting up the same in at least four of the most public places in said county, that at the next August election, a poll will be opened, for the qualified electors of said county, to determine by ballot, which of the two points, the one so selected by the commissioners, or the town of Sigourney, shall be the county seat of said county. Those voting for the town of Sigourney, shall write the word "Sigourney" on their ballots. Those voting for the point selected by the commissioners as aforesaid, shall write on their ballots the name agreed on by the commissioners, for the new location, and whichever point shall receive a majority of votes, cast at said election shall be, and remain forever afterwards, the county seat of Keokuk county.

**SEC. 6. Compensation of commissioners.** Said commissioners shall receive two dollars per day, for each day necessarily employed in the discharge of the duties of their appointment, and two dollars for every twenty miles travel, in going and returning, to be paid out of any moneys in the treasury of Keokuk county, not otherwise appropriated.

**SEC. 7. Action of county commissioners.** That if the qualified electors, shall decide at said election, in favor of the new location, made by the commissioners aforesaid, then, the commissioners of said county, shall immediately proceed to make a survey of said new location; and as soon as the plat of the survey of the new location is filed, and recorded in the office of the clerk of the board of county commissioners, the said commissioners shall make such indemnity to the lot holders of the town of Sigourney, as they may have sustained, to reimburse them for any loss, or losses sustained, by the removal of the county seat: provided, that any person aggrieved, by the decision of the board of county commissioners, under and by virtue of this act, may take an appeal to the district court, as in other cases.

**SEC. 8. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 9th, 1846.



## [48] CHAPTER 48.

JOSEPH AND ANN HARTLEY,

AN ACT to divorce Joseph Hartley from his wife Anna Hartley.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Hartley and wife divorced.** That the bonds of matrimony existing between Joseph Hartley of Scott county and his wife Ann Hartley, be and the same is [are] hereby dissolved.

SEC. 2. **Act in force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 12th, 1846.

## CHAPTER 49.

JOSEPH AND JANE HEWITT.

AN ACT to divorce Joseph Hewitt from his wife Jane Hewitt.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Hewitt and wife divorced.** That the bonds of matrimony now existing between Joseph Hewitt and his wife Jane, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 12th, 1846.

## [49] CHAPTER 50.

WYOMING AND MOSCOW ROAD.

AN ACT to vacate a part of the territorial road, from Wyoming to Moscow.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Portion of road vacated.** That so much of the territorial road leading from Wyoming to Moscow, as lays west of the territorial road from Bloomington in Muscatine county, to Whittlesey's mill in Cedar county, be and the same is hereby declared vacated.

SEC. 2. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, December 12th, 1845.

## CHAPTER 51.

## ROAD FROM OSKALOOSA.

AN ACT to locate a territorial road, from Oskaloosa in Mahaska county to Knoxville in Marion county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Commissioners to locate road from Oskaloosa to Knoxville.** That Britton Edwards and Newton Severs of Mahaska county and William C. Paine of Marion county, be and they are hereby appointed commissioners, to lay out and establish a territorial road, from Oskaloosa, in Mahaska county, to Knoxville in Marion county.

**SEC. 2. Commissioners to meet at Oskaloosa.** Said commissioners shall meet in Oskaloosa, on the second Monday in March next, and proceed to locate said road, by taking to their assistance, two chain men, and one marker, (the said Newton Severs acting as surveyor;) they shall take an oath before some justice of the peace, before entering on their duties for the faithful performance of the same.

**SEC. 3. Nearest route between.** Said road shall be laid out on the nearest and most practi- [50] cable route, for a road, taking into consideration the public interest, and at the same time doing as little damage to private property as the public convenience will admit.

**SEC. 4. To be marked and staked.** The commissioners aforesaid shall cause said road to be plainly staked out through prairies and plainly blazed through the timber, and return a complete plat of the same to the board of county commissioners, of the counties of Mahaska and Marion; stating the number of days spent on each; and the board of county commissioners shall allow a reasonable compensation per day, for each day necessarily spent in their respective counties, to be paid out of any money in the treasury, not otherwise appropriated; and said road when laid out, shall be opened and kept in repair, as other public roads are.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 12th, 1846.

## CHAPTER 52.

## FERRY AT FREDONIA.

AN ACT to authorize Edmund C. Whipple & Co., to establish and keep a ferry across the Iowa and Cedar rivers at the junction of said rivers.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Whipple & Co. authorized to establish.** That Edmund C. Whipple & Co., their heirs and assigns, be and they are hereby authorized, to establish and keep a ferry across the Iowa and Cedar rivers, at the junction of said rivers, opposite to the town of Fredonia, in Louisa county; where the road leading from Columbus City to Bloomington crosses said Iowa river, and where the road leading from Fredonia to Iowa City crosses the

Cedar river; for the term of ten years: provided, said Edmund C. Whipple & Co., shall within one year after the passage of this act, procure a good horse, or steam ferry boat, with power sufficient to propel the same, for the safe transportation of all persons, and their property, across either of said rivers when practicable and without delay.

**SEC. 2. County not to license one if they perform.** Should Edmund C. Whipple and company, establish and [51] keep said ferry according to law, and the provisions of this act, no license shall be granted by the board of county commissioners of said Louisa county, to any other person, to keep a ferry during said term of ten years, within one mile of said ferry, unless the board of commissioners shall deem it indispensably necessary to the public convenience: provided, that said ferry, when established, shall not interfere with the rights of any other person, or persons, or any ferry already established, or licensed by the board of county commissioners of said county.

**SEC. 3. Saving clause.** Any future legislature may amend or repeal this act.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 12th, 1846.

## CHAPTER 53.

### THOMAS AND PHEBE WILKIE.

AN ACT to divorce Phebe Elizabeth Wilkie from her husband Thomas Wilkie.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Wilkie and wife divorced.** That the bonds of matrimony, existing between Thomas Wilkie, and Phebe Elizabeth Wilkie, of the county of Lee, be and the same are hereby dissolved.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Become a law, January 12th, 1846.

## CHAPTER 54.

### THOMAS AND AMELIA SCANLIN.

AN ACT to divorce Amelia Scanlin from her husband Thomas Scanlin.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Scanlin and wife divorced.** That the bonds of matrimony, heretofore ex-[52]-isting between Thomas Scanlin and Amelia Scanlin, are hereby dissolved.

**SEC. 2. Wife's name changed to Amelia Tull.** That the name of the said Amelia Scanlin, be changed to that of Amelia Tull.

**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Become a law January 12th, 1846.

## CHAPTER 55.

## NATHANIEL AND JEMIMA SNYDER.

AN ACT to divorce Jemima Snyder from her husband Nathaniel Snyder.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Snyder and wife divorced.** That the bonds of matrimony, heretofore existing between Jemima Snyder of the county of Linn, and her husband Nathaniel Snyder, of the same county, be and the same are hereby dissolved.

SEC. 2. **In force from passage.** This act to be in force from and after its passage.

Become a law January 12th, 1846.

## CHAPTER 56.

## DIVORCES.

AN ACT to divorce certain person therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Phillips and wife divorced.** That the bonds of matrimony heretofore existing between Mary Ann Phillips of the county of Desmoines, and her husband Aaron Phillips, be and the same are hereby dissolved.

SEC. 2. **Baltzer and wife divorced.** That the bonds of matrimony heretofore existing between Martha Baltzer of the county of Desmoines and her husband Thomas Baltzer, be and the same are hereby dissolved, and that the said Mar- [53] tha be allowed to possess and retain the guardianship and protection of her two minor children, John Baltzer and Francis Baltzer, until they severally become of age.

SEC. 3. **In force from passage.** That this act take effect and be in force from and after its passage.

Become a law January 12th, 1846.

## CHAPTER 57.

## HENRY C. SMITH.

AN ACT to legalize the acts of Henry C. Smith.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Acts as constable legalized.** That the official acts of Henry C. Smith, as a constable, within the county of Davis, in this territory, be and they are hereby made good and valid in law, and shall have the same effect

as if no informality had occurred in the filing of his bond or other requirements of the act entitled "An act for the election of constables and defining their duties," approved January 24th, 1839.

Approved, January 13th, 1846.

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## CHAPTER 58.

### ROAD FROM FAIRFIELD.

AN ACT to relocate a territorial road from Fairfield in Jefferson county to the Agency City, in Wapello county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Fairfield to Agency City.** That David Sears and Henry B. Mitchell of the county of Jefferson, and Nathaniel H. Gates of the county of Wapello, be and they are hereby appointed commissioners to relocate that part of a territorial road, leading from Fairfield to Ottumwa, which lies between Fairfield and Agency City; said commissioners shall meet in Fairfield, on the third Monday in March next; or on such other day as [54] a majority of them may agree on, within three months thereafter, and proceed to discharge the duties herein required of them; commencing at Fairfield, thence the nearest and best route to William P. Holmes, in Jefferson county; thence the nearest and best route to Agency City, in Wapello county; said commissioners shall in all other respects, be governed by an act to provide for laying out and opening territorial roads, approved December 29th, 1838.

**SEC. 2. In force from passage.** This act to be in force from and after its passage.

Approved, January 13th, 1846.

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## CHAPTER 59.

### ROAD FROM DUBUQUE.

AN ACT to declare a certain road in the county of Dubuque, to be a territorial road, and to locate a territorial road from Floyd's in said county, via Colony in Delaware county to Boardman's precinct, in the county of Clayton, thence to the Neutral Ground.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Dubuque to Floyds established.** That the county road in the county of Dubuque, leading from Dubuque City via Benton's furnace to John Floyd's, in said county, be, and the same is hereby declared to be a territorial road.

**SEC. 2. Commissioners to survey one from Floyds.** That John Floyd, of the county of Dubuque, David Moreland, of the county of Delaware, and Elisha Boardman, of the county of Clayton, be, and they are hereby appointed commissioners, to locate and mark out a territorial road, commencing at Floyd's, in the county of Dubuque, and running via the Colony in Delaware

county, to Boardman's precinct in the county of Clayton; thence on the nearest, best and most eligible ground, to the boundary line of Clayton county in the direction of Fort Atkinson.

**SEC. 3. Commissioners to meet in six months.** Said commissioners or a majority of them shall meet at the house of John Floyd, in Dubuque county, within six months after the passage of this act, and proceed to locate and mark out said road as above designated.

**SEC. 4. Compensation of viewers, etc.** That said commissioners and hands employed in locating [55] said road, shall receive for their services, such sum as the board of commissioners of the respective counties through which said road passes, shall deem to be just and right.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 13th, 1846.

## CHAPTER 60.

### APPANOOSE COUNTY.

AN ACT for the organization of the county of Appanoose.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Appanoose county organized.** That the county of Appanoose be, and the same is hereby organized, from and after the first Monday of August next, and the inhabitants thereof shall be entitled to all the privileges and rights to which by law, the inhabitants of other counties in this territory are entitled; and the said county of Appanoose, shall constitute a part of the first judicial district of the territory.

**SEC. 2. First general election in August.** That the first general election in and for said county, shall be held on the first Monday in the month of August next, at which time the county officers for said county, shall be elected; and also such number of justices of the peace and constables as may be ordered by the clerk of the district court of said county; said clerk having due regard to the convenience of the people.

**SEC. 3. Duty of the clerk on giving notice.** That it shall be the duty of the clerk of the district court, in and for said county, to give notice of the first general election in said county, grant certificates of election, and in all respects discharge the duties required by law, to be performed by clerks of the board of county commissioners in relation to general elections, until a clerk of the [56] board of county commissioners for said county, may be elected and qualified.

**SEC. 4. Clerk to discharge duty of sheriff.** That it shall be the duty of the clerk of the district court, in said county, to perform and discharge all the duties required by law, to be performed by sheriffs in relation to general elections, until a sheriff for said county shall be elected and qualified.

**SEC. 5. Term of officers to be elected.** That the term of office of the county officers elected at the first general election under the provisions of this act, shall expire on the day of the general election for the year 1847, and the term of office of the justices of the peace and constables elected as aforesaid, shall expire on the first Monday in the month of April, 1847.

**SEC. 6. Appointment of clerk.** The clerk of the district court for said county, may be appointed at any time after the passage of this act.

**SEC. 7. In case of vacancy sheriff of Davis to act.** In case of a vacancy in the office of the clerk of the district court for said county, it is hereby made the duty of the sheriff of Davis county, to perform the duties required by this act, to be performed by said clerk.

**SEC. 8. Assessment of taxes.** That there shall be no assessment or tax levied by the authorities of Davis county, within the limits of said county of Appanoose, for the year 1846, but such assessment may be made by the county assessor elected at the first general election in and for said county of Appanoose, which assessment may be made at any time prior to the first Monday in the month of October, 1846.

**SEC. 9. Duty of county commissioners.** That it shall be the duty of the board of county commissioners of said county, to hold a meeting on the first Monday of October, 1846, at which time they shall examine the assessment roll returned to them, and levy such a tax for county and territorial purposes, upon such assessment, for the year 1846, as may be required by law.

**SEC. 10. County treasurer to attend in December.** That the time for the treasurer of said county to attend in each of the townships or precincts, for the purpose of collecting revenue, according to the provisions of the thirty-fourth section of an act entitled "an act to provide for assessing and collecting public revenue," approved 15th February, 1844, shall be during the month of November, and he shall attend at his office at the county seat of said county, during the month of December, to receive taxes from persons wishing to pay the same, for the year 1846.

**SEC. 11. Actions commenced in Davis county.** That all actions at law or equity, in the district court, for the county of Davis, commenced prior to the organization of the said county of Appanoose, where the parties, or either of them reside in the county of Appanoose, shall be prosecuted to final judgment, order or decree, as fully and effectually, as if this act had not been passed.

[57] **SEC. 12. Duty of justices of the peace.** That it shall be the duty of all justices of the peace, residing within the county aforesaid, to return all books and papers in their hands, pertaining to said office, to the next nearest justice of the peace, which may be elected and qualified for said county, under the provisions of this act; and all suits at law, or other official business, which may be in their hands, and unfinished, shall be prosecuted, or completed by the justice of the peace to whom such business or papers may have been returned, as aforesaid.

**SEC. 13. Judicial authorities of Davis.** That the judicial authorities of Davis county, shall have cognizance of all crimes or violations of the criminal laws of this territory, committed within the limits of said county, prior to the first day of August next; provided prosecution be commenced under the judicial authorities of Davis county, prior to said first day of August next.

**SEC. 14. Appanoose county to have jurisdiction, etc.** That said county of Appanoose, shall have cognizance and jurisdiction of all crimes, or violations of the criminal laws of this territory, prior to the first day of August next, in cases where prosecutions shall not have been commenced under the judicial authorities of Davis county.

**SEC. 15. Territory west attached.** That the territory or country west of Appanoose, be and the same is hereby attached to the said county of Appanoose, for election, revenue and judicial purposes.

**SEC. 16. Clerk may keep his office anywhere.** That the clerk of the district court, in and for the said county of Appanoose, may keep his office at any place in said county until the county seat thereof be located.

**SEC. 17. Commissioners to locate county town.** That William Whitacre of Van Buren county, B. P. Baldwin, of Washington county, and Andrew

Leach, of Davis county, be and the same are hereby appointed commissioners to locate and establish the seat of justice of said county of Appanoose. Said commissioners, or a majority of them, shall meet at the office of the clerk of the district court, in and for the said county, on the first Monday in the month of September next, or within thirty days thereafter, as they may agree.

**SEC. 18. Oath of commissioners.** Said commissioners shall first take and subscribe the following oath to-wit: "We do solemnly swear (or affirm) that we have no personal interest, directly or indirectly, in the location of the seat of justice of Appanoose county; and that we will faithfully and impartially locate the county seat of said county, according to the best interests of said county, taking into consideration, the future, as well as the present population of said county;" which oath shall be administered by the clerk of the district court or any other person authorized to administer oaths within said county, and the officer administering said oath, [58] shall certify and file the same in the office of the clerk of the district court of said county, whose duty it shall be to record the same.

