

LAWS OF IOWA

PASSED AT THE SESSION OF

THE LEGISLATIVE ASSEMBLY

WHICH COMMENCED ON THE 4TH OF DECEMBER, 1843

JOHN CHAMBERS, *Governor*
FRANCIS SPRINGER, *President Pro. Tem. of the Council* until the 11th day of
January, and
THOMAS COX, *President* thereafter
JAMES P. CARLETON, *Speaker of the House of Representatives*

PUBLISHED BY AUTHORITY

BURLINGTON
JAMES CLARKE, PRINTER

1844

SECRETARY'S OFFICE, BURLINGTON,

April, 1844.

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

S. J. BURR,
Secretary of Iowa Territory.

TITLE OF ACTS

	Page	Reprint Page
Chapter 1. An act to amend an act entitled, "An act to provide for the assessment and collection of county and territorial revenue"	1	339
Chapter 2. An act to change the time of holding the general elections..	1	339
Chapter 3. An act to amend an act entitled, "An act for the election of constables, and defining their duties," approved January 24th, 1839	2	340
Chapter 4. An act to amend an act entitled, "An act to establish new counties and define their boundaries, in the late cession from the Sac and Fox Indians, and for other purposes," approved February 17th, 1843	3	341
Chapter 5. An act relative to religious societies	4	341
Chapter 6. An act defining the jurisdiction of the supreme court, and regulating the practice therein	5	342
Chapter 7. An act for the improvement of sheep	11	347
Chapter 8. An act to encourage the destruction of wolves	12	348
Chapter 9. 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 a state constitution for the State of Iowa..	13	348
Chapter 10. An act to establish the time of holding the district courts in the several judicial districts in this territory	16	351
Chapter 11. An act to legalize the acts of justices of the peace and constables, in certain cases	18	353
Chapter 12. An act amendatory of an act entitled, "An act for the relief of the poor," approved February 16, 1842	18	353
Chapter 13. An act to legalize deeds and other instruments of writing..	19	353
Chapter 14. An act to amend an act entitled, "An act districting the Territory of Iowa into electoral districts," approved July 30th, 1840	20	354
Chapter 15. An act to amend an act entitled, "An act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings," approved February 9th, 1843	20	354
Chapter 16. An act to define lawful fences and restrain trespassing animals	21	355
Chapter 17. An act authorizing the raising of dams on the Des Moines river	23	357
Chapter 18. An act to punish the obstructing of public roads, etc.	24	358
Chapter 19. An act to amend certain acts relating to roads and highways	25	358
Chapter 20. An act to abolish imprisonment for debt	26	359
Chapter 21. An act to provide for assessing and collecting public revenue	26	359
Chapter 22. An act amendatory of an act entitled, "An act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings," approved February 9th, 1843	40	370
Chapter 23. An act amendatory of an act subjecting real and personal estate to execution	43	373
Chapter 24. An act to amend an act entitled, "An act concerning grand and petit jurors," approved January 4th, 1839	45	374
Chapter 25. An act granting license to pedlars	46	375
Chapter 26. An act to provide for taking the census, and an extra session of the legislative assembly of this territory	48	377
Chapter 27. An act amendatory to an act entitled, "An act relative to proceedings in chancery," approved January 23d, 1839.	49	378
Chapter 28. An act to provide for and regulate writs of error coram nobis	51	379

	Page	Reprint Page
Chapter 29. An act for assessing territorial tax, and for other purposes.	52	380
Chapter 30. An act amendatory of an act entitled, "An act to regulate conveyances," approved February 16th, 1843	53	381
Chapter 31. An act amendatory of an act entitled, "An act to organize, discipline and govern the militia of this territory," approved July 31st, 1840	54	382
Chapter 32. An act to authorize sheriffs to make and execute deeds for land sold on execution under the redemption law.	55	383
Chapter 33. An act amendatory of the several acts regulating the election and duties of sheriffs	56	383
Chapter 34. An act to amend the militia law so as to form a fourth division	56	384
Chapter 35. An act to amend an act entitled, "An act relative to coroners and their duties," approved December 23d, 1839.	57	384
Chapter 36. An act to repeal certain acts herein named.	57	385
Chapter 37. An act to amend an act entitled, "An act to provide for the annual organization of the council and house of representatives of the Territory of Iowa," approved 6th January, 1840	58	385
Chapter 38. An act to authorize the boards of county commissioners to vacate town plats	59	386
Chapter 39. An act to amend an act entitled, "An act establishing the prices of public printing," approved February 2d, 1843.	59	386
Chapter 40. An act to amend an act entitled, "An act concerning costs and fees"	60	386
Chapter 41. An act to provide for the compensation of members and officers of both houses of the present session, and for other purposes	60	387
Chapter 42. An act to form a fourth judicial district.	62	389
Chapter 43. An act for the prevention of certain immoral practices.	63	389
Chapter 44. An act to incorporate the Aspen Grove Cemetery Association	64	390
Chapter 45. An act to locate a territorial road from Farmington, in Van Buren county, to Autumwa, in Wapello county.	65	391
Chapter 46. An act to authorize Daniel C. Davis, his heirs and assigns, to establish and keep a ferry across the Mississippi river at the town of Montrose, in Lee county.	66	392
Chapter 47. An act to legalize the acts of Isaac Parsons, coroner of Louisa county, and also an acting justice of the peace in Jefferson township, in said county.	67	392
Chapter 48. An act to amend an act entitled, "an act to authorize Thomas McCraney and James Churchman to keep a ferry across the Mississippi river at or near the upper end of the city of Dubuque," approved February 13th, 1843	67	393
Chapter 49. An act to establish and locate a road from the lower end of Water street, in the city of Burlington, to David B. Anderson's mill	68	393
Chapter 50. An act to authorize Aaron Street, Jr., as administrator of Peter Boyer, deceased, to make a title to certain real estate in and near Salem, in Henry county.	68	394
Chapter 51. An act to authorize Rachael Hamilton, administratrix of the estate of James Hamilton, deceased, to sell and convey certain real property therein named	69	394
Chapter 52. An act to authorize David B. Anderson and Henry C. Anderson to keep a ferry across the Mississippi river, opposite the lower end of Burlington.	70	395
Chapter 53. An act to change the name of William B. Peck and Ann M. Peck	71	396
Chapter 54. An act to incorporate the Burlington Mechanics' Institute.	72	396
Chapter 55. An act for the relief of Thomas Summerlin, collector of Van Buren county	73	397
Chapter 56. An act to legalize the acts of John A. Drake and Samuel B. Ayers, acting justices of the peace.	74	398
Chapter 57. An act to locate a territorial road from Wapello, in Louisa county, to Augusta, in Des Moines county.	74	399
Chapter 58. An act to incorporate the Burlington University.	75	399