**SEC. 19. To make plat etc.** Said commissioners when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county; and as soon as they have come to a determination, they shall commit the same to writing, signed by said commissioners, and filed with the clerk of the district court of said county, whose duty it shall be to record the same, and forever keep it on file in his office; and the place so designated shall be the seat justice of said county.

**SEC. 20. Compensation of commissioners.** Said commissioners shall each receive the sum of two dollars per day, for each day they may be necessarily employed in the discharge of the duties enjoined upon them by this act; and two dollars per day for each day traveling to and from the said county of Appanoose, which shall be paid out of the first proceeds, arising from the sales of town lots, in said seat of justice.

**SEC. 21. In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 13th, 1846.

## CHAPTER 61.

### JACKSONVILLE.

AN ACT to authorize the board of commissioners of Clayton county, to change the name of Jacksonville in said county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Commissioners of Clayton co. may change the name of Jacksonville.** That the board of commissioners of Clayton county, be, and they are hereby authorized and empowered, to change the name of Jacksonville in said county, to whatever name a majority of said board shall deem proper; and that the name when so changed shall be and remain the name of said town: provided, there shall be but one change.

**SEC. 2. In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 13th, 1846.



## [59] CHAPTER 62.

## ROAD IN JONES AND DELAWARE.

AN ACT to establish a territorial road in the counties of Jones and Delaware.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Maquoketa in Jones to Olmstead's mills in Delaware co.** That Alfred W. Darling, of Jones county, L. A. Stiles, of Dubuque county, and William Burnham, of Delaware county, be and they are hereby appointed commissioners, to lay out and establish a territorial road, on the nearest and best route from the military road near the bridge across the south fork of Maquoketa river in the county of Jones, to the residence of Alfred W. Darling; thence to B. Bardley's in said county of Jones; thence to intersect the road leading from Jenkin's in Linn county, to Olmstead's mills in Delaware county.

**SEC. 2. Commissioners to meet 1st of April.** Said commissioners shall meet at the house of Wm. Clark, in the county of Jones, on the first Monday of April next, or on such other day as a majority of them may agree, within thirty days thereafter, and proceed to the discharge of the duties required of them by this act.

**SEC. 3. Duty of commissioners.** Said commissioners shall in all respects, be governed by the provisions of the act to provide for laying out and opening territorial roads, approved, December 29th, 1828.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 13th, 1846.

## [60] CHAPTER 63.

## ROAD FROM SIGOURNEY.

AN ACT to establish a territorial road from Sigourney, in Keokuk county to Washington, in Washington county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Sigourney to Washington.** That William Bosy and Joel Long, of the county of Keokuk, and James Dorson, of the county of Washington, be and they are hereby appointed commissioners, to lay out and establish a territorial road, from Sigourney in the county of Keokuk, to Washington in Washington county. Said commissioners shall meet in Sigourney, on the first Monday in March next, or on such other day as a majority of them may agree upon, within six months after the passage of this act, and proceed to discharge the duties herein required of them; commencing at the public square in Sigourney; thence the nearest and best practicable route, to Washington: provided however, that said commissioners may, should they deem it expedient, terminate the review and survey of said road, at the western line of Washington county, by intersecting said road with the road leading from Washington, to the western line of said county of Washington.

**SEC. 2. Duty of commissioners.** Said commissioners shall in all other respects be governed by an act to provide for laying out and opening territorial roads, approved, January 17th, 1840.

**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 14th, 1846.

[61] CHAPTER 64.

WILLIAM AND RACHEL EVANS.

AN ACT to divorce William H. Evans from his wife Rachel Evans.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Evans and wife divorced.** That William H. Evans, of the county of Davis, be divorced from his wife Rachel Evans.

**SEC. 2. In force from passage.** This act to take effect, and be in force from and after its passage.

Become a law, January 14th, 1846.

CHAPTER 65.

BLOOMINGTON.

AN ACT to amend an act entitled "An act to incorporate the town of Bloomington," approved, January 23d, 1839.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Recorder not entitled to a vote.** That the recorder of said town of Bloomington, shall not have a vote in any question before the president and trustees of said town of Bloomington, and shall exercise no other privileges than those expressly granted in the act to which this is amendatory.

**SEC. 2. Mode of selling lots for taxes.** That when it shall be necessary to sell real estate, in said town for non payment of taxes, the collector shall give four weeks notice of such sale, by posting on the court house door of said town, a list of the property to be sold, the time when, and the place where the same is to be sold; and the collector shall proceed to sell such real estate, to any bidder who will pay the taxes and costs thereon, for the least quantity of such real estate, to be taken off of the westerly side of such real estate.

[62] **SEC. 3. Collector to execute deeds.** That the collector shall execute to such purchaser, a deed to such real estate so purchased, which deed shall be prima facia evidence of the regularity of the proceedings, and in no case shall the title of the purchaser of such real estate be impeached, in a court of law or equity, unless the person impeaching the title, shall have tendered to such purchaser the amount for which such real estate was sold, and the interest due thereon, at the rate of fifty per centum per annum; provided, that nothing contained in this act, shall be so construed, as to effect the claim of the territory or county on real estate for taxes.

**SEC. 4. Owner may redeem.** The owner of any real estate, so sold, may redeem the same, at any time within two years after such sale, by paying to such purchaser, the sum for which such real estate was sold, and fifty per cent. per annum, together with the costs of sale, or by paying the same and costs with the interest, to the recorder for the use of such purchaser.

**SEC. 5. Taxes for 1844-5.** That the collector shall proceed to collect the taxes assessed for said town, for the year A. D. 1844, unpaid, in the same manner as the taxes are collected for the year A. D. 1845; and if it shall be necessary to sell real estate for the collection of taxes assessed for the year 1844, and for the year 1845, the collector shall collect the same in the manner prescribed by this act.

**SEC. 6. Sales heretofore made.** That the provisions of the third section of this act, shall be applied to all sales of real estate heretofore made in said town, for non payment of taxes; and if any such real estate shall not have been redeemed, the collector shall proceed to execute deeds to the purchasers or their assigns.

**SEC. 7. Deeds to be acknowledged.** All deeds executed by the collector, shall be executed and acknowledged by him, according to the law regulating conveyances, in his name, as collector of taxes for said town.

Approved, January 14th, 1846.

[63] CHAPTER 66.

CLAYTON COUNTY.

AN ACT to authorize Eliphalet Price, judge of probate in the county of Clayton, or his successor in office, to transcribe the records of said court.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Price to transcribe probate records.** That Eliphalet Price, judge of the probate court, in and for the county of Clayton, (or his successor in office) be and he is hereby authorized and required, to furnish for the use of said court, a good, sufficient, and well bound book, in which he shall make a true and faithful record of the proceedings of said court; and it is hereby made his duty to faithfully and truly transcribe and record in said book, all acts, doings, and proceedings of his predecessor in office.

**SEC. 2. Shall be presented to commissioners.** That as soon as he shall have performed the duties enjoined upon him by this act, he shall as soon as convenient, present and lay before the board of commissioners of said county, the record, together with all the papers he has transcribed, whose duty it shall be to examine the record and compare it with the papers so transcribed, and if said commissioners shall find the same to be correct and according to law, they shall immediately issue to said judge of probate, a certificate under the seal of said board, stating the same to be correct and according to law; which certificate the said judge of probate shall record in his office.

**SEC. 3. Compensation for transcribing.** That the board of commissioners in said county, shall allow the said judge of probate for said book and services, such reasonable sum as they shall deem right, to be paid out of the treasury of said county.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 14th, 1844.

## [64] CHAPTER 67.

## JACKSON COUNTY.

AN ACT for the relief of Thomas J. Pearce collector of taxes in Jackson county for the year 1843.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Thomas J. Pearce's delinquent tax list may be collected by J. Carbin.** That John Carbin, collector of taxes in and for the county of Jackson, be and he is hereby authorized to collect and receive all such taxes as remain unpaid for the year A. D. 1843, on the delinquent list of said Thomas J. Pearce.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

## CHAPTER 68.

## VAN BUREN COUNTY.

AN ACT to authorize the Clerk of the District Court for the county of Van Buren to transcribe the records of said court.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Cutler to transcribe records.** That Elisha Cutler, Jr., clerk of the district court for the county of Van Buren, is hereby authorized, so soon as suitable books are furnished by the United States, to transcribe all judgments in said court remaining unsatisfied, to such new books; to refile, number and arrange all the papers in said office, and prepare a general index to the same, for which service, the board of county commissioners of said county, shall pay to the said Elisha Cutler, Jr., and such compensation as shall be right and proper, not exceeding ten cents per hundred words: provided, that the said Elisha Cutler, Jr., shall not receive any compensation for refiling, numbering and arranging the papers filed in said office, during the time he has had charge of the same.

[65] **SEC. 2. In force from passage.** That this act shall not in any manner, effect said minor's indentures.

**SEC. 3. In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

## CHAPTER 69.

## JACKSON COUNTY.

AN ACT to authorize the clerk of the District Court for the county of Jackson to transcribe the records of said court.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Marshall to transcribe records.** That Thomas Marshall, clerk of the district court for the county of Jackson, is hereby authorized so soon as suitable books are furnished, by the United States, to transcribe all of the records of said court; such transcribing shall be first certified by the judge of the district court for said county, that the old records are not fit for preservation, and that in his opinion, they ought to be transcribed, also to refile, number, and arrange, all the papers in said office and prepare a general index to the same, for which service the board of county commissioners of said county, shall pay to the said Thomas Marshall, such compensation as shall be right and proper, not exceeding ten cents per folio.

**SEC. 2. In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

## [66] CHAPTER 70.

## MAQUOKETA ACADEMY.

AN ACT to incorporate the Maquoketa Academy, in Jackson county, Iowa.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Academy incorporated.** That there shall be established at Maquoketa, in Jackson county, a seminary of learning, for the instruction of youth of both sexes, in arts, science and literature, to be known by the name and style of the Maquoketa Academy, and that Alonzo Spaulding, John E. Goodenow, John Shaw, Joseph McCloy, Jason Paugborn, Wm. H. Efner, Isaac C. Hall, and William Salter, and their associates and successors, are hereby declared a body politic, and corporate in law and in fact, by the name and style of the "Maquoketa Academy," and by that name shall have perpetual succession, and power to acquire, possess, retain and enjoy, mixed, personal and real property, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in all courts of law or equity, and they shall have and use a common seal.

**SEC. 2. Stock, ten dollars per share.** The stock of said academy shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation, in such manner as may be prescribed by the board of trustees.

**SEC. 3. Capital and income.** The annual income exclusive of tuition, shall not exceed eight hundred dollars, and that the total capital stock of said institution shall not exceed five thousand dollars, and that its funds, privileges and immunities, shall be used for no other purpose than those of education.

**SEC. 4. Election of trustees.** The stockholders of said academy shall on the first Monday in March next, and on the same day, annually thereafter, elect by ballot, a board of trustees, consisting of eight members, five of whom shall constitute a quorum, whose duties shall be to transact and perform, or cause to be performed, all the functions, concerns and business of said academy; and said stockholders shall elect or appoint such other officers as may, in their opinion, be requisite, and shall give such other directions to the board of trustees, as may in their estimation, be of im-[67]-portance to the corporation; and each stockholder shall be entitled to one vote for every share owned by him, to the amount of ten shares, and then to one vote for every five shares, over and above that amount; any stockholder may vote in person or by proxy.

**SEC. 5. Officers and powers.** The board of trustees shall on their first meeting after being elected, appoint from their number a president, vice president, secretary and treasurer, and they shall have power to fill vacancies in their own body, until the annual elections; they shall have power to appoint subordinate officers, and to make, ordain and establish such ordinances, regulations, rules and by-laws, as they may deem necessary for the interests and good government of the academy, in its several departments: provided however, that such rules and regulations shall not contravene the laws of the United States or of this territory or future state of Iowa.

**SEC. 6. Form of official acts.** All deeds or other instruments of writing or conveyance shall be made by order of the board of trustees, sealed with the seal of the corporation, signed and acknowledged by the president in his official capacity in order to render them good and valid in law.

**SEC. 7.** This act may be amended or repealed by any future legislature, and shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

## CHAPTER 71.

### LEE COUNTY.

AN ACT to provide for the election of additional justices of the peace in the town of Keokuk, in the county of Lee.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Two additional justices of the peace in Keokuk, Lee county.** That at the next annual election to be held on the first Monday of April next, there shall be elected in the town of Keokuk, Jackson township, in the county of Lee, two additional justices of the peace, who shall reside in the aforesaid town of Keokuk.

**SEC. 2. To hold according to general act.** Said justices when so elected shall hold their offices according to the act providing for the election of justices of the peace, and to prescribe their powers and duties.

[68] **SEC. 3. Jackson township allowed four justices of the peace.** The said township of Jackson shall from and after the passage of this act, be entitled to four justices of the peace.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

## CHAPTER 72.

## JACKSON COUNTY.

AN ACT to change the name of Charleston, in Jackson county.  
*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Name of Charleston changed to Sabula.** That the name of the town of Charleston, in the county of Jackson, be changed to that of Sabula.

SEC. 2. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

## CHAPTER 73.

## ROAD IN JACKSON.

AN ACT to authorize the County Commissioners of Jackson county to establish the survey of a road in said county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Part of road from Belleview to Springfield established.** That the county commissioners of Jackson county be, and they are hereby authorized to establish and order to be opened, that part of the surveyed road leading from Belleview to Springfield, which lies between the third mile post from Belleview and the twenty-second mile post, any law to the contrary notwithstanding.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 15th, 1846.

## [69] CHAPTER 74.

## LEE COUNTY.

AN ACT to authorize the clerk of the District Court for the County of Lee, to transcribe the Records of said Court.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Joel C. Walker, to transcribe records.** That Joel C. Walker, clerk of the district court for the county of Lee, is hereby authorized so soon as suitable books are furnished by the United States, to transcribe all of the records of said court which are not in safe and well bound record books, all of such transcribing shall be first certified by the judge of the district court for said county, that the old records are not fit for preservation, and that in his opinion they ought to be transcribed, also to refile, number and arrange all the papers in said office and prepare a general index to the same, for which

service the board of county commissioners of said county shall pay to the said Joel C. Walker, such compensation as shall be right and proper not exceeding ten cents per folio.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 15th, 1846.

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CHAPTER 75.

IOWA COUNTY.

AN ACT to legalize the assessment of Iowa county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Assessment of tax legalized.** That the assessment of taxes for Iowa county, previous to its organization, be and the same is hereby legalized.

**SEC. 2. Collector to collect.** That the collector of Iowa county is hereby authorized to collect the taxes for Iowa county, according to said assessment.

**SEC. 3. In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 16th, 1846.

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[70] CHAPTER 76.

ROAD FROM DUBUQUE.

AN ACT declaring a road therein named to be a territorial road.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Part of road from Dubuque to Ft. Atkinson, to be a territorial road.** That so much of the territorial road from Dubuque to Fort Atkinson as was re-located in the counties of Dubuque and Delaware, in September, 1845, by David Moreland, P. L. Sharp and William A. Anderson shall be a territorial road from Dubuque to Fort Atkinson.

**SEC. 2. Pay of commissioners.** That said commissioners and their assistants, shall be allowed the usual compensation for laying off territorial roads.

**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.



## CHAPTER 77.

## HENRY COUNTY.

AN ACT to declare a certain road therein named a territorial road.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Mt. Pleasant to Jefferson, in Henry county.** That the county road leading from Mt. Pleasant, in Henry county, to Jefferson in said county, be and the same is hereby declared a territorial road.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

## [71] CHAPTER 78.

## ROAD FROM OTTUMWA.

AN ACT to locate a territorial road from Ottumwa, in Wapello county to Bloomfield, in Davis county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Ottumwa to Bloomfield.** That Loyd Nelson and Riley Macy, of Davis county, and Richard Fisher, of Wapello county, be and they are hereby appointed commissioners to locate a territorial road from Ottumwa, in Wapello county, to Bloomfield in Davis county.

**SEC. 2. Commissioners to meet 1st Monday in June.** Said commissioners shall meet at Ottumwa, on the first Monday in June, 1846, or within sixty days thereafter, and proceed to locate said road, according to law, which road shall be confined as near as practicable to the township line, running between range thirteen and fourteen, from Ottumwa to Bloomfield.