	Page	Reprint Page
Chapter 59. An act to incorporate the Henry County Common School Association	76	400
Chapter 60. An act to district the county of Scott for the election of county commissioners	77	401
Chapter 61. An act to authorize John O'Hara, his heirs and assigns, to establish and keep a ferry across the Mississippi river, at the town of Keokuk in the county of Lee.	78	402
Chapter 62. An act donating certain property in Iowa City to the Mechanics' Mutual Aid Association of Iowa City.	79	402
Chapter 63. An act to incorporate the Farmington Academy and High School	79	403
Chapter 64. An act to amend an act entitled, "An act to incorporate the Farmers' Half Breed Land Company, in the county of Lee"	80	404
Chapter 65. An act to locate a territorial road from Fairfield, in Jefferson county, to the Indian boundary, in the direction of the Indian agency at the Raccoon fork of the Des Moines river	81	404
Chapter 66. An act for the relief of Chauncey Swan.	81	404
Chapter 67. An act to incorporate the Dubuque, Clayton, Delaware and Jackson Mutual Fire Insurance Company.	82	405
Chapter 68. An act to organize the counties of Keokuk and Mahaska.	85	408
Chapter 69. An act to incorporate the subscribers for erecting a dam across the Muscatine slough.	89	411
Chapter 70. An act to incorporate the Iowa Botanic Medical Society	90	411
Chapter 71. An act to extend the territorial road from Mount Pleasant via Fairfield to the Indian boundary line, commencing at Mark's and Bushe's mill, on Cedar, in Jefferson county, and leading to Lake Prairie opposite the mouth of White Breast, in Mahaska county.	91	412
Chapter 72. An act to establish a territorial road from Iowaville, on the Des Moines river to the Missouri line at the point where the Mormon trace crosses said line.	92	413
Chapter 73. An act to locate a territorial road from Davenport to Iowa City	92	413
Chapter 74. An act to allow Avery Thomas to change his name.	93	414
Chapter 75. An act to authorize Guy Wells and James Wilson to keep a ferry across the Mississippi river at Fort Madison.	94	414
Chapter 76. An act to amend an act entitled, "An act to authorize R. M. G. Patterson to establish and keep a ferry across the Mississippi river, at the mouth of Nassau slough.	95	415
Chapter 77. An act to incorporate the Grandview Literary and Philosophical Society of Louisa county.	95	415
Chapter 78. An act to incorporate the Jefferson Academy in Des Moines county	97	417
Chapter 79. An act to incorporate the Toolesborough Manufacturing Company	98	418
Chapter 80. An act to locate a territorial road from the old Indian boundary line, in Des Moines township, in Jefferson county, via Agency City, to the seat of justice of Mahaska county	99	419
Chapter 81. An act to locate and establish a territorial road from Brighton, in Washington county, to the county seat of Mahaska county.	100	420
Chapter 82. An act to locate and establish a territorial road from Iowaville, in Van Buren county, to Autumwa, in Wapello county	101	420
Chapter 83. An act for the relief of Malcolm Murray late of the firm of Murray and Sanxay	102	421
Chapter 84. An act to legalize the acts of James T. Harden, deputy recorder of Jefferson county.	102	421
Chapter 85. An act to amend an act entitled, "An act to amend an act entitled, 'An act for the incorporation of the town of Mount Pleasant, in Henry county,' approved, 3d February, 1843; also, an act entitled, 'An act for the incorporation of the town of Mount Pleasant, in Henry county,' approved, January 25th, 1842.	103	422

	Page	Reprint Page
Chapter 86. An act for the relief of William Parvin, collector of Muscatine county	104	422
Chapter 87. An act to organize the county of Delaware, and to provide for holding court in the same.	105	423
Chapter 88. An act for the relief of Rev. Isaac Searles, a minister of the gospel	105	424
Chapter 89. An act to locate a territorial road from a certain point in Muscatine county, therein named, to the rapids on Cedar river, in Linn county.	106	424
Chapter 90. An act to establish and locate a road from the lower end of John Scott's farm, at the lower end of Nassau Island, in Lee county, on the nearest and best route to intersect the road leading from Farmington to Keokuk.	107	425
Chapter 91. An act to lay out a territorial road from Bennett's mill, in Buchanan county, to or near William Myers', in Dubuque county	107	425
Chapter 92. An act to incorporate the board of trustees of the Congregational church and society of Burlington.	108	426
Chapter 93. An act to authorize Hugh Boyle and Ralph Bissel to erect a dam across Skunk river.	109	427
Chapter 94. An act to lay out and establish a territorial road from Cedar rapids in Linn county, to the rapids on the Wabesipinicon river, in Buchanan county.	110	428
Chapter 95. An act to authorize the administrators of John Jones, deceased, to make a title to certain real estate in Grandview, Louisa county	111	428
Chapter 96. An act to legalize the location of a territorial road from Davenport to Bellview.	112	429
Chapter 97. An act to authorize the payment of the expenses of laying out a certain territorial road.	112	429
Chapter 98. An act to amend an act entitled, "An act for the incorporation of the town of Farmington," &c, approved January 11th, 1841.	113	430
Chapter 99. An act to locate a territorial road from the southern line of Davis county to the northern line of Wapello county.	113	430
Chapter 100. An act to organize the county of Wapello.	114	431
Chapter 101. An act to incorporate the Dubuque Mining Company.	117	433
Chapter 102. An act to locate a territorial road from Iowa City to the seat of justice of Mahaaka county.	119	435
Chapter 103. An act to establish a territorial road from Deeds' mill, in Jefferson county, to Crippen's mill, in Washington county	120	435
Chapter 104. An act to allow John Godden, Samuel Clark, John Groom, Archibald McDonald and P. M. Janney, of Van Buren county, further time to construct a dam and lock across the river Des Moines at Pittsburg, in the above named county	121	436
Chapter 105. An act to lay out a territorial road from Delhi, in Delaware county, to Cascade, in Dubuque county.	121	436
Chapter 106. An act to legalize the location of a territorial road from Belleview to Iowa City.	122	437
Chapter 107. An act to vacate a part of the town of Solon, in Johnson county	123	437
Chapter 108. An act for the relief of George W. Cummins.	123	438
Chapter 109. An act to incorporate the Iowa City Manufacturing Company	124	438
Chapter 110. An act to incorporate the Washington Lyceum of Jackson county	127	441
Chapter 111. An act to perfect the collection of taxes in Louisa county.	129	442
Chapter 112. An act to incorporate the Mount Pleasant Lyceum.	130	443
Chapter 113. An act to amend an act entitled, "An act to establish a ferry across the Mississippi river in this territory," approved January 18th, 1838.	131	444
Chapter 114. An act declaring a certain road therein named a public highway, and the establishment and continuation of the same through the counties of Jackson, Clinton and Cedar	132	445

	Page	Reprint Page
Chapter 115. An act to locate a territorial road from Keosauqua, in Van Buren county, to the western line of Appanoose county	133	446
Chapter 116. An act to locate and establish a territorial road from Brighton, in Washington county, to intersect the road from Mount Pleasant to Washington, in Washington county	134	446
Chapter 117. An act to authorize the county commissioners of the county of Henry to vacate a part of Webster street, in the town of Mount Pleasant, in said county	134	447
Chapter 118. An act relative to the town plat of Fredonia, in Louisa county	135	447
Chapter 119. An act to revive an act entitled, "An act to review and establish a part of a territorial road leading from Fort Madison, in Lee county, to Iowaville, in Van Buren county," approved 13th February, 1843	135	448
Chapter 120. An act for an act donating to the Baptist church of Iowa City a certain lot of ground therein named	136	448
Chapter 121. An act to change a part of a territorial road running from Burlington to the mouth of the Des Moines river	137	449
Chapter 122. An act to organize the county of Davis, and to provide for the location of the seat of justice thereof	137	449
Chapter 123. An act to incorporate the Wabesipinicon Bridge Company	140	451
Chapter 124. An act for the formation of the county of Madison	142	453
Chapter 125. An act to establish a seminary of learning at the town of Dewitt, in Clinton county	145	456
Chapter 126. An act to authorize the judge of probate of Linn county to make a record of the proceedings of said court	146	457
Chapter 127. An act to incorporate the Wabesipinicon Mill Company	147	457
Chapter 128. An act to authorize the president and trustees of the town of Bellview, in Jackson county, to license merchants and grocers	148	459
Chapter 129. An act to amend an act entitled, "An act to incorporate the town of Davenport"	149	460
Chapter 130. An act to incorporate the Mount Pleasant Collegiate Institute	150	460
Chapter 131. An act to locate and establish a territorial road from Wilson's mill, in Henry county, to Glasgow, in Jefferson county	151	461
Chapter 132. An act to amend the several acts incorporating the town of Fort Madison	152	462
Chapter 133. An act to lay out and establish a territorial road from Rome, in Jones county, to the rapids on the Wabesipinicon river, in Buchanan county	153	462
Chapter 134. An act to locate a territorial road from Musquito creek, in Muscatine county, to Hector Sterrett's in Cedar county	154	463
Chapter 135. An act for the relief of George Andrews	154	463
Chapter 136. An act to amend an act entitled, "An act to establish a seminary of learning in Louisa county"	155	464
Chapter 137. An act to legalize the acts of John Peterson, an acting justice of the peace	155	464
Chapter 138. An act to revive a certain act herein named	156	465
Chapter 139. An act to lay out a territorial road from J. H. Jenkin's in Linn county, in a direction to the city of Dubuque	157	465
Chapter 140. An act to legalize a road from Denson's ferry, in Cedar county, to the southern boundary of said county	157	466
Chapter 141. An act declaring the streets and alleys on the plat of Iowa City public highways, and for other purposes	158	466
Chapter 142. An act for the relief of George H. Jennison, of the county of Jefferson, and to legalize his acts as justice of the peace	159	467
Chapter 143. An act to re-locate a part of the territorial road running from Fort Madison to Iowaville, on the Des Moines river	159	467
Chapter 144. An act to change the name of the town of Hartford, in Van Buren county	160	468

JOINT RESOLUTIONS.

	Page	Reprint Page
Number 1. In testimony of respect to the late Lewis F. Linn, of Missouri.....	161	469
Number 2. Authorizing the Auditor of Public Accounts to audit the account of Edwin Guthrie, for work done on the penitentiary	161	469
Number 3. Asking Congress for an appropriation to defray the expenses of a treaty with the Potawatmie Indians; also, asking the removal of the Missouri, Sac and Fox, and Iowa Indians	162	469
Number 4. Providing for the payment of Doolittle and Munson for certain seals	162	470
Number 5. Authorizing the Auditor to audit certain warrants.....	162	470
Number 6. Asking Congress for the establishment of a post route from Nauvoo to Montrose.....	163	470
Number 7. Upon the subject of procuring from congress compensation to the citizens of the United States residing in Iowa for their services and expenses in defending the southern border of the territory.....	163	471
Number 8. For the establishment of certain post routes.....	164	471
Number 9. Relative to mail routes Nos. 4228 and 4506.....	165	472
Number 10. For the relief of F. M. Irish.....	165	472
Number 11. Authorizing Iowa City Fire Company No. 1 to occupy one room in basement of capitol.....	165	473
Number 12. Relative to the distribution of the laws of the present session	166	473
Number 13. Relative to certain mail routes.....	166	473
Number 14. Relative to the university lands of Iowa Territory.....	167	474
Number 15. Authorizing the secretary of the territory to contract for the printing of the laws of the present session.....	168	474
Number 16. Relative to the re-publication of a certain act.....	168	475
Number 17. To provide for the payment of the reports of the supreme court furnished under the resolutions of the last session of the legislature	168	475
Number 18. Relative to the indexing, printing and distributing the laws and journals	169	475
Number 19. Requesting our delegate in congress to use his influence to obtain an appropriation to defray the expenses of an extra session	169	476
Number 20. Providing for the payment of the binding of the laws of 1842-3	170	476

LAW OF IOWA

[1] CHAPTER 1.

COUNTY AND TERRITORIAL REVENUE.

AN ACT to amend an act entitled "An act to provide for the assessment and collection of county and territorial revenue."

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

SECTION 1. Vacancy in office of collector, how filled—person appointed, how to qualify—His acts declared legal and valid. That if any collector shall die, refuse to give bond, or become unable from bodily infirmity, or where the office of collector, from any cause whatever, has, or shall hereafter become vacant, the county commissioners, where such vacancy occurs, shall immediately appoint some suitable person collector, who shall give bond, take the oath, and perform the duties, prescribed by law; and all acts, done and performed by him, as collector, shall be as legal and obligatory, as if he had been elected and qualified, under the provisions of the act to which this is amendatory.

Approved, 3d January, 1844.

CHAPTER 2.

GENERAL ELECTIONS.

AN ACT to change the time of holding the general election.

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

SECTION 1. Election to be held on 1st Monday of August, annually—change of the expiration of the term of certain offices. That the election for territorial and county officers in said territory, shall hereafter be held on the first Monday [2] in the month of August in each year: provided, that all officers whose term of office would expire on the first Tuesday in October, shall expire on the first Monday in August, or so soon thereafter as their successors may be elected and qualified.

Sec. 2. Repealing clause. That all acts or parts of acts conflicting with the provisions of this act, be and the same are hereby repealed.

Approved, 29th January, 1844.

CHAPTER 3.

CONSTABLES.

AN ACT to amend an act entitled "An act for the election of constables, and defining their duties," approved January 24th, 1839.

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

SECTION 1. Constables to give bond, when and to whom given—security, penal sum of, conditions of, and where filed. That it shall be the duty of every constable, previous to taking the oath required in the second section of the act to which this is an amendment, to execute to the acceptance of the township trustees of the proper township for which such constable may be elected, a bond with good and sufficient security, payable to the township treasurer and his successors in office, in the penal sum of five hundred dollars, conditioned for the faithful performance and discharge of the duties of his office as constable, and for the safe keeping and paying over according to law to the proper persons, all sums of money that may come into his hands by virtue of his said office, which bond shall be filed by the Clerk of the proper township.

SEC. 2. In counties where townships not organized, bond to be given to the board of county commissioners, when so given to whom payable, and by whom filed. That it shall be the duty of every constable in the counties where the townships are not organized, to execute his bond according to the provisions of the first section of this act to the acceptance of the board of county commissioners of the proper county, which bond shall be made payable to the county treasurer and his successors in office, and be filed in the office of the clerk of such board of county commissioners.

SEC. 3. Misconduct in office—remedy for, how obtained. That any person or persons, bodies politic or corporate, who may sustain injury by reason of the official conduct of any constable, may cause such bond to be put in suit for his or their benefit, which suit and all subsequent proceedings by any other person or persons, bodies politic or corporate, on writs of enquiry to assess damages for breaches of the condition of such bond, shall be governed [3] by the provisions of the sixteenth section of an act regulating practice in the district courts in the territory of Iowa, approved February 10th, 1843.

SEC. 4. Repealing clause. That the third section of the act to which this is amendatory, and the twenty-third section of an act entitled "An act for the organization of townships," approved February 17th, 1842, be and the same are hereby repealed.

SEC. 5. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 5th February, 1844.

CHAPTER 4.