**SEC. 3. Compensation of viewers.** Said commissioners, together with the surveyor and other necessary hands employed, shall be compensated for their services, in whatever amount the commissioners of each county may deem proper, and each county shall defray one-half of said expenses.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

## CHAPTER 79.

## ROAD FROM KEOKUK.

AN ACT to re-locate a territorial road therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Keokuk to Farmington.** That Alexander Kerr, Peter Wykoff, and Clark Johnson, be and they are hereby appointed com-

missioners to re-locate so much of a territorial road leading from Keokuk, in the county of Lee, [72] to Farmington, Van Buren county, as lies between Keokuk, and where said road crosses the line that divides sections twenty-two and three. Said commissioners shall meet at Keokuk, on the first Monday of March next, or within thirty days thereafter, and proceed to re-locate so much of said road as above described according to law.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

## CHAPTER 80.

### A. M. FICKE AND WIFE.

AN ACT to divorce Andrew M. Ficke, of the county of Van Buren, from his wife Susan Ficke.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Ficke and Susan his wife divorced.** That the bonds of matrimony existing between Andrew M. Ficke, of Van Buren county and Susan his wife, be and the same are hereby dissolved.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Become a law January 16th, 1846.

## CHAPTER 81.

### ROAD IN WASHINGTON AND KEOKUK.

AN ACT to establish a territorial road in Washington and Keokuk counties.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Commissioners to locate road.** That Joseph R. Edwards, and Eli Haworth, of Keokuk county, and John Lewis, of Washington county, be and they [73] are hereby appointed commissioners to lay out and establish a territorial road, commencing at a half mile stake, dividing sections number twenty-six and number thirty-five, in township seventy-four north, of range number nine west, in Washington county; and running thence the nearest and best route to a bridge on Richland creek, east of Eli Haworth's; thence the nearest and best way to Western City; and thence the nearest and best way to Enos Darnell's in Keokuk county.

**SEC. 2. Meet at Brighton 1st Monday in March.** Said commissioners shall meet at Brighton, on the first Monday in March next, or as soon thereafter as they may agree, and proceed to lay out and establish said road, agreeably to an act for opening and regulating roads and highways, approved February 15th, 1843.

**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved January 16th, 1846.

## CHAPTER 82.

## NEW COUNTIES.

AN ACT to establish new counties and define their boundaries.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Boundaries of Wayne county.** That the following shall be the boundaries of a new county, which shall be called Wayne, to wit: beginning at the north-west corner of Appanoose county; thence west on the township line, dividing townships 70 and 71 north, to the north-west corner of township 70, north of range 23 west; thence south, on the range line between ranges 23 and 24, to the north boundary of the state of Missouri; thence east, along said boundary to the south-west corner of Appanoose county; thence north, to the place of beginning.

**SEC. 2. Lucas county.** That the following shall be the boundaries of a new county, which shall be called Lucas, to wit: beginning at the north-west corner of Kishkekosh county; thence west, to the north-west corner of township 73, north, of range 24 west; thence south, to the south-west [74] corner of township 71, north of [range] 24 west; thence east, to the south-west corner of Kishkekosh county; and thence north, to the place of beginning.

**SEC. 3. Warren county.** That the following shall be the boundaries of a new county, which shall be called Warren, to wit: beginning at the north-west corner of Marion county; thence west, along the line dividing townships 77 and 78, to the north-west corner of township 77, north of range 25 west; thence south, to the south-west corner of township 71, north of range 25 west; thence east, to the south-west corner of Marion county; thence north, to the place of beginning.

**SEC. 4. Polk county.** That the following shall be the boundaries of a new county, to be called Polk, to wit: beginning at the north-west corner of Jasper county; thence west, to the north-west corner of township 81, north, of range 24 west; thence south, to the south-west corner of township 78, north of range 24 west; thence east, to the south-west corner of Jasper county; thence north to the place of beginning.

**SEC. 5. Marshall county.** That the following shall be the boundaries of a new county, to be called Marshall, to wit: beginning at the north-east corner of township 85, north of range 17 west; thence west, to the north-west corner of township 85, north of range 20 west; thence south to the south-west corner of township 82, north of range 20 west; thence east, to the south-east corner of township 82, north, of range 17 west; thence north to the place of beginning.

**SEC. 6. Jasper county.** That the following shall be the boundaries of a new county, to be called Jasper, to wit: beginning at the north-west corner of Powesheik county, on the line dividing townships 81 and 82, north of range 17 west; thence west, to the north-west corner of township 81, north of range 20 west; thence east to the south-west corner of township 78, north of range 20 west; thence south, to the south-west corner of Powesheik county; thence north, to the place of beginning.

**SEC. 7. Story county.** That the following shall be the boundaries of a new county, to be called Story, to wit: beginning at the north-west corner of Marshall county; thence west, to the north-west corner of township 85, north of range 24 west; thence south, to the south-west corner of township 82, north of range 24 west; thence east to the south-west corner of Marshall county; thence north to the place of beginning.

**SEC. 8. Boone county.** That the following shall be the boundaries of a new county, to be called Boone, to wit: beginning at the north-west corner of Story county; thence west, to the north-west corner of township 85, north, of range 28 west; thence south, to the south-west corner of township 82, north of range 28 west; thence east, to the south-west corner of Story county; thence north, to the place of beginning.

[75] **SEC. 9. Dallas county.** That the following shall be the boundaries of a new county to be called Dallas, to wit: beginning at the north-west corner of Polk county; thence west, to the north-west corner of township 81, north, of range 28 west; thence south, to the south-west corner of township 78, north, of range 28 west; thence east, to the south-west corner of Polk county, and thence north, to the place of beginning.

**SEC. 10. Madison county.** That the following shall be the boundaries of a new county, to be called Madison, to wit: beginning at the north-west corner of Warren county; thence west to the north-west corner of township 77, north of range 29 west; thence south, to the south-west corner of township 74, north of range 29 west; thence east, to the south-east corner of township 74, north of range 26 west; thence north, to the place of beginning.

**SEC. 11. Clarke county.** The following shall be the boundaries of a new county, to be called Clarke, to wit: beginning at the north-west corner of Lucas county; thence west, to the northwest corner of township 73, north, of range 29 west; thence south, to the south-west corner of township 71, north of range 29 west; thence east to the south-west corner of Lucas county, and thence north to the place of beginning.

**SEC. 12. Decatur county.** The following shall be the boundaries of a new county, to be called Decatur, to wit: beginning at the north-west corner of Wayne county; thence west, to the north-west corner of township 70, north, of range 27 west; thence south, to the north boundary of the state of Missouri; thence east, to the south-west corner of Wayne county, and thence north, to the place of beginning.

**SEC. 13. Act in force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 13th, 1846.

## CHAPTER 83.

### NEW COUNTIES.

AN ACT supplemental to an act, to establish new counties and define their boundaries.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Boundaries of Jasper altered and defined.** That the following shall be the boundaries of the county of Jasper, to-wit: beginning at the north-east corner of [76] township number 81, north, of range number 17 west; thence west to the north-west corner of township number 81, north of range number 21 west; thence south, to the south-west corner of township number 78, north, of range number 21 west; thence east, to the south-east corner of township number 78, north, of range number 17 west; thence to the place of beginning.

**SEC. 2. Boundaries of Polk altered and defined.** The following shall be the boundaries of Polk county, to-wit:—beginning at the north-east corner of

township 81, north, of range 22 west; thence west, to the north-west corner of township 81, north of range 25 west; thence south to the south-west corner of township 77, north, of range 22 west; and thence north, to the place of beginning.

**SEC. 3. Boundaries of Dallas altered and defined.** The following shall be the boundaries of Dallas county, to-wit:—beginning at the north-west corner of Polk county; thence west on the line dividing townships 81 and 82, to the north-west corner of township 81, north, of range 29 west; thence south to the south-west corner of township number 78, north, of range 29 west; thence east, to the south-east corner of township 78, north, of range number 26 west; and thence north, to the place of beginning; any law to the contrary notwithstanding.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 84.

### DUBUQUE COUNTY.

**AN ACT** to provide for an expression of opinion of the citizens of Dubuque county, for and against township organization.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Electors to vote for or against townships.** That on the first Monday of April next, at the several places of holding elections in the county of Dubuque, there shall be opened a poll, by the judges of said election, for the purpose of receiving votes for and against township organization; and it is hereby made the duty of said judges to interrogate each qualified elector of said county, whether he is in favor of, or against township organization, and the said judges shall write in separate columns, opposite each elector's name, the vote given for and against such organization, as aforesaid.

**SEC. 2. Duty of the judges of election, in April.** Said judges shall make out and certify the number of votes received for and against township organization, and shall transmit the same to the clerk of the board of county commissioners, whose duty it shall be to examine, as other election returns, and publish the number of votes, for and against such organization in a newspaper in the county of Dubuque. If a majority of the votes polled in said county, shall be in favor of township organization, then such organization shall be in force, agreeably to the present law, regulating township organization; but if the whole number of votes polled at said election, should be against township organization, then the county shall be divided into precincts, as it was prior to the passage of the law, providing for township organization; but nothing herein contained, shall be so construed as to prevent the county commissioners from altering the precincts previously established, or establishing new ones to suit the convenience of the public, in case township organization should be voted down: provided however, that nothing in this act shall prevent the election of township officers according to law, on said first Monday of April, and if a majority of said votes polled at said election, should be against township organization, then there shall be held on the first Monday of May, a special election for precinct officers, ac-

ording to the present law, regulating such elections; and that the justices of the peace and other officers elected on the first Monday of April, shall hold their offices until the first Monday of May, or until precinct officers shall be duly elected and qualified.

SEC. 3. **In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 16th, 1846.

[78] CHAPTER 85.

ROAD IN MUSCATINE.

AN ACT to establish a territorial road therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Road from bridge at the mouth of Pine river, to Overman's ferry, on Cedar.** That Benjamin Nye, William Chambers, sr., and Elias Overman, be and they are hereby appointed commissioners to lay out and establish a territorial road, as follows: beginning at the bridge at the mouth of Pine river, in Muscatine county; thence running in a north-west direction, on the nearest and best ground, to or near the house of William Chambers, sr.; thence on the nearest and best ground to the south-east corner of the north-west quarter of section eleven; thence west, on said line to the south-west corner of the north-east quarter of section ten, township seventy-seven, north, of range one west; thence on the nearest and best ground, to the south line of section number four, to a suitable point; thence west, on said line, to the south-west corner of said section; thence on the nearest and best ground so as to intersect the Iowa City road, at Overman's ferry on Cedar river.

SEC. 2. **Commissioners to meet at Nye's first Monday in March.** That said commissioners, or a majority of them shall meet at the house of Benjamin Nye, on the first Monday of March next, or at such other time and place as they may agree, and after being qualified, shall proceed to the performance of the duty assigned them, as now provided for by law.

SEC. 3. **In force from passage.** This act to take effect, and be in force from and after its passage.

Approved, January 16th, 1846.

[79] CHAPTER 86.

LEWIS BIDMAN AND WIFE.

AN ACT to divorce Mary Ann P. Bidman from her husband Lewis Bidman.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Bidman and wife divorced.** That the bonds of matrimony, heretofore existing between Mary Ann P. Bidman and Lewis Bidman, be and the same are hereby dissolved.

SEC. 2. **Mrs. Bidman's name changed to Douglass.** That the name of the said Mary Ann P. Bidman, be changed to her former name of Mary Ann P. Douglass.

**SEC. 3. Mr. Bidman to exercise no control over property of wife.** That the said Lewis Bidman shall have or exercise no interest in, or control over the property, real or personal, which the said Mary Ann P. Bidman had or possessed at the time of their marriage, or acquired since that time.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 87.

### ROAD FROM WAPELLO.

AN ACT to locate a territorial road from Wapello, in Louisa county, to Augusta, in Desmoines county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Wapello to Augusta.** That Joshua Marshal, of the county of Louisa, and Samuel C. Jackson and John D. Camron, of Desmoines county, be and they are hereby appointed commissioners, to locate a territorial road from Wapello, in Louisa county, to Augusta, in Desmoines county.

**SEC. 2. Commissioners to meet 1st Monday in September.** Said commissioners shall meet at Wapello, in Louisa county, on the first Monday in September next, or within sixty days thereafter, and proceed to locate said road according to law: beginning at Wapello, in Louisa county; thence on the nearest and best route, to the north-east corner of the north-west quarter of section number 33, of township number 73, north of range 3 west; thence south one mile; thence on the nearest and best route, to the centre of section number 20, of township number 72, north of range number 3 west; thence south, with the west line of Brown and Bridge's land to the creek, in Linn grove; thence on the nearest and best route, to or near the dwelling house of John Henderson; thence on the nearest and best route, to Thomas Brown's ford, on Flint creek; thence on the nearest and best route, to intersect the county road, at John Manes'; thence on or near the county road to Augusta, on Skunk river.

**SEC. 3. In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 88.

### IOWA CITY UNIVERSITY.

AN ACT amendatory of an act entitled "An act to incorporate Iowa City University," approved, 2d June, 1845.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Nine regents may constitute a board.** That the sixth section of the act to which this is amendatory, be and the same is hereby amended, so that nine regents of the university shall hereafter be a sufficient number

to constitute a quorum for doing business, and to make, pass and establish ordinances, rules and by-laws, and also, that the elected or appointed regents, be authorized to fill all vacancies that may occur between elections.

**SEC. 2. Repealing clause.** That any future legislature may amend or repeal this act.

**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

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[81] CHAPTER 89.

TOWN OF FRANKLIN.

AN ACT to vacate a part of the town of Franklin, in the county of Lee.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Portion of Franklin vacated.** That all that portion of the town of Franklin, in the county of Lee, situated on the south half of the south-east quarter of section number twenty-three, township number sixty-eight, range number six west, be and the same is hereby vacated, excepting a strip eighteen feet wide and one hundred and forty feet long, on the west side of lot number one hundred and eighteen.

**SEC. 2. Not to interfere with private rights.** That nothing in this act shall be so construed as to destroy, abridge or in any way interfere with the private right or rights of any person, or persons, unless by their special and expressed will and consent.

**SEC. 3. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

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CHAPTER 90.

MARION COUNTY.

AN ACT to authorize the board of County Commissioners of Marion county, to select grand and petit jurors.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Special term of county commissioners.** That the board of county commissioners of the county of Marion, are hereby authorized and it is hereby made their duty, to hold a special term of said court, on the first Monday in March next, for the purpose of selecting grand and petit jurors, for said county of Marion, for the next term of the district court for said county.

**SEC. 2. To select grand and petit jurors.** Said commissioners when met, shall make out a list of twenty- [82] three names for a grand jury, and twenty-four for a petit jury; and the clerk of said court shall furnish a list of said names, so made out to the clerk of the district court, in and for said county, whose duty it shall be to make out a venire to the sheriff of said county, who shall serve the same as is now required by law.



**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 91.

### ROAD FROM IOWA CITY.

AN ACT to lay out and establish a territorial road from Iowa City to Fort Desmoines, in Polk county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Iowa City to Fort Desmoines.** That Robert M. Hutchinson, of the county of Iowa, James Douglass, of the county of Johnson, and John Scott, of the county of Polk, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at Iowa City, and running thence west, by the old trading house, to Marengo in Iowa county; and thence through the counties of Poweshiek and Jasper, to Fort Desmoines, in Polk county.

**SEC. 2. Commissioners to meet at Iowa City in April.** Said commissioners or a majority of them, shall meet at Iowa City, on the first Monday in April, or within thirty days thereafter; and after being sworn before some justice of the peace, shall proceed to perform the duties required of them, by this act, taking to their aid, the necessary assistance; and they shall receive for their services, a reasonable compensation, to be paid out of the county treasuries of the counties of Johnson, Iowa, Jasper and Polk, in equal proportions.

**SEC. 3. Law of 1838 to be commissioners' guide.** Said road shall be laid out and established agreeably to the provisions of an act, for opening and regulating roads and highways, approved December 29th, 1838.