NEW COUNTIES.

AN ACT to amend an act entitled "An act to establish new counties and define their boundaries, in the late cession from the Sac and Fox Indians, and for other purposes," approved February 17th, 1843.

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

SECTION 1. **Iowa attached to Johnson.** That the county of Iowa be and the same is hereby attached to the county of Johnson, for judicial, revenue, and election purposes.

SEC. 2. **Repealing clause.** That so much of an act entitled "An act to establish new counties and define their boundaries, in the late cession from the Sac and Fox Indians, and for other purposes," approved February 17th, 1843, as attaches the said county of Iowa to Iowa county for judicial, revenue and election purposes, and all other laws and parts of laws contravening the provisions of this act, be and the same are hereby repealed.

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

Approved, 5th February, 1844.

[4] CHAPTER 5.

RELIGIOUS SOCIETIES.

AN ACT relative to religious societies.

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

SECTION 1. **How to become organized, may designate name; general powers when so organized.** That any religious society in this territory, by complying with the provisions of this act, may have perpetual succession by such name as shall be designated by such society, and by such name shall be legally capable of prosecuting and defending suits in any courts of law or equity in this territory; and shall have power and authority to contract, receive, acquire, hold, enjoy, bargain and sell, lease, mortgage, convey and dispose of, any building or buildings erected for public worship, with the land necessary therefor, a burying ground and parsonage for such society, and such other property as shall be applied to the support of public worship in said society, and to such means of education and charity as may be therewith connected.

SEC. 2. **Duty of society wishing to organize; how to proceed; abstract of organization, what to contain, by whom signed, when recorded, duty of recorder.** That it shall be the duty of all religious societies wishing to avail themselves of the benefit of this act, to make out an abstract in writing of their organization, together with the names and locations of said societies, the names and titles of the officers thereof, which shall be signed by the said officers of said society, and cause the same to be recorded by the recorder of deeds, who is hereby authorized and required to record the same, and keep a record thereof, as in case of deeds and other instruments of writing.

SEC. 3. **May elect officers, make by-laws, and regulations for government of, effect of such regulations.** That when any religious society shall have complied

with the preceding section, they may elect their officers and fill vacancies, under such regulations as they may deem proper and expedient; may make and publish such rules, regulations and by-laws, as may be deemed necessary and expedient for the government of said society, not incompatible with the constitution and laws of the United States and of this territory. And such rules, regulations and by-laws, shall have the same force and effect as if passed by the legislative assembly of this territory, provided they do not transcend the legitimate purview of this act.

SEC. 4. Process how served on; length of time before return. That mesne process may be served on such society by leaving an attested copy of such process with the secretary, or any other officer thereof; or in case they may not be known or cannot be [5] found, with any member of such society, at least ten days before the return day of such process.

SEC. 5. Repealing clauses; saving clause. That the act entitled "An act relative to incorporated religious societies," approved December 22nd, 1840; also, an act entitled "An act supplemental to an act relative to incorporated religious societies," approved February 14th, 1842, be and the same are hereby repealed: provided, that the repeal of said acts shall not affect any incorporators which may have went [gone] into effect under said acts.

SEC. 6. Corporations hereafter created by charter, to have benefit of this act. That all religious societies heretofore incorporated under any act of the legislature of this territory shall have all their rights and privileges granted by this act.

SEC. 7. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 6.

SUPREME COURT.

AN ACT defining the jurisdiction of the supreme court and regulating the practice therein.

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

OF THE JURISDICTION OF THE SUPREME COURT.

[6] **SECTION 1. Supreme Court, appellate jurisdiction of; extent of jurisdiction.** The Supreme Court shall have an appellate jurisdiction over all final and interlocutory orders, judgments and decrees, of the district courts in law and chancery, and over all questions of law that may arise in said courts upon motions for new trials, in arrest of judgments, continuances, and to cases reversed.

SEC. 2. Supervision of inferior tribunals, power to issue writs. They shall have a general supervision over all inferior tribunals; correct and prevent abuses where no other remedy is provided by law; issue writs of error, certiorari, habeas corpus, procedendo, supersedeas, and other writs which may be necessary for the due execution of law, the administration of justice, and the perfect exercise of their jurisdiction.

OF WRITS OF ERROR.

SEC. 3. Writs of error how to issue; to whom directed. Writs of error shall issue as of course, upon any order, decree, or judgment, of any district court, in vacation as well as in term time; and said writs of error shall be directed to the clerk of the district court where the decree or judgment complained of was rendered.

SEC. 4. Said writs when to be sued out. All such writs shall be sued out within three years after the rendition of such judgment, or making such decision.

SEC. 5. Persons laboring under any disability when to sue out same. If any person entitled to a writ of error shall be within the age of twenty-one years, a married woman or of unsound mind, such person may sue out such writ within one year after the removal of the disability.

SEC. 6. District attorneys may sue out same in name of United States. Writs of error may be sued out by any of the district attorneys in the name of the United States, in the same manner as in cases between private individuals.

SEC. 7. Survivor in joint judgment may sue out same. If a judgment or decree shall be rendered against two or [7] more persons, and one of them die, a writ of error may be brought thereon by the survivor.

SEC. 8. Where two or more entitled to writ who to sue out; affidavit of 90 days notice, to whom given, refusal to join. Where two or more persons are entitled to such writ, any one of such persons may sue out the writ, upon filing an affidavit with the clerk that his co-plaintiff in error has had ninety days notice of his intention to sue out and prosecute such writ, and that application has been made to join therein, and that he had neglected or refused to join therein.

SEC. 9. When co-plaintiff may join, by payment of cost. Such co-plaintiff may join at any time before rendition of final judgment upon payment of all costs that have accrued in consequence of his delinquency in joining.

SEC. 10. If co-plaintiff does not join, effect of. If such co-plaintiff in error does not join as aforesaid, after such notice and application, he shall be forever precluded from bringing any writ of error on the same judgment, and judgment in the supreme court shall be rendered as though such person had been named in the writ and proceedings.

SEC. 11. Notice of writ to adverse party; when given, to whom, and effect of not giving notice. The party suing out a writ of error shall cause a notice thereof to be served on the adverse party or his attorney of record, at least fifteen days before the return day of the writ, and if such notice be not served, the judgment of the court below shall be affirmed with costs, unless good cause be shown for such failure.

SEC. 12. May be sued out by or against executors, heirs, etc. Writs of error may be sued out by, or against executors, administrators, or heirs, who were parties upon the record to the proceedings below.

SEC. 13. When party to judgment dies before such writ be sued out against representatives, default of representatives, effect of. When a party in whose favor a judgment was rendered below dies, before writ sued out, a writ of error may issue against his executor, administrator, or heirs, as the case may require; and in all such cases if the executor, administrator or heirs, do not appear, such plaintiff in error shall show affirmatively to the court that he or they are the proper and legal representatives of the deceased party.

SEC. 14. Representative to be joined with survivor. Where there is a survivor of a deceased defendant in error, the executor, administrator or heir, shall be joined with the survivor.

SEC. 15. Writs of error, by whom, when and how returned; penalty on failure of. All writs of error shall be returned by the clerk to whom they are directed, signed by him with the seal of his court affixed, on or before the first day of the term to which they are made returnable; and a failure to do so shall be a contempt of court and punished as such.

OF SUPERSEDING THE JUDGMENT.

SEC. 16. **Supersedeas, recognizance, nature of; to whom and by whom given.** No writ of error shall stay or supersede the execution upon any judgment of the district court, unless the party applying for the same, or his agent, or some responsible person for him, shall enter into recognizance before the clerk of the court where the original judgment was rendered, with sufficient securities, to be by said clerk approved, in twice the amount of the judgment rendered, conditioned that the plaintiff in error will prosecute such writ with effect, and pay the money that may therein be adjudged against him by the supreme court, with all damages that may be awarded, and otherwise abide the judgment of said court.

SEC. 17. **Effect of recognizance.** Such recognizance shall have the effect of a judgment confessed for the amount of the penalty, and shall be a lien upon the real estate of the recognizees in the county where the same is executed and filed, as other ordinary judgments.

SEC. 18. **No execution to issue upon filing.** No execution shall issue after entering into such recognizance.

SEC. 19. **When execution issued, how to obtain supersedeas; effect of, so obtained.** When an execution has issued before entering into such recognizance, the clerk of the district court shall certify upon the back of the writ of error that it is to operate as a supersedeas; and upon exhibiting such writ and certificate to the officer having the execution, he shall proceed no further thereon, but shall return it with his reasons endorsed thereon.

OF APPEALS IN CHANCERY.

SEC. 20. **Appeals in chancery.** Appeals and writs of error shall be allowed in all cases from the decrees of any of the district courts sitting as courts of chancery.

SEC. 21. **Decree, how stayed; rules to apply in chancery cases.** The decree of the court in chancery can be stayed in the same manner as judgments at law can be; and all the rules prescribed by this act for suing out writs of error, filing transcripts, bringing in and joining co-parties, and giving notice to adverse parties, are made applicable to appeals in chancery.

PRACTICE IN SUPREME COURT.

SEC. 22. **Practice in supreme court; errors, by whom and when assigned; default, effect of.** The appellant, or plaintiff in error, shall assign errors on or before the third day of the term to which an appeal or writ of error is made returnable; and in default thereof the writ of error or appeal shall be dismissed, or the judgment or decree affirmed, unless good cause for such failure be shown.

SEC. 23. **Joinders, when filed.** Joinders in error shall be filed within three days thereafter.

SEC. 24. **When one of either party dies before assignment of error death suggested, and trial to proceed.** If one of two or more appellants or plaintiffs in error die before errors assigned, the deaths shall be suggested and errors assigned by the survivor: So where one or more defendants in error dies, the survivor shall suggest the death and plead to the assignment.

SEC. 25. **If one of either party dies after assignment, proceeding not to abate.** If there be more than one appellant or plaintiff in error, or one or more appellee or defendant in error, and one of either party dies after assignment of error, such appeal or writ of error shall not abate, but such death shall be suggested, and the suit proceed by or against the survivor.

SEC. 26. **When no survivor, scire facias against representative.** Where there is no survivor, either party may make the legal representative of the

deceased party a party to the suit, by *scire facias*, and then such suit shall not abate.

SEC. 27. Brief furnished court, contents of; written argument. Each party shall, before the argument of any cause, make out and furnish to the court a clear and concise statement of the case, and the points and authorities intended to be insisted upon in the argument, and no other written argument or statement of points or authorities shall be required; but any party may submit his cause upon a written argument.

SEC. 28. Argument, who to open and close. The appellant or plaintiff in error shall in all cases open and close the argument.

[9] **SEC. 29. Limitation of exceptions.** No exception shall be taken upon any writ of error or appeal to any proceeding in the district court except such as shall have been decided by such court, or such as shall appear from the record.

SEC. 30. Defect of form not to vitiate, when amendable in court below; how amended in supreme court. No judgment or decree of the court below shall be impaired or affected for any defect of form contained in the record, process, pleadings, entries, returns, or other proceedings therein, which by law might be amended by the court in which such judgment or decree was rendered; but such defects and imperfections shall be supplied and amended by the supreme court, or shall be deemed to be supplied or amended by the court below.

SEC. 31. New trial, reversal or affirmance of judgment below, nature of judgment. In all appeals and writs of error the supreme court shall examine the record, and award a new trial, reverse or affirm the judgment on decision of the district court, or give such judgment as such court ought to have given, and as may seem most agreeable to law.

SEC. 32. Special verdict or agreed case may be remanded for new finding. When the facts in a special verdict, reserved or agreed case, or upon which an application for a new trial or continuance are based, are insufficiently found, the court may remand the cause and order a new trial, or another or additional statement of facts.

SEC. 33. Damages, how and when awarded; limitation of. Upon the affirmance of any judgment or decree, or upon the dismissal of any writ of error or appeal, the court may award to the appellee or defendant in error such damages as may be proper and just, not exceeding twelve per cent. upon the amount of the judgment or decree complained of.

SEC. 34. Process to carry decision into effect. Upon the determination of any appeal or writ of error, the court may award such process to carry into effect its judgment or decree, as may be deemed fit and proper, or may remand the record with the decision of the court thereon, and order such decision to be carried into effect.

SEC. 35. Criminal cases, proceedings in. In all criminal cases where a writ of error and supersedeas shall be allowed, and the judgment of the district court shall be affirmed, the said supreme court shall have power and authority to render such judgment, and pass such sentence as the court below ought or could render or pass, and to pass sentence anew.

SEC. 36. Remedy when judgment reversed after being carried into effect; nature of action. When any judgment or appeal shall be reversed, and such judgment or decision may have been carried into effect before the reversal thereof, the defendant may recover from the plaintiff in such judgment the amount, with interest and costs, in an action of debt for money had and received.

MEETING AND ADJOURNMENT OF COURT.

SEC. 37. **Supreme court, when and where held.** The supreme court shall be held at the seat of government of the territory on the first Monday of January in each year.

SEC. 38. **Failure of judges to meet, entry of by clerk, adjournment.** If all the judges shall fail to attend on the first day of the term, the clerk shall enter the fact upon the record, and the court shall stand adjourned to the next day, and so on from day to day for four days; and if none of the judges appear within such four days, the clerk shall enter upon his record that the court stands adjourned to the next annual term thereafter.

[10] SEC. 39. **If one judge appears, how adjournment made.** If one of the judges appears within four days, he may adjourn the court to any day he may see fit prior to the next annual term, and enter the same upon record; and if only one judge appears by the fourth day he may adjourn court as the clerk might if no judge was present.

SEC. 40. **Quorum, two judges.** Any two judges shall be a quorum, and shall proceed to business without the presence of their associate.

SEC. 41. **Failure to hold court not to abate proceedings.** No process, proceeding or writ, shall abate, be discontinued, or in any way affected, by the occurrence of any vacancy in the office of judges, adjournment of court, or failure to hold court.

OF THE OPINIONS OF THE JUDGES.

SEC. 42. **Opinion of court, to be reduced to writing and delivered to clerk.** It shall be the duty of the judges of the supreme court to reduce their opinions to writing in all cases submitted to them, and deliver the same to the clerk of the court.

SEC. 43. **Dissent from opinion of majority; how delivered.** When any judge shall dissent from the decision of the majority, he shall reduce his reasons for dissenting to writing, and deliver the same to the court.

SEC. 44. **Opinions of court, when and where filed.** All such opinions shall be reduced to writing, and filed with the clerk at the term of the court at which the causes were argued, or within sixty days thereafter.

OF THE DUTIES OF THE CLERK.