**SEC. 4. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [83] CHAPTER 92.

### ISABELLA CRAWFORD.

AN ACT to authorize Isabella Crawford, to convey certain real estate.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Mrs. Crawford is empowered to sell husbands estate and make deed to purchaser.** That Isabella Crawford, of Johnson county, be and she is hereby authorized, to rent, or to sell and convey all the real estate belonging to her deceased husband, Josiah Crawford, at the time of his death, in said Johnson county, and that the said Isabella Crawford, is hereby empowered to execute, under her hand and seal, deed or deeds of conveyance, for said real estate, with covenants of general warranty.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 93.

## JONES COUNTY.

AN ACT to provide for the re-location of the county seat of Jones county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Commissioners to select two points for seat of justice.** That the county commissioners of Jones county, shall on or before the first day of March next, proceed to select two places to be balloted for, for the seat of justice of said county. It shall be the duty of the said county commissioners, after an examination of said county, and the taking into consideration, the local advantages of timber, roads, the settlements of the county, both as regards the present and the future, to designate two places to be balloted for, on the first Monday of April next.

[84] **SEC. 2. Notices to be posted up.** As soon as said commissioners shall make a selection of two points in said county, they shall cause notices to be posted up in each place of the holding of elections in said county, declaring the two points to be balloted for, at said election, for the county seat, and particularly describing the said points.

**SEC 3. Point having most votes seat of justice.** That it shall be the duty of the judges of election in said county, to receive votes for the two places so designated by the county commissioners, and shall note down in separate columns the number of votes received for each place designated as aforesaid; and the place receiving the highest number of votes polled at said election, shall be and remain the county seat of said county; provided, that nothing in this act shall be so construed as to prevent the commissioners aforesaid, from designating the present seat of justice of said county as one of the points to be voted for.

**SEC. 4. Manner of holding election.** The manner of conducting said election shall be the same as is now prescribed by the law, regulating elections in this territory, and it shall be the duty of said judges of election, to transmit true returns to the clerk of the board of county commissioners, and the number of votes polled for each place, designated by the said commissioners.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 94.

## ROAD FROM CLARKSVILLE.

AN ACT to locate a territorial road therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Clarksville to Raccoon fork.** That N. B. Preston, of Kishkekosh county, William F. Ayers, of Polk county, and Horace H. Lyman, of Marion county, be and they are hereby appointed commissioners, to locate and establish a territorial road, beginning at Clarksville, in the county

of Kishkekosh, thence on the nearest and best route, to the county seat of Marion county; thence on the nearest and best route to the Raccoon fork of the Desmoines river.

SEC. 2. **Commissioners to meet at Clarksville.** Said commissioners, or a majority of them, shall meet at [85] Clarksville, in Kishkekosh county, on the first Monday in May next, or within sixty days thereafter, to discharge their duties according to law.

Approved, January 17th, 1846.

## CHAPTER 95.

### ROAD FROM OTTUMWA.

AN ACT to locate a territorial road therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Road from Ottumwa to Chariton river.** That George Reynolds, of Wapello county, Ira Claffin, of Van Buren county, and Lafayette Bear, of Davis county, be and they are hereby appointed commissioners to locate and establish a territorial road, beginning at Ottumwa, in Wapello county; thence on the most suitable ground, to the crossing on Soap creek, at Ritchey's mill; thence by way of Joseph Jump's on the Fox river divide, to the Chariton river, at a point where the territorial road crosses, leading from Iowaville to the Missouri line.

SEC. 2. **Commissioners to meet at Ottumwa in May.** Said commissioners, or a majority of them, shall meet at the town of Ottumwa, on the first Monday of May next, or within thirty days thereafter, to discharge their duties.

SEC. 3. **To receive no compensation.** Said commissioners, and all hands employed, in locating and establishing said road, shall receive no compensation for their services.

Approved, January 17th, 1846.

## [86] CHAPTER 96.

### BENTON COUNTY.

AN ACT for the organization of the county of Benton.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Benton county organized.** That the county of Benton, be and the same is hereby organized from and after the first day of March next, and the inhabitants of said county shall be entitled to all the rights and privileges, to which by law the inhabitants of other organized counties of this territory are entitled; and the said county shall constitute a part of the third judicial district of this territory.

SEC. 2. **Election 1st Monday in April.** That there shall be a special election, held on the first Monday in the month of April next, at which time the

county officers for said county shall be elected, and also such number of justices of the peace, and constables, for said county, as may be ordered by the clerk of the district court for said county.

**SEC. 3. Clerk to give ten days notice.** That it shall be the duty of the clerk of the district court, in and for said county, to give at least ten days previous notice of the time and place of holding such special election in said county, grant certificates of election, and in all respects discharge the duties required by law to be performed by clerks of the boards of county commissioners in relation to elections, until a clerk of the board of county commissioners may be elected and qualified.

**SEC. 4. Clerk to discharge duty of sheriff.** That it shall be the duty of the clerk of the district court in said county, to discharge all the duties required by law to be performed by sheriffs, in relation to elections, until a sheriff for said county may be elected and qualified.

**SEC. 5. Officers to hold till August election.** That the county officers, justices of the peace, and constables elected under the provisions of this act, shall hold their offices until the first Monday of August, 1846, and until their successors are elected and qualified.

[87] **SEC. 6. Clerk of district court.** That the clerk of the district court, in and for said county of Benton, may be appointed and qualified at any time after the passage of this act.

**SEC. 7. Suits prior to organization.** That all actions at law, or equity, in the district court for the county of Linn, commenced prior to the organization of said county of Benton, where the parties or either of them reside in said county of Benton, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

**SEC. 8. Justices of the peace now in Benton.** That it shall be the duty of all justices of the peace, residing within said county of Benton, to return all books and papers in their hands pertaining to said office, to the next nearest justice of the peace which may be elected and qualified, in and for said county under the provisions of this act; and all suits at law, or other official business, which may be in the hands of such justice of the peace, and unfinished, shall be prosecuted and completed by the justice of the peace to whom such business or papers may have been returned as aforesaid.

**SEC. 9. Jurisdiction of Linn prior to March.** That the judicial authorities of Linn county, shall have cognizance of all crimes or violations of the criminal laws of this territory, committed within the limits of said county of Benton, prior to the first day of March next; provided, prosecutions be commenced under the judicial authorities of said Linn county, prior to the said first day of March next.

**SEC. 10. Jurisdiction of Benton.** That said county of Benton, shall have cognizance and jurisdiction of all crimes, or violations of the criminal laws of this territory, committed prior to the first day of March next, in cases where prosecutions shall not have been commenced under the judicial authorities of Linn county.

**SEC. 11. Tama county attached.** That the county of Tama, and the counties lying west of said county of Tama, be and the same are hereby attached to the county of Benton, for election, revenue and judicial purposes.

**SEC. 12. Clerk to keep his office at any place, etc.** That the clerk of the district court, in and for the county of Benton, may keep his office at any place within said county, until the county seat thereof may be located.

**SEC. 13. Commissioners to locate county town.** That Joseph A. Secrest, of Jones county, Lyman Dillon, of Dubuque county, and Joseph A. Downing, of Cedar county, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Benton.

**SEC. 14. To meet 1st Monday in May.** That said commissioners, or a majority of them shall meet at the office of the clerk of the district court of the county of Benton, on the first Monday of May next, or at such other time not exceeding thirty days thereafter as a majority of them may agree.

[88] **SEC. 15. Commissioners' oath.** Said commissioners shall first take and subscribe the following oath, to-wit:—"We do solemnly swear (or affirm) that we have no personal interest either directly or indirectly in the location of the seat of justice of the county of Benton, and that we will faithfully and impartially locate the same, according to the best interest of said county, taking into consideration the future, as well as present population of said county," which oath shall be administered by the clerk of the district court, or any other officer authorized by law to administer oaths within the county of Benton, and the officer administering said oath, shall certify and file the same in the office of the clerk of the district court of said county, whose duty it shall be to record the same.

**SEC. 16. To locate and make return to district clerk.** Said commissioners when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county of Benton, and as soon as they shall have come to a determination, the same shall be committed to writing, signed by the said commissioners, and filed with the clerk of the district court of said county, whose duty it shall be to record the same, and forever keep it on file in his office; and the place thus designated, shall be the seat of justice of said county.

**SEC. 17. Compensation of locators.** Said commissioners shall each be entitled to receive the sum of two dollars per day, while necessarily employed in the said location, and the sum of two dollars for every twenty miles travel, to and from the said county seat, which shall be paid by said Benton county, out of the first funds arising from the sale of town lots in such seat of justice.

**SEC. 18. Blackhawk county attached.** The county of Blackhawk, is hereby attached to said county of Benton for election, judicial and revenue purposes.

**SEC. 19. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1845.

## [89] CHAPTER 97.

### ROAD IN HENRY.

AN ACT to declare a certain road therein named to be a territorial road.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road between Pickles and McMillians.** That so much of the county road as lies between Rufus M. Pickles, in Henry county, and McMillian's mill, formerly Holcomb's mill in Washington county, be and the same is hereby declared to be a territorial road.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 98.

## ROAD IN HENRY.

AN ACT to locate a territorial road therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Lee, Hamlin, and Warren, commissioners.** That John Lee, D. Hamlin and William Warren of Henry county, be and they are hereby appointed commissioners to locate and establish a territorial road, beginning on the territorial road in Jefferson township, in Henry county, on the section line, between sections 15 and 22; thence east along the section line, between sections 14 and 23, 13 and 24, to the east line of Jefferson township; thence a southeasterly course to the head of Flint creek; thence the nearest and best route to intersect the territorial road, leading from Mt. Pleasant to Burlington.

SEC. 2. **Commissioners to meet at Hamlin's in April.** The commissioners or a majority of them shall meet at the house of D. Hamlin, on the first Monday in April next, or within sixty days thereafter and proceed to discharge their duties according to law.

Approved, January 17th, 1846.

## [90] CHAPTER 99.

## ROAD IN LEE.

AN ACT to re-locate a part of a territorial road in the county of Lee.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Road from Keokuk to Burlington.** That Reuben Conley, Andrew J. Steffer, and John Box, are hereby appointed commissioners to re-locate so much of a territorial road leading from Keokuk, in the county of Lee, to the city of Burlington, in the county of Des Moines, as lays between Montrose, and John Wright's, of Lee county. Said commissioners or a majority of them, shall meet at Montrose, on the first Monday of March next, or as soon thereafter as convenient, and proceed to locate and mark said road as above described; and shall receive such compensation, as the county commissioners may deem just and reasonable.

SEC. 2. **In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, January 16th, 1846.

## CHAPTER 100.

## BUCHANAN COUNTY.

AN ACT to locate the seat of justice of Buchanan county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Seat of justice to be located.** That John G. McDonald, of the county of Jackson, Theophilus Crawford, of Dubuque county, and John W. Clark, of the county of Delaware, be and they are hereby appointed commissioners, to locate and establish the seat of justice of the county of Buchanan. Said commissioners, or any two of them, shall meet at the house of Joseph A. Reynolds, in said county of Buchanan, on the first Monday in May, A. D. 1846, or on such other day during the month of May, as they or a majority of them may agree, and proceed [91] to locate and establish the seat of justice of said county, as near the geographical centre of said county as said commissioners may deem proper, paying due regard to the present, as well as future population of said county; and as soon as they have come to a determination, they shall give said point a name; their proceedings shall be committed to writing, signed by the said commissioners, or a majority of them, and filed in the office of the clerk of the board of commissioners of Delaware county until the said county of Buchanan is fully organized, and when organized, the clerk of the board of commissioners of said Buchanan county shall record and keep the same on file in his office; and the place so selected as aforesaid, shall be the seat of justice of Buchanan county.

**SEC. 2. Commissioners to be qualified.** Said commissioners shall, previous to entering upon their duties as aforesaid, take and subscribe before some magistrate, or other person authorized to administer oaths, the following oath or affirmation, to-wit: "We do solemnly swear (or affirm) that we have no personal interest, directly or indirectly, in the location of the seat of justice of the county of Buchanan, and that we will faithfully and impartially locate the same, according to the best interest of said county, taking into consideration the future, as well as present population of said county; and the person so administering such oath, shall certify and file the same as provided in the first section of this act.

**SEC. 3. Compensation of locators.** The commissioners aforesaid shall receive each, two dollars per day, and two dollars for every twenty miles travel, while necessarily engaged in the discharge of their duty.

**SEC. 4. Treasury of Buchanan liable for expenses.** Said commissioners shall be paid for their services required by this act, out of the county treasury of said county of Buchanan, so soon as the same shall become organized, for county purposes.

**SEC. 5. Act in force forthwith.** This act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## [92] CHAPTER 101.

## JASPER AND POLK COUNTIES.

AN ACT for the organization of the counties of Jasper and Polk.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Jasper and Polk counties organized.** That the counties of Jasper and Polk, be and they are hereby organized, from and after the first day of March next, and the inhabitants of said counties, shall be entitled to all the rights and privileges, to which by law, the inhabitants of other organized counties of this territory are entitled; and the said counties shall constitute a part of the second judicial district of this territory.

**SEC. 2. Special election the 1st Monday in April.** That there shall be a special election held on the first Monday in the month of April; at which time, the county officers, for each of said counties, shall be elected; and also, such number of justices of the peace, and constables, for each of said counties, as may be ordered by the clerks of the district court, for their respective counties.

**SEC. 3. Clerk to give ten days notice of election.** That it shall be the duty of the several clerks of the district court, in and for said counties, to give at least ten days previous notice, of the time and place of holding such special election, in each of said counties, grant certificates of election, and in all respects discharge the duties required by law, to be performed by clerks of the boards of county commissioners, in relation to elections, until a clerk of the board of county commissioners for their respective counties, may be elected and qualified.

[93] **SEC. 4. Clerk to discharge duty of sheriff.** That it shall be the duty of the clerk of the district court, in each of said counties, to discharge all the duties required by law, to be performed by sheriffs in relation to elections, until a sheriff for their respective counties may be elected and qualified.

**SEC. 5. Officers elected to hold until August election.** That the county officers, justices of the peace and constables, elected under the provisions of this act, shall hold their offices until the first Monday in the month of August, 1846, and until their successors are elected and qualified.

**SEC. 6. Clerks of district court may be appointed at any time.** That the clerks of the district court, in and for said counties of Jasper and Polk, may be appointed and qualified at any time after the passage of this act.

**SEC. 7. Suits commenced prior to organization, etc.** That all actions at law or equity, in the district court for the county of Mahaska, commenced prior to the organization of the said counties of Jasper and Polk, where the parties, or either of them, reside in either of the aforesaid counties, of Jasper and Polk, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

**SEC. 8. Justices in Jasper and Polk to hand over books, etc.** That it shall be the duty of all justices of the peace, residing within the said counties of Jasper and Polk, to return all books and papers in their hands pertaining to said office, to the next nearest justice of the peace, who may be elected and qualified for their respective counties, under the provisions of this act; and all suits at law, or other official business, which may be in the hands of such justice of the peace and unfinished, shall be prosecuted or completed by the justice of the peace to whom such business or papers may have been returned as aforesaid.



**SEC. 9. Mahaska to have jurisdiction till 1st March, etc.** That the judicial authorities of Mahaska county, shall have cognizance of all crimes, or violations of the criminal laws of this territory, committed within the limits of said counties of Jasper and Polk, prior to the first day of March next: provided, prosecutions be commenced under the judicial authorities of said Mahaska county, prior to the first day of March next.

**SEC. 10. Jasper and Polk, to have jurisdiction, etc.** That the said counties of Jasper and Polk, shall have cognizance and jurisdiction of all crimes or violations of the criminal laws of this territory, committed prior to the first day of March next, in cases where prosecutions shall not have been commenced under the judicial authorities of Mahaska county.

**SEC. 11. Marshall attached to Jasper.** That the county of Marshall, be and the same is hereby attached to the county of Jasper, for elections, revenue and judicial purposes.

**SEC. 12. Story, Boone, and Dallas, attached to Polk.** That the counties of Story, Boone and Dallas, and the [94] territory of country, north and west of said counties, be and the same are hereby attached to the county of Polk for elections, revenue and judicial purposes.