SEC. 45. **Duties of clerk; blank writs, to whom sent.** The clerk of the supreme court shall issue blank writs of error to any attorney of the court, signed and sealed with his official seal, to be filled up as circumstances may require.

SEC. 46. **Docket, how made up; precedence of U. S. cases.** He shall make out his docket, numbering the causes as they shall be returned to his office, except such causes as the United States may be a party, which shall be placed first on the docket in the order returned.

SEC. 47. **Record, what to contain; compensation to clerk for keeping of.** He shall keep a complete record of all the proceedings, judgments, decrees, orders and decisions of said court, for which he shall be allowed the fees provided for by law, which record shall at all times be open to the inspection of any one desiring to examine it.

SEC. 48. **No paper to be taken from office of, except by member of court.** He shall allow no paper or record to be taken from his office which has been filed in and belongs properly to it, except by an attorney, judge, or officer of court.

SEC. 49. **No paper to be kept out of court more than three days.** No attorney or officer of court shall be allowed to keep any record, paper, argument, opinion or process, more than three days, at any one time.

SEC. 50. Time of taking effect, 20th of Feb., 1844. Repealing clause; repeal not to affect pending proceedings. This act shall take effect and be in force from and after the twentieth day of February, 1844, from and after which day the first, second, third, fourth, fifth, sixth, seventh and eighth sections of an act entitled, "An act defining the jurisdiction of the supreme and district courts," approved 3d February, 1843, be and is hereby repealed; but by such repeal no process, pleading or proceeding, now commenced before said court, shall abate or be in anywise affected; but the same shall be proceeded in according to the provisions of the law now in force.

Approved, 8th February, 1844.

[11] CHAPTER 7.

SHEEP.

AN ACT for the improvement of sheep.

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

SECTION 1. No ram to run at large between last June and first of Nov. If found at large may be taken up—owner may reclaim within two weeks upon payment of one dollar; if he refuses to pay, ram to be forfeited to the person taking up. That if any ram shall be found running at large between the last day of June and the first day of November, it shall be lawful for any person to take up such ram, and if the owner be known to him, to forthwith give notice to such owner of the taking up of said ram; and if the owner wishes to reclaim said ram, he shall pay, within two weeks, to the person taking up the same, the sum of one dollar; and if he refuses so to do within the time specified above, then such ram shall be forfeited to the person taking up the same.

SEC. 2. If owner of ram is unknown, person taking up same to give notice—particulars of advertisement; compensation for taking up in case ram is claimed within 15 days; if not claimed within such time additional compensation—if not claimed within three months to be forfeited to the person taking up same. If the owner of such ram be not known to the person taking up the same, it shall be his duty forthwith to give notice by advertisement posted up in three of the most public places in his neighborhood, describing therein the natural and artificial marks of such ram. Within fifteen days of the time of such taking up, he shall pay the sum of one dollar and fifty cents, to the person taking up and advertising the same; and if the owner shall appear and reclaim such ram after fifteen days, he shall pay to the person taking up the same, in addition to the sum of one dollar and fifty cents as aforesaid, ten cents per week for the keeping such ram; but if the owner shall not appear within three months of the time of the taking up thereof the same shall be forfeited to such person.

SEC. 3. Time of taking effect. This act to be in force from and after its passage.

Approved, 8th February, 1844.

[12] CHAPTER 8.

WOLVES.

AN ACT to encourage the destruction of wolves.

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

SECTION 1. Commissioners required to offer reward for killing wolves. That the boards of commissioners in the several organized counties in this territory be and they are hereby authorized and required to allow and pay a reward of fifty cents to any person who shall kill any prairie wolf not exceeding six months old, in their respective counties, and the sum of one dollar for every prairie wolf over that age; and for every large black or grey wolf, not exceeding six months old, the sum of one dollar; and for every one over that age the sum of two dollars, except the counties of Keokuck, Mahaska, Wapello, Davis and Delaware, which shall be required to pay one half the amount aforesaid, and as much more as may be allowed by the several boards of county commissioners of said counties.

SEC. 2. Evidence of killing shall be the scalp, and to be produced before justice who shall certify the same. Any person claiming the benefit of this act, shall produce before some justice of the peace, for the county where such wolf was killed, the scalp, with the ears thereon; and the justice shall administer to such person the following oath, to wit: "You do solemnly swear, that the scalp now produced by you was taken from a wolf taken and killed in this county, and that you believe said wolf was more (or less, as the case may be,) than six months old, and that said wolf was killed on or about —;" [here state the time when.] Said justice shall thereupon grant to said person a certificate, stating the name of the killer, the age of the wolf, and the time when killed; and said justice shall receive for his services above mentioned, twelve and one half cents; and it shall be the duty of said justice to destroy the scalp upon granting such certificate.

SEC. 3. The amount of certificate to be paid out of county treasury. When any certificate granted under the provisions of this act is presented to the board of county commissioners of the county where the certificate was issued, said board of commissioners shall order that the person presenting said certificate be paid out of the county treasury the sum to which he is entitled under the provisions of the first section of this act.

SEC. 4. Repealing clause. That an act entitled, "An act to encourage the destruction of wolves," approved January 7th, 1840, be and the same is hereby repealed.

SEC. 5. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 9th February, 1844.

[13] CHAPTER 9.

CONVENTION.

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 a state constitution for the state of Iowa.

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

SECTION 1. First election to take place, when and where. That for the purpose of obtaining the expression of the opinion of the people of the terri-

tory of Iowa upon the subject of the formation of a constitution and state government, a poll shall be opened at each electoral precinct in this territory at the time and place of holding the township elections in April next. In those counties that are not organized into townships polls shall be opened at the places of voting for members of the legislature at the time aforesaid.

SEC. 2. Electors to be interrogated; answer; duty of clerk. That it shall be the duty of the judges of elections at every precinct in this territory to interrogate the several qualified electors, when they approach the polls to vote, whether they are in favor or against a convention, to which interrogatory the said elector shall answer simply "Convention," or "No Convention;" and the clerks of said election shall thereupon write down his name in a column headed "Convention," or "No Convention," in accordance with the vote of said elector.

SEC. 3. Returns, how and by whom made out, to whom forwarded, and within what time—clerk of board of commissioners on receipt of returns to make abstract; to whom transmitted, within what time, how opened, counted, and result declared. That immediately after the polls are closed it shall be the duty of the judges of said election to mark down distinctly, on a sheet of paper, the number of votes given for and the number of votes given against a convention, and certify the same together with the paper containing the names of the voters, above mentioned, to be correct; and [14] they shall thereupon carefully seal up said papers so certified, endorsed thereon "returns for and against a convention," and forward the same to the clerk of the board of county commissioners of the proper county within five days from the day of election aforesaid; and it shall be the duty of the clerk by whom said returns shall be received, within four days after the same shall be deposited in his office, to make out an abstract of the votes given for and against a convention, and enclose them in an envelope, endorsed thereon "returns for and against a convention for _____ county," as the case may be, and transmit the same to the office of the secretary of the territory, who, within thirty days after the election aforesaid, shall, in the presence of the governor, examine and count said returns, and file them in his office; and thereupon the governor shall issue his proclamation, declaring the number of votes given for and the number of votes given against a convention.

SEC. 4. Election for delegates, when held; notice of, when and how given. That if a majority of the votes polled at the election provided for in this act shall be for a convention, then there shall be another election held for the election of delegates to a convention to form a constitution for the state of Iowa at the next general election; 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.