**SEC. 13. Clerks may keep office anywhere in county until, etc.** That the several clerks of the district court, in and for the said counties of Jasper and Polk, may keep their respective offices at any place within their respective counties, until the county seats thereof may be located.

**SEC. 14. Fisher, Kirkham, and Henderson, commissioners for Jasper, seat of justice.** That Richard Fisher, of the county of Wapello, E. M. Kirkham, of the county of Davis, and Thomas Henderson of the county of Keokuk, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Jasper.

**SEC. 15. Hughes, Williams, and Pinneo, commissioners for Polk, seat of justice.** That Thomas Hughes of Johnson, M. T. Williams of the county of Mahaska, and Giles M. Pinneo, of the county of Scott, be and they are hereby appointed commissioners, to locate and establish the seat of justice of the county of Polk.

**SEC. 16. To meet 1st Monday in May, to locate seats of justice.** That said commissioners, or a majority of them, shall meet at the office of the clerk of the district court in and for the county, for which seat of justice they have been appointed to locate, on the first Monday in the month of May next, or at such other time, not exceeding thirty days thereafter, as a majority of said commissioners may agree.

**SEC. 17. Oath of commissioners and duty of clerks.** Said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear, (or affirm,) that we have no personal interest, directly or indirectly, in the location of the seat of justice of the county of (as the case may be) and that we will faithfully and impartially locate the same, according to the best interest of said county, taking into consideration the future as well as the present population of said county;" which oath shall be administered by the clerk of the district court, or any other officer authorized by law to administer oaths within the county, for which seat of justice said commissioners are appointed to locate; and the officer administering said oath, shall certify and file the same in the office of the clerk of the district court of such county, whose duty it shall be to record the same.

**SEC. 18. Commissioners to make out and return locations.** Said commissioners when met and qualified, under the provisions of this act, shall proceed to locate the seat of justice of the respective counties for which they have been appointed, and as soon as they shall have come to a determination, the same shall be committed to writing, signed by the said commissioners, and filed with the clerk of the district court of the county, in which such seat

of justice is situated; whose duty it shall be to record the same, and forever keep it on file in [95] his office; and the place thus designated shall be the seat of justice of such county.

**SEC. 19. Pay of locators, two dollars per day each.** Said commissioners shall each be entitled to receive the sum of two dollars per day while necessarily employed, and the sum of two dollars for every twenty miles travel, in the discharge of the duties enjoined upon them by this act; which shall be paid by the county, for which such location shall be made, out of the first funds arising from the sale of town lots, in such seat of justice.

**SEC. 20. First court in Jasper, at Springer's.** That the district court for the county of Jasper, shall be held at the house of Mathew D. Springer, in said county, or at such other place as may be designated by the board of county commissioners of said county, until the seat of justice of said county may be located.

**SEC. 21. First court in Polk, at Ft. Desmoines.** That the district court for the county of Polk, shall be held at Fort Desmoines, until the seat of justice of said county may be located.

**SEC. 22. Act in force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 102.

### MUSCATINE COUNTY.

AN ACT for the relief of Muscatine county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Commissioners to pay for support of the poor.** That the board of commissioners of the county of Muscatine, be and they are hereby authorized to audit and pay all costs and expenses for the support of the poor, in said county, existing prior to the twelfth day of February, A. D. 1844; provided, the same shall not have been paid out of the township treasuries.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [96] CHAPTER 103.

### ROAD FROM FT. MADISON.

AN ACT to establish a Territorial road, from Fort Madison, in Lee County, to Mount Pleasant, in Henry county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Fort Madison to Mount Pleasant.** That James D. Spearman, and E. Archbold, of the county of Henry, and John Grun of the county of Lee, be and they are hereby appointed commissioners, to locate and

establish a territorial road, commencing at Fort Madison; thence the nearest and best route, to the half mile post at the center of section 22; thence to the north side of section 15, of township sixty-nine, north, of range five west; thence on the nearest and best route, to the town of Lowell, in Henry county; thence on the nearest and best route to Mount Pleasant, in said county.

**SEC. 2. Commissioners to meet at any time, etc.** Said commissioners shall meet in the town of Fort Madison on any day that a majority of said commissioners may agree on, within six months after the passage of this act, and proceed to lay out and establish said road according to the provisions of an act to provide for laying out and opening territorial roads, approved, Dec. 29, 1838.

**SEC. 3. Part of a road vacated.** Be it further enacted, that so much of the territorial road, lying north of the agency road and south of Skunk river, in the township of Baltimore, be and the same is hereby vacated.

**SEC. 4. Not to run through farms now established.** Provided, that nothing contained in the provisions of the foregoing act, shall be so construed as to authorize the commissioners appointed to locate said road, to interfere with any farm, now established on said road.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

[97] CHAPTER 104.

ROCKINGHAM.

AN ACT to vacate a part of the town of Rockingham.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Part of the town plat vacated.** That the following described blocks and half blocks, together with all streets, alleys and squares, adjoining the same, situated in the town of Rockingham, in Scott county, be and the same are hereby vacated. The west half of blocks fifteen, sixteen, seventeen, and block C., and all of blocks D., eighteen, nineteen, twenty, twenty-seven, twenty-eight, twenty-nine, and block E.

**SEC. 2. Not to abridge the right of individuals.** That nothing in this act shall be so construed, as to destroy, abridge or in any way interfere with the private right, or rights, of any person, or persons, unless by their special and express will and consent.

**SEC. 3. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 105.

## SAMUEL SHUFFLETON.

AN ACT to legalize the acts of Samuel Shuffleton as a notary public.

Whereas, Samuel Shuffleton, late notary public, in the county of Jefferson, was appointed post master of the post office in Fairfield, in said county, and continued to act as notary public, a short time after receiving said appointment of post master; therefore,

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Acts as notary public legalized.** That the acts of Samuel Shuffleton as notary public, in and for the county of Jefferson, be and the same are hereby legalized.

[98] **SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 106.

## ROAD IN MUSCATINE.

AN ACT to re-locate a part of a territorial road in Muscatine and Cedar counties.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Alger, Smith and McCoy, commissioners to re-locate a road in Muscatine and Cedar counties.** That Pearson Alger, and Egbert T. Smith, of Muscatine county, and James McCoy, of Cedar county be and they are hereby appointed commissioners, to review a certain road, to-wit:—beginning at the bridge near the corner of Mary Nices' farm two and a half miles from West Liberty; thence to the grave yard, half a mile from the same, with instructions to locate said road on the county and section lines, or parallel thereto; provided, that such citizens of Cedar and Muscatine counties, as are interested in the re-location of said road, shall pay all the expenses of said re-location, and if required they shall enter into bond to that effect, to the satisfaction of said viewers before they shall proceed to the performance of the duty assigned them.

**SEC. 2. Commissioners to meet before May.** That said commissioners, or a majority of them, shall meet at such time and place, as they may agree, before the first of May next, and proceed to re-view said road, as provided in section one.

**SEC. 3. Act in force now.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [99] CHAPTER 107.

## ROAD FROM JEFFERSON COUNTY.

AN ACT to establish a certain territorial road therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Ross, Heard and Quinton, commissioners.** That S. S. Ross and Stephen Heard, of the county of Jefferson, and Richard Quinton, of the county of Keokuk, be and they are hereby appointed commissioners, to lay out and establish a territorial road, commencing at a point where the territorial road, leading from Mount Pleasant, in Henry county, to Fairfield, in Jefferson county crosses the western line of Henry county; thence on the nearest and best ground to S. S. Ross'; thence to pass between the farms of Caleb Cooper and Lenn's; thence on the nearest and best practicable route, to a point on the middle fork of Walnut creek, where the road leading from Fairfield, in Jefferson county, to Richland, in Keokuk county crosses said creek; thence the nearest and best route, to a point on Rock creek, in Keokuk county, where the territorial road, leading from Richland in said county to Oskaloosa, in Mahaska county crosses said creek.

**SEC. 2. To meet third Monday in March.** Said commissioners shall meet at the place of commencing said road, on the third Monday in March next, or within sixty days thereafter, and proceed to discharge the duties required of them by this act, and shall in all respects be governed by the act entitled an act to provide for laying out and opening territorial roads, approved, Dec. 29, 1838.

**SEC. 3. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## [100] CHAPTER 108.

## ROAD FROM FRANKLIN.

AN ACT to establish a territorial road from Franklin, in Lee county, to Mt. Pleasant, in Henry county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Franklin to Mount Pleasant.** That James Hayworth, of the county of Lee, and James Millison, and Daniel Alsop, of the county of Henry, be and they are hereby appointed commissioners, to view, lay out, and establish, a territorial road, commencing at Franklin; thence on the nearest and best route to the half mile stake, on the south line of section eleven, of township number sixty-nine, north of range number six west, thence north, through the center of said section, and the center of section number two, to the county line of Lee county, at the half mile stake on the south line of section number thirty-five, of township number seventy, north of range number six west; thence north, to the road leading from Burlington, to the old Agency; thence east, with said road, to near the northwest corner of section thirty-six; thence the nearest and best route, to Hugh Boyls' mills; thence on the nearest and best route to Mount Pleasant, in Henry county.

**SEC. 2. Commissioners to meet in Franklin.** Said commissioners shall meet in the town of Franklin, on the first Monday of March, 1846, or on such other day as a majority of said commissioners may agree upon, and proceed to locate and establish said road, agreeable to the provisions of an act to provide for laying out and opening territorial roads, approved December 29th, 1838.

**SEC. 3. In force from passage.** This act to be in force from and after its passage.

Approved, January 17th, 1846.

[101] CHAPTER 109.

SUSANNAH CHANEY.

**AN ACT** to authorize Susannah Chaney of Lee county, to convey certain real estate therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Susannah Chaney, empowered to sell lands.** That Susannah Chaney, of Lee county, be and she is hereby authorized to sell and convey the north-east quarter, of the south-west quarter of section number thirty, township number sixty-nine north, range six west; containing forty acres, and situated in Marion township, in Lee county.

**SEC. 2. To make deed for same.** That said Susannah Chaney is hereby authorized and empowered to execute a good deed of conveyance, with covenants of general warranty, under her hand and seal, for the premises mentioned in the first section of this act.

**SEC. 3.** This act shall take effect and be in force from and after its passage.  
Approved, January 17th, 1846.

CHAPTER 110.

ROAD FROM FAIRVIEW.

**AN ACT** to locate a certain road therein named.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from Fairview to Dewitt's landing.** That Julius Pert, of Jones county, and Ira Sammons and Joseph Caroway, of Linn county, be and they are hereby appointed commissioners, to lay out and establish a territorial road, as follows: commencing at or near Fairview on the Military road in Jones county; thence to the center of section four, in township eighty-three, north, in range five west; thence west, to the county road, leading from [102] the west of section four to Scott's mill on Big creek; thence on the track of said road to the range line between ranges five and six; thence on said line, to or near the land of Joseph Caroway and James Scott; thence angling through Sugar grove to the west line of section one, in township eighty-two, of range six; thence by said line for some distance; and then to Dewitt's landing on Cedar river.

**SEC. 2. Commissioners to meet at Fairview.** That said commissioners shall meet at Fairview on the first day of May next, or on such other day thereafter, as a majority of them may agree on, not exceeding two months after the said first day of May next, and employ the necessary assistance, and proceed to locate said road agreeably to the first section of this act, doing as little damage to private property as possible.

**SEC. 3. Part of road vacated.** That so much of a road located in pursuance of a law of the last session of the legislature, as lies between Isaac Butler's and Dewitt's landing, in Linn county, be and the same is hereby repealed.

**SEC. 4. Compensation of viewers.** Said commissioners and their necessary assistants, shall receive such compensation as the board of county commissioners of the county of Linn may allow.

**SEC. 5. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 17th, 1846.

## CHAPTER 111.

### KEOSAUQUA CITY.

AN ACT to amend an act entitled "An act to incorporate the city of Keosauqua."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Mode of selling lots for taxes.** That in case it shall become necessary to sell real estate in said city, for the payment of taxes, the same shall be sold in the manner, and under such regulations, as the mayor and aldermen may have ordained; and at the time and place when and where the mayor and aldermen may order and direct; provided, four weeks notice shall be given of such sale, by advertisement in any newspaper published in said city, and by posting on the court house door of said city, a written notice of such sale, for the space of four weeks.

[103] **SEC. 2. To be sold to the highest bidder, who will pay for least portion of lot.** Such real estate shall be sold to the bidder who will pay the taxes, costs and expenses of such sale, for the lowest quantity of such real estate, to be taken off of such part of such real estate as the mayor and aldermen shall direct.

**SEC. 3. May be redeemed in two years.** Such real estate may be redeemed from such sale, at any time within two years from the time of such sale, by the owner paying to such purchaser or recorder of said city, for the use of such purchaser, the amount for which such real estate shall have been sold, and costs, with fifty per centum per annum, until paid.

**SEC. 4. Mayor and aldermen to convey.** The mayor and aldermen, shall at the expiration of two years from such sale, execute in their corporate capacity, a deed for any real estate so sold, and not redeemed, to the purchaser or his assigns; which deed shall be sufficient to convey the estate in fee to such purchaser, and shall be prima facie evidence of the regularity of the proceedings; and no person shall ever question the title under such deed, either in a court of law or equity, until such person shall have paid to, or tendered to the purchaser, the amount for which such real estate may have been sold, and fifty per centum per annum and the costs of sale.

Approved, January 19th, 1846.

## CHAPTER 112.

## ROAD FROM BUSH'S MILL.

AN ACT to lay out and establish a territorial road from Bush's mill, in Jefferson county to the Desmoines river in Van Buren county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Road from Bush's mills to Desmoines river.** That Enos Ellmaker, of the county of Jefferson, and Jesse Sutton and Peter Walker, of the county of Van Buren, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at the north bank of Big Cedar creek, at Bush's mill, in Jefferson county; thence to Enos Ellmaker's; thence to Reuben Ellmaker's; thence to Cutting's & Gordon's storehouse, thence southeast, to the section line; thence south, on said line to the northeast corner of the lands of George Fisher, in Jefferson [104] county; thence to Peter Walker's in the county of Van Buren; thence north of the Widow Baker's farm; thence passing on the east of said Widow Baker's house; thence to Jesse Sutton's, on the Desmoines river, in Van Buren county.

SEC. 2. **Commissioners to meet at Bush's mill.** Said commissioners shall meet at Bush's mill in Jefferson county, on the third Monday in March next, or on such other day as a majority of them may agree on, within three months thereafter, and proceed to discharge the duties required of them by this act.

SEC. 3. **Governed by road law of 1838.** Said commissioners shall in all other respects be governed by an act entitled an act to provide for laying out and opening territorial roads, approved Dec. 29th, 1838.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## CHAPTER 113.

## DUBUQUE COUNTY.

AN ACT for the relief of the sheriff of Dubuque county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Sheriffs allowed for keeping prisoners.** That it shall be the duty of the board of county commissioners of the county of Dubuque, to allow to the sheriff of said county, twenty-five cents in cash per day, for dieting any prisoner confined in the county jail of said county, when said prisoner is insolvent or unable to pay the same.

SEC. 2. **To keep jail clean and comfortable.** That it shall be the duty of the sheriff of said county, to keep the jail thereof, clean and comfortable, for which services he shall be entitled to receive a reasonable compensation, to be paid out of the county treasury, after having been allowed by the board of county commissioners.

SEC. 3. **In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.



## [105] CHAPTER 114.

## ROAD FROM DUBUQUE.

AN ACT to re-establish a part of a territorial road vacated by an act, approved, February, 16, 1842.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road leading from Camp Atkinson established.** That so much of a territorial road, heretofore laid out under and by virtue of an act, approved January 13th, 1841, commencing at the city of Dubuque, and running to Camp Atkinson as is west of the Widow Hogan's farm and within the county of Dubuque, be and the same is hereby established and declared to be a territorial road, any law to the contrary notwithstanding.