SEC. 5. Number of delegates, apportionment, qualification of. That the convention shall consist of seventy members, to be elected within the several organized counties in this territory, as follows, to wit:

The county of Lee shall elect eight members;			
“ “	Des Moines,	eight	“
“ “	Van Buren,	eight	“
“ “	Jefferson,	five	“
“ “	Henry,	five	“
“ “	Washington,	three	“
“ “	Louisa,	three	“
“ “	Muscatine,	three	“
“ “	Johnson,	three	“

"	"	Linn,	three	"
"	"	Cedar,	two	"
"	"	Scott,	three	"
"	"	Clinton,	two	"
"	"	Jones,	one	"
"	"	Jackson,	three	"
"	"	Dubuque, Delaware,	} six	"
"	"	Buchanan, Blackhawk,		
"	"	Clayton & Fayette,		
"	"	Wapello,	one	"
"	"	Davis,	one	"
"	"	Keokuk,	one	"
"	"	Mahaska,	one	"

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

SEC. 6. Returns by whom certified, to whom sent, by whom opened; result of election for delegates how declared; in case of tie new election; when held and how conducted. 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 the 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 now provided by law for the election of members of the council and house of representatives; 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, to be held within twenty days after said first election, and to be conducted in the same manner as said first election.

SEC. 7. Delegates, where and when to meet. That the said delegates elect shall meet at Iowa City on the first Monday of October after the election of delegates, and proceed to form a constitution and state government for the territory of Iowa.

SEC. 8. Publication of constitution; to be submitted for adoption at the next April election; qualification of electors, how election to be conducted, returns made, and result declared. That when a constitution and form of state government shall have been adopted by said convention, they shall cause the same to be published in all the newspapers printed in the territory; and at the township election in April succeeding the formation of a constitution and state government by said convention, the electors of said territory, who are qualified to vote for members of the legislature at said general election, shall be and they are hereby authorized to vote for the constitution or against the constitution. The vote for and against the constitution shall be counted and returned to the clerk of the board of county commissioners, [who shall] in the same manner transmit 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. 9. Electors to vote in the county where they reside, for delegates, but may vote in any county for or against constitution. That all electors qualified as aforesaid may vote for or against a constitution in any county of this territory, whether residents 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. 10. **Elections to be governed by general law.** 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. 11. **This act to be published immediately after approval. Notice of first election, when, by whom, and how given.** That it shall be the duty of the secretary of the territory to cause this act to be published in the several newspapers of this territory as soon as the same may be approved by the governor; and it shall be the duty of the clerk of the board of county commissioners in the several counties of this territory to give notice that a poll will be opened for the purposes specified in the first section of this act to the sheriff of his proper county, who is hereby required to post up notices in accordance with law at least twenty days before the first Monday in April next.

[16] SEC. 12. **Secretary to procure room for convention; furniture, etc.** That it shall be the duty of the secretary of the territory to procure 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. 13. **Compensation of delegates.** That the members of said convention shall be entitled to such compensation as the convention may direct, not exceeding three dollars per diem, and three dollars for every twenty miles travel to and from the place of holding said convention.

SEC. 14. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 10.

DISTRICT COURTS.

AN ACT to establish the time of holding the district courts in the several judicial districts in this territory.

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

SECTION 1. **First Judicial District.** That the terms of the district courts shall hereafter commence as follows in each year.

FIRST JUDICIAL DISTRICT.

1. **In Des Moines county** the third Monday in February, first Monday in June, and the tenth Monday after the first Monday in September.

2. **In Henry county** the third Monday after the third Monday in February, fourth Monday of June, and the eighth Monday after the first Monday in September.

3. **In Jefferson county** the fifth Monday after the third Monday in February, and the first Monday in September.

4. **In Wapello county** the seventh Monday after the third Monday in February, and the second Monday after the first Monday in September.

5. **In Davis county** the eighth Monday after the third Monday in February, and the third Monday after the first Monday in September.

[17] 6. **In Van Buren county** the ninth Monday after the third Monday in February, and fourth Monday after first Monday in September.

7. **In Lee county** the eleventh Monday after third Monday in February, and sixth Monday after first Monday in September.

Second Judicial District.**SECOND JUDICIAL DISTRICT.**

8. In **Johnson county** the first Mondays in March and September.
9. In **Linn county** the second Mondays after the first Mondays in March and September.
10. In **Cedar county** the third Mondays after the first Mondays in March and September.
11. In **Washington county** the fourth Mondays after the first Mondays in March and September.
12. In **Louisa county** the fifth Mondays after the first Mondays in March and September.
13. In **Muscatine county** the seventh Mondays after the first Mondays in March and September.
14. In **Mahaska county** the third Monday in July.
15. In **Keokuk county** the fourth Monday in July.

Third Judicial District.**THIRD JUDICIAL DISTRICT.**

16. In **Scott county** the second Mondays in March and September.
17. In **Clinton county** the third Mondays in March and September.
18. In **Jones county** the fourth Mondays in March and September.
19. In **Delaware county** the first Monday after the fourth Monday in September.
20. In **Jackson county** the second Mondays after the fourth Mondays in March and September.
21. In **Olayton county** the third Mondays after the fourth Mondays in March and September.
22. In **Dubuque county** the first Mondays in February, May, August, and November, of each year.

SEC. 2. Change in time of holding courts not to interfere with any proceeding now pending. No suits, writs, indictments, recognizances, informations, declarations, pleas or other process or proceedings, returnable at, or pending in the said district court, 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 court, 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 court, 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. 3. Repealing clause. An act entitled, "An act to amend an act fixing the terms of the supreme and district courts of the territory of Iowa, and for other purposes," approved January seventeenth, one thousand eight hundred and forty; an act entitled "An act to change the time of [18] holding the district courts in the second and third judicial districts," approved July twenty-second, one thousand eight hundred and forty; an act entitled, "An act supplemental to an act fixing the terms of the district court," approved January seventh, one thousand eight hundred and forty-one, and an act entitled "An act to change the time of holding the district courts in the second judicial district," approved 10th January, 1843, be and the same are hereby repealed.

SEC. 4. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 11.

JUSTICES AND CONSTABLES.

AN ACT to legalize the acts of justices of the peace and constables, in certain cases.

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

SECTION 1. **Acts of justices and constables, when bonds given to township trustees, as valid as though given to the boards of commissioners, provided they qualified before township clerk.** That the acts of all justices of the peace and constables who may have given their bonds to the trustees of the several townships, and were qualified before the several township clerks, shall and are hereby declared as legal and valid as if said bonds had been given to the boards of the county commissioners, and as if they had been qualified before the several clerks of the district courts.

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

Approved, 12th February, 1844.

CHAPTER 12.

POOR.

AN ACT amendatory of an act entitled, "An act for the relief of the poor," approved February 16, 1842.

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

SECTION 1. **County treasury to pay expenses of poor. County commissioners to audit and allow same.** That all the costs and expenses growing out [19] of any relief or support of the poor under the act to which this is amendatory, shall be paid from the county treasury of the county where such relief was furnished, and not from the township treasuries, as is by said act in some cases provided; and it is hereby made the duty of the county commissioners in each county to audit, allow and pay, all demands arising from such support or relief, as other claims against counties are audited, allowed and paid.

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

Approved, 12th February, 1844.

CHAPTER 13.

DEEDS.