**SEC. 2. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## CHAPTER 115.

## DANVILLE ACADEMY.

AN ACT to incorporate the Danville Academy in Des Moines county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Danville academy incorporated.** That there shall be, and hereby is established in the township of Danville, Des Moines county, a literary institution, for the instruction of youth of both sexes in science and literature, to be called the Danville academy, and that Thomas L. Sergeant, Jeremiah Hall, Edwin Cady, Calvin S. Jackson, Thomas Bristol, Reuben Gaylord, Warren Dee, Wolcott Seymour, William Ramsey, E. W. Davis and O. S. Goodrich, and their associates and successors, are hereby declared a body politic and corporate in law, by the name and style of the Danville Academy, to hold their offices for one year, from the first [106] Monday of March next, and until others shall be duly elected to succeed them in the manner hereinafter provided.

**SEC. 2. To have perpetual succession.** And the corporation before named shall have perpetual succession, and power to acquire, possess, retain and enjoy property, real, personal and mixed, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure, and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of justice; and they shall have and use a common seal with power to alter the same at pleasure.

**SEC. 3. Stock divided into shares of \$10.00.** That the stock of said academy shall consist of shares of ten dollars each, which shall be deemed personal property, and shall be transferable on the books of said corporation, in such manner as may be prescribed by the board of trustees: provided, that the annual income of said corporation (not including tuition) shall not exceed three thousand dollars, and that its fund privileges and immunities shall be used for no other purpose whatever than education.

**SEC. 4. Governed by trustees.** The corporate concerns of said academy shall be managed by a board of trustees consisting of five members, any three of whom shall constitute a quorum to do business; said board shall be elected by the stockholders on the first Monday of March annually and shall hold their offices for the term of one year and until their successors are duly elected. The election of trustees shall be by ballot, and each stockholder shall be entitled to one vote for each share by him owned to the amount of five shares, and one vote for every additional three shares. Any stockholder may vote in person or by proxy. Said trustees shall elect one of their number to be president of the board, and shall have power to fill all vacancies in their own body that may occur between their annual elections. If any election shall not be made on the day designated by this act, such election shall be held on any other day: provided, a notice of time and place of holding such election signed by one fourth of the stockholders to be posted up at two of the most public places in the township of Danville, at least ten days before said election.

**SEC. 5. To appoint officers and agents.** The board of trustees shall have power to appoint subordinate officers and agents, to make, ordain and establish such ordinances, rules and regulations, as they may deem necessary for the good management of said academy, its officers, teachers, and pupils, and for the management of the property and affairs of said corporation to the best advantage: provided, they shall not contravene the laws of the United States or of this territory.

**SEC. 6. Deeds to be made by board.** That all deeds and other instruments of conveyance shall [107] be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president and be by him acknowledged in his official capacity.

**SEC. 7. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, December 19th, 1845.

## CHAPTER 116.

### IOWA COUNTY.

AN ACT to amend an act entitled "An act for the organization of the county of Iowa."

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Iowa a part of second judicial district.** That the first section of the act to which this is amendatory, be so amended as to read, that the said county of Iowa shall constitute a part of the second judicial district.

**SEC. 2. In force from passage.** This act shall take effect and be in force from and after its passage.

Approved, December 19th, 1845.

## CHAPTER 117.

## ROAD FROM FAIRFIELD.

AN ACT to lay out and establish a territorial road from Fairfield, in Jefferson county, to Keokuk, in Lee county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Road from Fairfield to Keokuk.** That E. S. McCulloch, of the county of Lee, and Samuel Mitcheler, of the county of Van Buren, and H. B. Notson, of the county of Jefferson, be and they are hereby appointed commissioners, to locate and establish a territorial road; commencing at Fairfield, in Jefferson county, thence the nearest and most practicable route [108] to intersect the territorial road leading from Keokuk to Manchester, at or near the residence of E. S. McCulloch, in Lee county.

SEC. 2. **Commissioners to meet in March.** Said commissioners shall meet in Fairfield, on the first Monday in March next, or on such other day as a majority of them may agree, within three months thereafter, and proceed to discharge the duties required of them by this act.

SEC. 3. **Governed by act of 1838.** Said commissioners shall in all respects be governed by an act entitled "an act to provide for laying out and opening territorial roads," approved December 29th, 1838.

SEC. 4. **In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## CHAPTER 118.

## KISHKEKOSH, NOW MONROE.

AN ACT to change the name of Kishkekosh county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Kishkekosh to be called Monroe Co.** That the name of Kishkekosh county be changed to that of Monroe county.

SEC. 2. **In force from passage.** This act to take effect from and after the first day of August next.

Approved, January 19th, 1846.

## CHAPTER 119.

## TOWNS IN LINN.

AN ACT to legalize the survey of certain towns in Linn county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

SECTION 1. **Marion, Ivanhoe and Cedar Rapids—surveys and plats legalized.** That the respective surveys of the towns of Marion, Gray and Green's

addition to the town of Marion, Ivanhoe, [109] and Cedar Rapids, in Linn county, as designated and recorded in the recorder's office of said county, be and the same are hereby declared to be as legal and proper as the same would be if all the requirements of "an act to provide for the recording of town plats," and all other laws in relation thereto had been fully complied with.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## CHAPTER 120.

### TOWN OF LYONS.

AN ACT to authorize David W. Fisher to build a ware house on a portion of the public ground in the town of Lyons in Clinton county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. David W. Fisher, authorized to build a ware house on the public grounds.** That David W. Fisher, be and he is hereby authorized, to build a ware house on the following described tract of public ground in the town of Lyons, in Clinton county, to-wit: to commence one hundred and eighty feet due east of the south east corner of lot one, in block number five in said town and north of Main street; thence running one hundred and fifty feet due north; thence running one hundred and twenty feet due east, and thence south, with low water mark of the Mississippi river one hundred and fifty feet, and thence running one hundred and twenty feet to the place of beginning; containing eighty rods of land more or less: provided, that the said David W. Fisher shall within one year and six months after the passage of this act, build or cause to be built a ware house thereon at least thirty by sixty—two stories high.

**SEC. 2. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## [110] CHAPTER 121.

### KISHKEKOSH SEAT OF JUSTICE.

AN ACT to establish the seat of justice of Kishkekosh\* county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Clarksville and Princeton, to be voted for.** That for the purpose of permanently establishing the seat of justice of Kishkekosh county, an election shall be held at the several precincts in said county on the first Monday of April next, at which time the qualified electors of said county, shall vote for Princeton or Clarksville for the seat of justice.

\*Name changed to Monroe, see Chapter 118.

**SEC. 2. Qualification of voters.** That to entitle any person to vote at said election, he must be a citizen of the United States, twenty one years of age, and shall have resided in said county sixty days, and in the territory six months preceding said election.

**SEC. 3. Judges of election.** That the same persons who are or may be appointed judges at the several precincts in said county of the general election, shall be judges of the election directed by this act; and in case of failure of any of them to attend at the hour for opening the polls, their places shall be supplied in the manner directed by the law regulating general elections, and the said judges of each precinct, shall appoint two suitable persons having the qualifications of electors to act as clerks of said election, and the said judges and clerks before entering upon the discharge of their duties shall take an oath before some person authorized to administer the same, honestly, faithfully and impartially to perform the duties required of them by this act.

**SEC. 4. Elector may be challenged and sworn.** That the said judges or any of them shall have power, and on any person offering to vote being challenged by any elector who has voted at such election, are hereby required to administer an oath to such persons offering to vote, true answers to make to such questions touching his qualifications as a voter as shall be propounded to him, and shall thereupon examine such person as to his right to vote and said judges [111] shall not permit any person to vote at said election, who is not qualified according to the requirements of this act.

**SEC. 5. Clerks of election to keep poll books and time of opening and closing.** That each of the clerks of said election shall keep a separate poll book, or list of voters, and shall enter on his poll book the name of every person voting at his precinct, numbering them from one progressively in the order in which they shall vote with the proper number set opposite each name, and the judges of said election are hereby required to number the vote or ballot (on the book thereof) of each and every voter with the same number that stands opposite the name of such voter on the clerk's poll books and the ballot so given and numbered, shall be deposited in a box and shall be safely kept by the judges of said election, until disposed of as hereinafter directed. The polls shall be opened at each precinct at the hour of nine o'clock, a. m., and not before, and shall be closed at six o'clock, p. m., of the same day—upon closing the polls, the judges shall proceed openly and in the presence of such electors as may choose to attend, to count the ballots so given in, and the clerks shall severally keep a tally of the votes so counted out, designating the name of the town for which said votes or ballots may have been given, and when they shall all have been counted, they shall be added up and the aggregate for each town set down in figures and in words at full length, and the said judges and clerks shall certify that the same is a true statement of the votes polled at such precinct, and shall return the said ballots into the box from which they were taken and seal up said box; and the said judges shall return said box containing the ballots so sealed up, and shall also return one of the poll books of each precinct to the clerk of the district court of Kishkekosh county by three o'clock, p. m., of the third day after said election, on which said third day after said election, the judges of the several precincts shall meet at the office of the clerk of the district court, and shall in the presence of each other, and of the clerk of said district court, proceed to examine the returns from each precinct, and on said judges or a majority of them being satisfied that one of the two places mentioned in the first section of this act, has received a greater number of legal votes than the other, said judges shall declare the town having received such majority of votes, the seat of justice of Kishkekosh county; and the clerk of the district court shall make an entry of such fact in the minutes of said district court, and the town so declared to have received

a majority of the votes shall thenceforth be the seat of justice of Kishkekosh county.

**SEC. 6. Clerk of court to file poll books.** That the ballots and poll books so returned from the several precincts, shall be safely kept by the clerk of the district court in his [112] office for twenty days from the day of said election, at which time he shall destroy said ballots unless within that time, said election shall be contested in the manner hereinafter provided.

**SEC. 7. Election may be contested, and how.** That any three electors who shall have voted at said election may within said twenty days, enter into bond with sufficient security, to be approved of by said clerk, payable to said clerk, in the penal sum of three thousand dollars, conditioned to prosecute said contest with effect, or failing therein to pay all such costs as may accrue in the premises; the said clerk shall immediately notify the judge of said district court, that said election is contested, and the said judge on receiving such notice, shall appoint a time and place, in Kishkekosh county, for enquiring into and deciding the said contested election; and notice of such time and place, shall be given by said clerk by publication in the Iowa Democrat, newspaper published at Keosauqua, in Van Buren county, not less than fifteen days prior to the time so appointed, for the trial of said contested election; and said clerk shall issue subpoenas for all such witnesses as said persons contesting said election, or any other three voters of said county may require, returnable to the time and place as aforesaid, appointed for said trial.

**SEC. 8. Clerk and sheriff to attend the judges.** That the clerk of said district court, and the sheriff of Kishkekosh county, shall attend the judge of said court, at the time and place so appointed, and the clerk of said court shall deliver to the judge thereof, the ballots and poll books returned to him as above provided; and said judge shall proceed to enquire into the legality of said election, and may examine said ballots and poll books, and receive the testimony of all such witnesses as may be produced before him, and shall purge the said polls of all illegal votes that may have been received, and shall decide the said contested election in favor of the town that may have received the greatest number of legal votes at said election; and the clerk of said district court, shall make an entry of the decision of said judge, on the minutes of said court, as a judgment thereof.

**SEC. 9. Penalty for illegal voting.** That if any person shall vote at said election, without being qualified as above provided, or who shall vote more than once at said election, or shall vote at more than one precinct in said county, or who shall for the purpose of voting at said election swear falsely, touching his qualifications as a voter, shall be fined in a sum not less than fifty nor more than five hundred dollars; one half thereof to the use of the county, and the other half to any one who shall prosecute for the same, and shall be further liable to an indictment, and if found guilty of swearing falsely, shall suffer all the pains and penalties of wilful and corrupt perjury.

[113] **SEC. 10. Liability of judges and clerks of election.** That if either of the judges or clerks of said election, shall be guilty of any wilful violation of any duty, required of them by this act, and shall be thereof convicted, on indictment, such person so convicted, shall be fined in any sum, not less than five hundred, nor more than one thousand dollars, or imprisoned not more than twelve months at the discretion of the jury, trying the same.

**SEC. 11. In force from passage.** That this act shall take effect and be in force from and after its passage.

Approved, January 19th, 1846.

## CHAPTER 122.

## ROAD FROM WEST POINT.

AN ACT to re-locate a part of a territorial road leading from West Point, in Lee county, to Salem, in Henry county.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Road from West Point to Salem.** That John Woodman, William Steel, and William Stewart, are hereby appointed commissioners to re-locate so much of the territorial road leading from West Point, in Lee county, to Salem, in Henry county, as lies between William Steel's and John Woodman's; said commissioners shall meet at the house of said Steele on the second Monday of February next, or as soon thereafter as convenient, and proceed to re-locate so much of said road as above described.

**SEC. 2. In force from passage.** This act to take effect and be in force from and after its passage.

Approved, January 16th, 1846.

## [114] CHAPTER 123.

## DUBUQUE CITY.

AN ACT to incorporate and establish the City of Dubuque.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa.*

**SECTION 1. Town of Dubuque incorporated and corporate bounds defined.** That all that part of the territory of Iowa included within the following limits, to-wit:—beginning at a point in the middle of the main channel of the Mississippi river eastwardly and in line with the south boundary of the town of Dubuque, as surveyed and laid out by the commissioners appointed in pursuance of an act of congress, to lay off the towns of Fort Madison, Burlington, Dubuque, etc., thence south sixty-seven degrees, thirty-nine minutes west, to a stone planted in the ground; thence on the westerly boundary, north, twenty-two degrees, thirty minutes west, to a stake and stone; thence on the north boundary, north sixty-seven degrees, thirty minutes east, to the middle of the main channel of the Mississippi river; thence down the said river with said channel to the place of beginning; shall be and hereby is declared to be a city, and the inhabitants thereof are created a body corporate and politic, with perpetual succession by the name and style of the city of Dubuque; and as such by that name shall be capable in law of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places in all matters whatsoever, and also of purchasing, using, occupying, enjoying and conveying real, personal [115] and mixed estate, and may have and use a corporate seal, and change, alter and renew the same at pleasure, and shall be competent to have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations incumbent upon and appertaining to a municipal corporation, and for the better ordering and governing said city, the exercise of the corporate powers

of the same, hereby and herein granted, and the administration of its fiscal, prudential and municipal concerns with the conduct, direction and government thereof shall be vested in a mayor and board of aldermen, consisting of thirteen members to be denominated the city council, together with such other officers as are hereinafter mentioned and provided for.

**SEC. 2. New corporation succeed to rights of the old.** That the said city of Dubuque, shall be, and is hereby invested as the lawful owner and proprietor, with all the real, personal and mixed estate, and all the rights and privileges thereof, together with the property, funds and revenues, and all moneys, debts, accounts and demands due and owing, or in any wise belonging to said city; or which by, or under the authority of any former act or acts, have been acquired, vested in, or is, or may be owing or belonging to the city of Dubuque; and the same are hereby transferred to the corporate body, created and established by this act; and all suits pending and judgments recovered by, in favor of, or against the city of Dubuque, together with all rights, interests, claims and demands in favor of or against said city, may be continued, prosecuted, defended and collected in the same manner as though this act had never been passed.

**SEC. 3. Mayor and aldermen elected 1st Monday in April.** That the qualified electors of said city shall on the first Monday of April, annually, elect a mayor who shall have resided in said city three years; and the qualified electors of said city, shall at the same time elect thirteen aldermen, who shall have resided in the said city two years, and the mayor and aldermen so elected when assembled together and duly organized, shall constitute the city council, a majority of the whole number of whom shall be necessary to constitute a quorum for the transaction of business; they shall be the judges of the election returns, and qualifications of their own members, and shall continue in office for the term of one year, and until their successors shall be chosen and qualified. They shall determine the rules of their proceedings, and keep a journal thereof, which shall be open to the inspection and examination of every citizen; and may compel the attendance of absent members in such manner and under such penalties as they may prescribe. And they shall meet at some convenient place in said city, on the first Monday in May, and after taking the oath of office before some officer [116] qualified to administer oaths, shall elect from their own body, a president *pro tempore*.

**SEC. 4. Treasurer elected by people.** That there shall be elected by the qualified electors of said city, on the first Monday of April annually, a treasurer who shall hold his office for the term of one year, and until his successor shall be elected and qualified. He shall perform such duties and exercise such powers not herein specified, as may be lawfully required of him. There shall also be elected by the qualified voters of said city on the first Monday of April annually, a recorder, city marshal and assessor, of said city, who shall hold their offices for the term of one year, and until their successors shall be chosen and qualified, and who shall perform such duties and exercise such powers as may be lawfully required of them by the ordinances of said city.

**SEC. 5. Mayor to issue proclamation.** That in all elections for city officers, it shall be the duty of the mayor to issue a proclamation to the qualified voters of said city, setting forth the time of such elections, the place or places where the same shall be holden, the officer or officers to be chosen, and cause such proclamation to be posted up in three of the most public places in said city, at least ten days previous to such election. And every such election shall be opened between the hours of eight and ten o'clock in the forenoon and continue open until four o'clock in the afternoon, and shall in all things be conducted agreeably to the laws regulating township elections for the time being; and it shall be the duty of the judges of said elections within two



days thereafter, to make and direct the returns thereof to the mayor of said city at his office, in the same manner that election returns are required to be made by the township trustees for the time being; provided, that in all elections for mayor, the returns shall be made directed to the president *pro tempore* of the city council; and the mayor or president *pro tempore* of the city council, as the case may be, shall within five days after any such election, open the returns which shall have been made as aforesaid, and shall make an abstract of all the votes and file the same with the city recorder, who shall make a record thereof in a book to be kept by him for that purpose, and the person or persons having the highest number of votes shall be declared duly elected; but if from any cause the qualified voters of said city, or any of the respective wards, as the case may be, should fail to effect any election at the time and in the manner herein provided, the mayor shall forthwith issue his proclamation for a second or other election, which in all things shall be notified, conducted, regulated, and the returns thereof made as in and by this act is prescribed, and the person or persons, who shall be chosen at any such second or other election, shall [117] hold their office until the next stated prior to the choice of a successor or successors; and it shall be the duty of the mayor or president *pro tempore* of the city council, immediately to notify such person or persons who may be elected as aforesaid, of his or their election, by causing a written notice thereof, to be served upon him or them by the city marshal; and every person so chosen or elected as aforesaid, shall within ten days after his election, cause himself to be qualified to enter upon the duties of his office, and in default thereof, the office to which he shall have been elected shall be deemed and considered in law to be vacated; and it shall be the duty of the city council, to prescribe the time and manner, and provide the place or places of holding all elections in said city, for city officers and of making the returns thereof, not herein otherwise directed and prescribed; and the said city council shall appoint judges and clerks for all city elections.

**SEC. 6. Qualification of electors.** That each and every white male citizen above the age of twenty-one years, who shall have been a resident in said city six months immediately preceding any election for city officers, shall be deemed a qualified voter of said city, and shall be entitled to vote in the same or in the ward where he may reside for mayor, aldermen, recorder, treasurer, city marshal, assessor, and such other officers, as are in and by this act directed to be chosen by the qualified voters of said city or of the respective wards therein, and all others which by public ordinance may be required to be chosen or elected; and when any person shall present himself to give his vote and either of the judges shall suspect that such person does not possess the requisite qualification of an elector, or if his vote shall be challenged by an elector who has previously given his vote at such election, the judges of said election shall tender to such person an oath or affirmation in the following form, to-wit: 'I A. B. do solemnly swear (or affirm as the case may be) that I am a citizen of the United States, and that I have been a resident of this city six months immediately preceding this election, am a resident of this ward (if wards shall have been established) and to the best of my knowledge and belief, have attained the age of twenty-one years, and that I have not voted at this election.'

**SEC. 7. Eligibility of city council.** That no member of the city council shall be eligible to any office within the gift of the city council during the year for which he may have been elected, nor shall any member of the city council be interested directly or indirectly in the profit of any contract or job, for work or services to be performed for the city.

**SEC. 8. Mayor's duties as a police officer, etc.** That it shall be the duty of the mayor to be vigilant and active at all times in causing the laws and

ordinances of said city, to be put in [118] force and duly executed. He shall keep the seal of said city, and all of the records, papers and official documents thereunto belonging. He shall sign all by-laws and ordinances adopted and passed by the city council, and see that the same are published six days before they go into effect. He shall preside when present at the meetings of the city council and be denominated president of the same, and when there is a tie shall give the casting vote. He shall do and perform such other duties as the city council may prescribe and determine, not inconsistent with the provisions of this charter.

**SEC. 9. Oath of treasurer, marshal, recorder, etc.** That the treasurer, marshal, recorder, assessor, and all other officers under the government of said city, shall before entering upon the duties of their respective offices, take an oath or affirmation to support the constitution of the United States, and faithfully and impartially to perform the several duties of the offices to which they may be respectively elected or appointed, and when required shall give such bond to the city with good and sufficient security in such sum or sums, and with such conditions thereto as the city council may from time to time direct, and in all cases not herein provided for shall respectively be allowed and receive such fees and compensation for their services, and be liable to such fines, penalties, and forfeitures for negligence, carelessness, misconduct in office, and positive violation of duty, as the said city council shall order and determine.

**SEC. 10. Meetings of the board.** That the city council shall provide the times and places of holding their meetings not herein otherwise provided for, which shall at all times be open to the public, they shall provide by ordinance for the election by the qualified voters of said city, of such other city officers whose election is not herein otherwise provided for, as shall be necessary for the good government of said city and the due exercise of its corporate powers, and which shall have been provided for by ordinance, and all city officers whose term of service is not prescribed and whose powers and duties are not defined in and by this act, shall perform such duties, exercise such powers, and continue in office for such term of time not exceeding one year, as shall be prescribed by ordinance.

**SEC. 11. Vacancies, how filled.** That whenever the office of mayor, councilmen, treasurer, marshal, recorder, or any other officer in and by this act, specified and provided for shall become vacant by death, resignation, removal from the city or otherwise, it shall be the duty of the council as soon as may be, to appoint some suitable person having the requisite qualifications to fill such vacancy, and the person so appointed shall continue in office during the remainder of the term for which his predecessor was elected or temporary absence of the mayor, the duties of his office during such [119] sickness or temporary absence shall be discharged by the president *pro tem* who shall be obeyed and respected accordingly.

**SEC. 12. By-laws and ordinances.** That the said city council shall have power, and it is hereby made their duty to make and publish from time to time, all such ordinances as shall be necessary to secure said city and the inhabitants thereof, against injuries by fire, thieves, robbers, burglars and all other persons violating the public peace; for the suppression of riots and gambling, and indecent and disorderly conduct; for the punishment of all lewd and lascivious behavior in the streets and other public places in said city; they shall have power from time to time to make and publish all such laws and ordinances as to them shall seem necessary to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of said city, and the inhabitants thereof, to impose fines, forfeitures and penalties on all persons offending against the laws and ordinances of said city, and provide

for the prosecution, recovery and collection thereof, and shall have power to regulate by ordinance the keeping and sale of gun-powder within the city.

**SEC. 13. Organization of fire companies.** That the city council shall have power to establish and organize all fire companies and provide them with proper engines, and such other instruments as shall be necessary to extinguish fire and preserve the property of the inhabitants of said city from conflagration, and they shall have power to establish and constitute landing places, wharves, docks and basins in said city at or on any of the city property, and fix the rates of landing, wharfage and dockage of all steam-boats, boats, rafts and other water crafts, and of all goods, wares, merchandize, produce and other articles that may be moored at, landed on, or taken from any landing, wharf, dock, or basin belonging to said city.

**SEC. 14. Restrictions as to buildings.** That for the purpose of more effectually securing said city from the destructive ravages of fire, the said city council shall have power and authority on the application of three-fourths of the whole number of owners and proprietors of any square or fractional square in said city, to prohibit in the most effectual manner, the erection of any building or the addition to any building before erected more than ten feet high in any such square or fractional square, except the outer walls thereof shall be composed entirely of brick or stone and mortar, and to provide for the most prompt removal of any building or addition to any building which may be erected contrary to the true intent and meaning of this section.

**SEC. 15. To regulate taverns and tippling houses.** That the city council shall have power, and it is hereby made their duty to regulate by good and wholesome laws and ordinan- [120] ces all taverns, ale, beer, cider and porter shops, and places where spirituous liquors are sold in less quantities than one gallon, and all other houses of public entertainment in said city, all theatrical exhibitions, and public shows, and all exhibitions of whatever name, or nature to which admission is obtained on the payment of money or any other reward; to license and establish ferries across the Mississippi river from said city to the opposite shore, and to impose reasonable fines and penalties for the violation of any such laws and ordinances. And the said city council shall have full and exclusive power to grant or refuse license to tavern keepers, inn holders, retailers of spirituous liquors by less quantities than one gallon, keepers of ale, porter, cider, beer houses and shops, and all other houses of public entertainment, showmen, keepers and managers of theatrical exhibitions, and other exhibitions for money or other reward, auctioneers for the sale of goods, wares and merchandize, horses and other animals at public auction, keepers of billiard tables, ball and ten pin alleys, and keepers of ferries from said city across the Mississippi river to the opposite shore; and in granting any such license it shall be lawful for said city council to exact, demand and receive such sum or sums of money as they shall think reasonable and expedient; to annex thereto such terms and conditions in regard to time and place, and other circumstances under which such license shall be acted upon, as in their opinion the peace, quiet, and good order of society and said city may require, and for the violation of such terms and conditions as aforesaid the city council shall have power to revoke or suspend any such license whenever the good order and welfare of said city may require it, in such manner as shall be provided by ordinance: provided, that no power herein granted to the said city council shall be so construed as to impair, interfere with, or in any way affect any right or rights now existing by virtue of any acts heretofore passed by the legislative authority of this territory establishing ferries across the Mississippi river opposite the town of Dubuque, in Dubuque

county, but the same shall be and remain as though this act had not been passed.

**SEC. 16. Abatement of nuisances.** That the city council shall have power, and they are hereby authorized to require and compel the abatement and removal of all nuisances within the limits of said city, under such regulations as shall be prescribed by ordinance; to cause all grounds therein where water shall at any time become stagnant to be raised, filled up, or drained, and to cause all putrid substances of either animal or vegetable to be removed; and to effect these objects the said city council may from time to time, give order to the proprietor or proprietors, or to his, her, or [121] their agent or agents, and to the non-resident proprietors who have no agents therein, notice by publication in one or more of the newspapers printed in said city, for the period of two weeks, of all or any grounds subject at any time to be covered with stagnant water, to fill up, raise or drain such ground at their own expense, and the said city council shall designate how high such grounds shall be filled up and raised, or in what manner they shall be drained and fix some reasonable time for filling up, raising or draining the same, and if such proprietor or proprietors or agents shall neglect or refuse to fill up, raise or drain such grounds in such manner and within such time as the said city council shall have designated and fixed, they shall cause the same to be done at the expense of the city and assess the amount of the expenses thereof on the lot or lots of ground so filled up, raised or drained as aforesaid, and place the assessment so made as aforesaid, in the hands of the city collector, who shall proceed to collect the same by the sale of such lot or lots if not otherwise paid in such manner and under such restrictions and regulations as may be prescribed by ordinance: provided, the proprietor or proprietors shall have the privilege and right to redeem such lot or lots within one year after such sale, by paying to the purchaser or purchasers the amount by them paid together with ten per cent. interest on the same.

**SEC. 17. Supervisors and other officers.** That said city council shall have the exclusive power of appointing supervisors and other officers of the streets and highways within the said city, and if collected in money or labor any sum not exceeding one dollar annually as a road tax from each and every person liable by law to pay such tax or labor on the highways; they shall have the power whenever public convenience or safety shall require it, to prohibit hogs, cattle, horses and all other description of animals from running at large in the streets, lanes, alleys, commons and other public places in said city; they shall have power to license and regulate all carts, wagons and drays, and every description of two and four wheeled carriages which may be kept in said city for hire, and all livery stables, brokers and loan offices.

**SEC. 18. Public schools.** That the said city council shall have power whenever they deem it expedient, to provide for the establishment and support of public schools within said city, and to pass all ordinances necessary and proper for the good government of the same.

**SEC. 19. Collection and disbursement of city revenue.** That all monies raised, recovered, received or collected by means of any tax, license, penalty, fine, forfeiture or otherwise under the authority of this act, or which may belong to said city shall be paid in to the city treasury, and shall not be drawn therefrom except by or- [122] der or under the authority of the city council. And it shall be the duty of the city council to liquidate and settle all claims and demands against said city, and to require all officers, agents or other persons intrusted with the disbursement or expenditure of the public money to account to them therefor at such time and in such manner as they may direct, and they shall annually publish for the information of the citizens

a particular statement of the receipts and expenditures of all public moneys belonging to said city, and also of all debts due and owing to and from the same. And the city council shall have power to pass all such laws and ordinances as may be necessary and proper to carry into effect the powers herein and by this act granted.

**SEC. 20. Publication of laws and ordinances.** That every law or ordinance of said city before it shall be of any force or validity, or in any manner binding on the inhabitants thereof or others, shall be signed by the mayor and published in one or more newspapers in said city at least six days.

**SEC. 21. Owner, to include leases for a term of years.** That for the purpose of opening or improving any street, lane, alley, market space, public landing or common, or other purposes, the term owner or owners used in this act, is hereby declared to mean any person or persons who may own any lease upon lands for any term not less than ninety-nine years renewable forever, on any freehold estate either for life or otherwise, upon any ground to be affected by partition, and such tax shall be a lien upon the real estate upon which it may be assessed from the time of filing such petition until it shall be fully paid and satisfied.

**SEC. 22. Grading streets and wharves.** That said city council shall have exclusive power to establish and regulate the grade of the wharfs, streets, and banks along the Mississippi river within the corporate limits of said city.

**SEC. 23. Duty of justices of the peace.** That the justices of the peace in said city shall have full power and authority and it is hereby made their duty at such times as the same by the city authorities shall be required of them or any of them, to issue all needful process for the apprehension of offenders against the by-laws, ordinances and regulations of said city, and to hold a court for the trial of all offences within the said city, and the same to fine, imprison or discharge as the by-laws, ordinances and regulations of said city and the facts of the case may require. And for that purpose they and each of them are authorized and required to cause to come before them when necessary, a jury of six citizens of said city who shall be qualified voters of said city. And all such offenders on conviction shall be liable for the costs of prosecution and judgment shall go accordingly, and in case of acquittal the same shall be paid by the corporation, having first been allowed by the city council, and all process [123] in behalf of said city shall run in the name of the United States for the use and benefit of said city and shall otherwise conform to the requisitions and provisions that may be made by the city council, and shall be signed, executed and returned by the marshal of said city, and until other provisions shall be made by said city authorities it shall be lawful for said justices or any of them to commit all offenders against said by-laws, ordinances and regulations on conviction, to the jail of Dubuque county. And in case where a portion or all the punishment shall be imprisonment, the keeper of said jail is hereby required to receive such persons on the proper warrant of such justices or justice of the peace into his custody in said jail in the same manner as in ordinary cases. And all expenses of such imprisonment in cases where the same cannot be collected from the person so convicted and imprisoned shall be paid out of the treasury of the corporation; the fees of the justices and jurors in such cases shall be the same as are allowed by the statute.

**SEC. 24. Jury of six citizens.** That all trials for the violation of the by-laws, ordinances and regulations, shall be in a summary manner, and that no person shall for any offense be deprived of his or her liberty, or fined in

any sum greater than twenty dollars, unless convicted by a jury of six citizens of said city qualified to vote as aforesaid.

**SEC. 25. Corporation to hold and convey property.** That the said city council shall have the custody, care and management of all real, personal and mixed estate, and other corporate property of said city, and all the real, personal and mixed estate, money, funds and resources which from time to time may be owned by, or of right belong to said city, with full power to purchase, hold, possess, use and occupy, and to sell and convey the same for the use and benefit of the said city, and the inhabitants thereof: provided, that the city council shall not have power to sell any real estate belonging to the said city of Dubuque, unless the qualified voters thereof in pursuance of ten days' previous notice given by order of the city council and published in one or more of the newspapers printed in said city, setting forth the time, place and purpose of voting, and there shall be a majority of written or printed ballots given expressing their consent thereto.

**SEC. 26. Levy and collection of taxes.** That to defray the current expenses of said city, the city council shall have power to levy and collect taxes on the real and personal property therein: provided, that the amount of taxes shall not in any one year exceed the sum of twenty-five cents on each one hundred dollars worth of property taxed. They shall also have power whenever in their opinion the interest of said city shall require it, to levy and collect a tax on dogs or other domestic animals not included in the list [124] of taxable property for territorial and county purposes, which said taxes shall be collected by the city collector and paid into the treasury in such manner and under such restrictions and regulations as may be prescribed by ordinance; the city council shall have power to cause to be opened, paved or re-paved, or improved any street, lane, alley, market space or public landing on petition of not less than two thirds of the number of owners of any square or parts of square of said city, boundary [bounding] or abutting on such street, lane, alley, market space or public landing so to be opened, paved, re-paved or improved; and to levy and collect a special tax for defraying the costs and expenses of the same by an equal assessment on the first front boundary and abutting as aforesaid.

**SEC. 27. Borrowing money, requisites before.** That whenever in the opinion of the city council it is expedient to borrow money for any public purpose, the question shall be submitted to the citizens of Dubuque, the nature and object of the loan shall be stated, and a day fixed for the electors of the said city to express their wishes, the like notice shall be given as in cases of an election, and the loan shall not be made unless two thirds of all the votes polled at such election shall be given in the affirmative.

**SEC. 28. Adoption of this charter.** That before this act shall take effect and be in force, a vote shall be taken upon the adoption of the same by the qualified voters residing within the limits of said city, at such time and place, and under such regulations as the present mayor and aldermen of said city may prescribe and determine: provided, that a majority of the whole vote cast, shall be deemed necessary to adopt and carry into effect this act.

**SEC. 29. This charter a public act.** That this act shall be taken and received in all courts, and by all judges, magistrates and other public officers, as a public act, and all printed copies of the same which shall be printed by or under the authority of the council and house of representatives, shall be admitted as good evidence thereof without any other proof whatsoever.

**SEC. 30. Repealing clause.** That all acts and parts of acts heretofore passed relative to the incorporation of said city of Dubuque and coming within the purview of this act, be and the same is [are] hereby repealed.

Approved, January 19th, 1846.

## JOINT RESOLUTIONS

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### NO. 1.

A JOINT RESOLUTION for an appropriation to improve the agency road.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That whereas the congress of the United States, has heretofore appropriated at different times, the sum of ten thousand dollars, for the laying out and bridging a certain road known as the agency road, from Burlington to the old Indian agency, and whereas, said sum of ten thousand dollars has been expended as aforesaid, and still said road is in an unfinished state. And whereas, said road is of the utmost importance not only to the government of the United States, but to the city of Burlington, and to the country through which the road passes.

Resolved therefore, that our delegate in congress, the Hon. A. C. Dodge, be requested to use his best endeavors to obtain an appropriation sufficient to complete the bridging and embanking of said road; and that his excellency the governor, be requested to forward a copy of this resolution to our said delegate at Washington.

Approved, December 19th, 1845.

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### NO. 2.

JOINT RESOLUTION authorizing the librarian to procure copies of the journals of the legislative assembly.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That the territorial librarian, be authorized to procure five copies of the journals of each house of all the past sessions of the legisla- [126] ture of this territory. and put and keep the same in the territorial library, as a part and parcel of said library; and if the said journals cannot be otherwise got, that the librarian be authorized to purchase the same if they can be found; and that hereafter there shall be deposited in the library five copies of the journals of each house.

Approved, January 2d, 1846.

## NO. 3.

A JOINT RESOLUTION instructing our delegate in congress to use his influence to get an appropriation to rebuild the bridge over Flint river in Desmoines county.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That our delegate in congress be instructed to use his influence to procure an appropriation of three thousand dollars, to build a bridge over Flint river, in Desmoines county, on the mail route leading from Burlington via Bloomington to Iowa City, and that the secretary be instructed to forward a copy of this resolution to our delegate in congress.

Approved, January 2d, 1846.

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NO. 4.

JOINT RESOLUTION relative to obtaining another land office.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That our delegate in congress be instructed to use his influence to get an additional land district and land office in this territory.

Resolved, that the secretary of the territory be instructed to forward a copy of the above to our delegate in congress.

Approved, January 2d, 1846.

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[127] NO. 5.

JOINT RESOLUTION asking an appropriation for a bridge over Skunk river at Lowell, in Henry county, Iowa.

Whereas, the citizens of the territory of Iowa are deeply interested in procuring the erection of a permanent bridge over Skunk river, where the agency road leading from Burlington to the former Sac and Fox agency, and the road from Mount Pleasant to Lee county crosses the same at Lowell, in Henry county, therefore,

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That our delegate in congress be and he is hereby requested to use his exertions to obtain an appropriation of five thousand dollars for the purpose of erecting a bridge over the said river at the point above designated.

Resolved, that his excellency the governor be requested to forward a copy of the preamble and resolution to our delegate in congress.

Approved, January 16th, 1846.



## NO. 6.

JOINT RESOLUTION for the adjournment of the legislature sine die.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That the two houses adjourn *sine die* on Monday the twenty-ninth day of January, A. D. 1846.

Approved, January 16th, 1846.

## NO. 7.

JOINT RESOLUTIONS on mail routes.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That the postmaster general be respectfully requested to increase the mail facilities on the principal mail routes in the territory of Iowa.

Resolved, that he be requested to establish as soon as practicable a tri-weekly mail between the towns of Keokuk, in Lee county, and Dubuque, in the county of Dubuque, on the line of the military road through Iowa City, to the city of Dubuque; and from Knoxville, [128] Illinois, via. Bloomington, Iowa, to Iowa City, Iowa territory; and that proposals may be issued for the transportation of said mails in four horse post-coaches.

Resolved, that the secretary of the territory be requested to forward a copy of these resolutions to the postmaster general, and to Gen. Dodge, our delegate in congress, with a request that he exert his influence with the post office department to obtain the mail facilities prayed for by the foregoing resolutions.

Approved, January 17th, 1846.

## NO. 8.

JOINT RESOLUTION for an appropriation to improve the territorial road across the Mississippi bottom between Toolsboro and the Mississippi river.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That the Hon. A. C. Dodge, our delegate in congress, be requested to use his exertions to procure an appropriation by congress of the sum of five thousand dollars to improve the territorial road across the Mississippi bottom between the town of Toolsboro and the Mississippi river.

Resolved, that his excellency, Gov. Clark be requested to forward a copy of the above resolution to our delegate in congress.

Approved, January 17th, 1846.

## NO. 9.

## JOINT RESOLUTION relative to a mail route.

*Resolved by the Council and House of Representatives of the Territory of Iowa.*

That our delegate in congress, the Hon. A. C. Dodge, be requested to use his best exertions to procure the establishment of a semi-weekly mail route from Knoxville, Ill., via Hendersonville and Millersburgh to Bloomington, Iowa, crossing the Mississippi river at the latter place, and that it may be so arranged that the annual letting of mail routes in June next, this route may be advertised and offered to competition as is now provided for by law, said mail to be conveyed in two horse post-coaches—also a weekly mail route from Keokuk in Lee county to Fairfield in Jefferson county.

[129] Resolved, that the secretary of the territory of Iowa, be and he is hereby requested to send one copy of this resolution to the postmaster general, and one to our delegate in congress.

Approved, January 17th, 1846.

## NO. 10.

## JOINT RESOLUTION providing for a set of seals for the counties of Iowa, Marion, Jasper and Polk.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That Robert M. Hutchinson be and he is hereby authorized to contract with some person to furnish a full set of seals for the county of Iowa, for which they shall receive such compensation out of the territorial treasury as the legislature may hereafter direct.

Resolved, that William Edmundson be and he is hereby authorized to contract for a full set of seals for the counties of Marion, Jasper and Polk, and that the same be paid for out of the territorial treasury.

Approved, January 17th, 1846.

## NO. 11.

## JOINT RESOLUTION for a mail route.

*Resolved, by the Council and House of Representatives of the Territory of Iowa.*

That the Hon. A. C. Dodge, our delegate, be requested to use his exertions to procure the passage of an act by the congress of the United States, for a mail route from Monmouth, Illinois, via Keathville, Ill., Wapello, Columbus City and Port Allen, in Louisa county, to Iowa City, in Johnson county, Iowa territory.

Resolved, that his excellency Gov. Clarke, be requested to forward a copy of this resolution to our delegate in congress.

Approved, January 17th, 1846.

## [130] NO. 12.

JOINT RESOLUTION relative to the transmission of the Laws and Journals to the different States and Territories.

Whereas a custom of interchange of laws, reports, records and documents prevails between the states and territories of the United States, and whereas the important benefits of that custom have been extended to this territory without a reciprocity on her part, therefore, be it

*Resolved by the Council and House of Representatives of the Territory of Iowa:*

That it shall be the duty of the secretary of the territory to transmit to the executives of the different states and territories, three copies of the laws, three copies of the journals of each house of the legislative assembly of this territory, and that said documents shall be endorsed by the governor according to an act of congress entitled "an act authorizing the governors of the several states to transmit by mail certain books and documents," approved, Jan. 30th, 1834.

Approved, January 17th, 1846.

## NO. 13.

JOINT RESOLUTION providing for a full set [of] seals for the counties of Keokuk, [Kishkekosh] and Appanoose.

*Resolved by the Council and House of Representatives of the Territory of Iowa.*

That William G. Coop, be and he is hereby authorized to contract with some person to furnish a full set of seals for the counties of Kishkekosh and Appanoose, for which they shall receive such compensation out of the territorial treasury, as the legislature may hereafter direct.

Approved, January 17th, 1846.

## NO. 14.

JOINT RESOLUTION providing for the printing of the laws.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That Messrs. Palmer publishers of the Iowa Capitol Reporter, be and they are hereby employed to print twenty-five hundred co- [131] pies of the laws passed at the present session, and that they be allowed the prices established by law.

Approved, January 17th, 1846.

## NO. 15.

JOINT RESOLUTION relative to furniture, books and stationery, belonging to the Territory.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That the treasurer of the territory is hereby directed to collect all the furniture, books and stationery, belonging to this territory, and cause the same to be kept in a safe and secure place during the recess of the legislature.

Approved, January 17th, 1846.

## NO. 16.

JOINT RESOLUTION for the relief of George S. Hampton.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That the auditor of public accounts, be and he is hereby authorized to audit and allow, and issue territorial warrants to George S. Hampton, to the amount of one hundred and one dollars for rent of office for clerk of supreme court, for the year 1842, for moving records of said supreme court from Burlington to Iowa City, and for blank book and other stationery for said supreme court: provided, that if said George S. Hampton should receive pay from the general government for the above said articles that he the said George S. Hampton, be required to pay the same into the territorial treasury.

Approved, January 17th, 1846.

## NO. 17.

JOINT RESOLUTION for the donation of Fort Desmoines to Polk county.

*Resolved by the Council and House of Representatives of the Territory of Iowa:*

That the Hon. A. C. Dodge, our delegate in congress, be and he is hereby instructed to use his influence to obtain the passage of an [132] act of congress, granted [granting] to the county of Polk, in said territory, one quarter section or two eighty acre lots of land on which Fort Desmoines is situated, together with the improvements thereon for the use of the public building at the seat of justice of said county, provided said county pay into the land office the sum of one dollar and twenty-five cents per acre for such land.

Resolved, that the secretary of said territory be instructed to forward a copy of the above resolution to our delegate in congress, to the president of the senate, and to the speaker of the house of representatives.

Approved, January 17th, 1846.

## NO. 18.

JOINT RESOLUTION relative to the distribution of the laws.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That the laws of the present session shall be distributed as follows, to wit:

To the counties of Lee, Van Buren, Desmoines and Dubuque, each, one hundred and thirty copies.

To the counties of Henry, Jefferson and Jackson, one hundred and fifteen copies each.

To the counties of Washington, Louisa, Johnson, Muscatine, Scott and Linn, ninety copies each.

To the county of Cedar, eighty copies.

To the counties of Clinton, Jones, Delaware, Clayton, Davis, Mahaska, Wapello and Keokuk, seventy copies each.

To the counties of Iowa, Kishkekosh, Appanoose, Marion, Jasper, Polk and Benton, fifty copies each

And that unorganized counties shall be entitled to their proportion of the laws, from the counties to which they are attached for judicial purposes.

Resolved, that in the distribution of the laws aforesaid, the clerk of the boards of county commissioners shall be governed by the act relative to the distribution of the laws, approved 16th Feb. A. D. 1844.

Approved, January 17th, 1846.

## [133] NO. 19.

JOINT RESOLUTION to pay Charles A. Robbins.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That the auditor of public accounts, be and he is hereby authorized to audit and allow, and issue territorial warrants to Charles A. Robbins, to the amount of seventy-five dollars, as pay for furnishing the counties of Wapello, Davis, and Iowa, with a full set of seals.

Approved, January 17th, 1846.

## NO. 20.

JOINT RESOLUTION relative to lands granted Iowa territory for a university.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That Hon. A. C. Dodge, our delegate in congress, be and he is hereby requested to use his influence for the appointment of a suitable person by

the secretary of the treasury, to select two townships of land granted to the territory of Iowa for a university, according to the provisions of an act entitled, "An act granting two townships of land for the use of a university in the territory," approved July 20th, 1840.

Approved, January 2d, 1846.

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NO. 21.

JOINT RESOLUTION relative to the printing of the act for a state government.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That the auditor of the territory, be and he is hereby directed to allow the account of the respective publishers of newspapers in this territory for publishing "an act to provide for the expression of the opinion of the people of the territory of Iowa, upon the subject of the formation of the state constitution, for the state of Iowa." to the amount of twenty-five dollars, on being satisfied that the service was performed.

Approved, January 17th, 1846.

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[134] NO. 22.

JOINT RESOLUTION for the payment of J. D. Bourne.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That the auditor of public accounts of this territory, be authorized to audit and allow, and to issue territorial warrants to J. D. Bourne, sheriff of Clinton county, to the amount of one hundred dollars as pay for services rendered to the territory, in going and demanding from the governor of Illinois the body of Johnson Butler, a fugitive from justice from this territory, upon a requisition of the governor of Iowa, and carrying said Butler from Illinois to this territory, to wit: into Clinton county, and the expenses attendant thereon.

Approved, January 17th, 1846.

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NO. 23.

JOINT RESOLUTION for the payment of Jesse Williams.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That Jesse Williams, secretary of the territory, be allowed the sum of two hundred and fifty dollars for indexing and superintending the printing of the laws of the present session of the legislative assembly.

Approved, January 19th, 1846.

## NO. 24.

JOINT RESOLUTION for the payment of Samuel C. Trowbridge.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That Samuel C. Trowbridge, of Johnson county, be allowed the sum of thirty-one dollars for his services as sheriff and clerk of Johnson county, at the time of its organization, to be paid out of the treasury of the territory; and that the auditor of public accounts is hereby instructed to audit and allow the same.

Approved, January 17th, 1846.

## [135] NO. 25.

JOINT RESOLUTION to provide for the binding of the laws, and for other purposes.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That James McIntosh, be and he is hereby employed to bind the laws of the present session, in pamphlet form, and that he be allowed the same price that is allowed by law for binding the journals of the council and house of representatives, and the said McIntosh and the persons employed to print the laws be required to give bonds to the secretary of the territory in the penal sum of five thousand dollars each, that their respective portions of the work will be completed and the laws ready for distribution by the first day of April next.

Approved January 19th, 1846.

## NO. 26.

JOINT RESOLUTION approving of the late Memphis convention.

*Resolved, by the Council and House of Representatives of the Territory of Iowa:*

That we highly approve of a union of efforts of the west and south-west, for the purpose of mutual aid and counsel in the protection of their natural interests, therefore, we approve of the object and action of the late Memphis convention.

Approved January 19th, 1846.





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