AN ACT to legalize deeds and other instruments of writing.

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

SECTION 1. **Instruments acknowledged before officer out of county where land lies declared valid.** That all deeds, mortgages, and other instruments of writing, heretofore made and executed, conveying or affecting real estate, either in law or equity, acknowledged or proved under an act entitled "An act to regulate conveyances," approved January 4th, 1840, before any justice of the peace or notary public of this territory, residing out of the county

where the real estate conveyed or affected by such deeds, mortgages or other instruments of writing, is situate, are hereby declared as good and valid in law and equity as if they had been acknowledged and proved before or by some court having a seal, some judge, justice, or clerk thereof; or some justice of the peace or notary public of the county in which the real estate so conveyed or affected was situate, in strict accordance with said act approved January 4th, 1840.

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

Approved, 13th February, 1844.

[20] CHAPTER 14.

ELECTION DISTRICTS.

AN ACT to amend an act entitled "An act districting the territory of Iowa into electoral districts," approved July 30, 1840.

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

SECTION 1. **Counties of Johnson and Muscatine the seventh district.** That the seventh electoral district be so amended as to read: "The counties of Muscatine and Johnson shall form the seventh electoral district, and shall be entitled to one member of the council, and one member each of the house of representatives."

SEC. 2. **Repealing clause.** That any act contravening the provisions of this act is hereby repealed.

SEC. 3. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 13th January, 1844.

CHAPTER 15.

JUSTICES OF THE PEACE.

AN ACT to amend an act entitled, "An act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings, approved February 9, 1843.

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

SECTION 1. **Van Buren township to be allowed three justices, one to reside in Keosauqua, and one west of Des Moines river—Salem township, Henry county, to have another, to reside in Washington.** That the township of Van Buren, in the county of Van Buren, shall hereafter be allowed three justices of the peace, two of whom are to be located as follows in said township, to wit: one shall be a citizen of and reside in the city of Keosauqua, and one shall be a citizen of and reside in that portion of said township which lies on the western side of the Des Moines river. Also, one additional justice of the peace in Salem township, Henry county, who shall reside in or near the town of Washington.

SEC. 2. **How said justices are to be elected.** That in electing justices of the peace and constables hereafter in said townships of Van Buren and Salem,

strict regard shall be paid to the requisitions and intentions of the foregoing section.

[21] SEC. 3. **Repealing clause; acting justices not to be affected.** That so much of the above named act, and all other acts that conflict with the provisions of this act, and so much of the sixth section of the act to which this is amendatory as authorizes the election of three justices of the peace in the city of Keosauqua, be and the same are hereby repealed: provided, that those persons now acting as justices of the peace in said township and city of Keosauqua shall not be affected hereby.

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

Approved, 15th February, 1844.

CHAPTER 16.

LAWFUL FENCES.

AN ACT to define lawful fences, and restrain trespassing animals.

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

SECTION 1. **What to be deemed a lawful fence; how high and how built.** That a worm fence, composed of strong and sufficient rails, with stakes and riders, closely put up and in good repair, five feet high; a post and rail, or post and paling, or post and board fence, well built and in good repair, four and a half feet high; and any other fences or obstacles, whether artificial or natural, which shall, in the opinion of the fence viewers of the township or precinct, be considered equivalent to any of those above described, shall be deemed lawful fence in this territory.

SEC. 2. **Division fence, by whom built and repaired.** That in all cases where different owners or occupiers improve land contiguous to each other and divided by a single fence, it shall be the duty of each owner or occupier, to build and keep in repair one half of said fence.

[22] SEC. 3. **Amount to be paid for privilege of joining fence to that of another; if fence removed by owner who to rebuild.** That whenever any person shall join his fence to the fence of another, he shall pay to the person owning such fence one half the cost thereof, or such sum as the owner shall see fit to accept, or build the fence anew, provided the owner of the first fence, or his agent, shall remove the same.

SEC. 4. **Disagreement as to fence on division line, by whom determined; effect of such decision.** That whenever there shall be any disagreement as to the part or parts of the division line on which each shall be required to keep a fence, it shall be lawful for either party to apply to the fence viewers of the township to determine the same; and their decision, given in writing to each party, shall be final and conclusive.

SEC. 5. **Intended removal of division fence, what notice required; penalty for want of notice—if occupied as enclosure, penalty for refusing to build division fence, how assessed and collected.** That whenever either of the owners or occupiers shall determine to remove or suffer to go to decay his share of a division fence, he shall give six months notice in writing of the same to the other owner or occupier; and if he fail so to do, he shall be liable for all damage which may be occasioned by the removal or decay of such fence. And it is further provided, that if any person refuse to pay for, or build his

share of a division fence, according to the decision of the fence viewers, and shall occupy the land adjoining as an enclosure, the person so refusing shall be liable for all damages occurring for the want of such fence, to be assessed and recovered as hereinafter provided in case of trespassing animals.

SEC. 6. Upon trespass of any animal, viewers to examine fence. That if any horse, mare, mule or ass, or any cattle, hogs, sheep or goats, shall break into any field enclosed by any of the fences described in the first section, and the owner or occupier of such enclosed field shall feel himself or herself injured or aggrieved thereby, the person so injured may apply to the fence viewers of the township, who shall forthwith repair to the place where such injury was done, and there diligently examine such fence.

SEC. 7. If fence not legal, viewers to give no damages; if legal assess the damages and fees, and certify the same—certificate, to whom given; amount, how and when collected. That in all cases where there is no fence, or if, in the opinion of the fence viewers, the fence over or through which the trespassing animal entered, be not a lawful fence, according to the requirements of the first section of this act, no damages shall be recoverable; but if the fence shall be deemed a lawful fence, they shall proceed to ascertain and assess the damages sustained by the applicant from such trespassing animal or animals, which assessment, including the sum due the fence viewers for their services as allowed by this act, the fence viewers, or a majority of them, shall certify and deliver to the person sustaining the damages; and if the owner or keeper of such trespassing animal or animals refuse to pay on demand the said damages and costs, the person injured may recover the same before any justice of the peace in the township in an action for debt.

SEC. 8. Amount of fine for second trespass of same animals; consequences of continued trespass; remedy, amount of judgment, effect of. That if the owner or keeper of any animal or animals so trespassing, shall refuse or neglect to take care of the same after the fence viewers shall have approved the fence, or awarded damages for the trespass, and the said animal or animals shall again break into the field or enclosure of the plaintiff or applicant for damages, the owner or keeper shall be liable to a fine double the amount of damages; and if the said animal shall continue to trespass the owner thereof shall be liable for every subsequent trespass to an action therefor, and judgment shall be rendered against him for three times the amount of [23] damages sustained; and such trespassing animal shall be subject to levy and sale under execution issued upon such judgment, any law of this territory to the contrary notwithstanding.

SEC. 9. Owner of any animal breaking lawful fence to be liable for all damage done by others thereby admitted; how assessed and recovered. That in all cases where a trespassing animal shall break down a lawful fence, and thereby occasion damage by the admission of other animals, the owner or keeper of such animal so breaking down the fence shall be liable for all the damage which may be done, to be assessed and recovered as already provided in the seventh section of this act.

SEC. 10. Viewers, compensation of how paid; penalty for refusing to act, amount of, how collected and applied. That the fence viewers shall be entitled to receive fifty cents a day for their services rendered under this act, to be paid where a trespass has been sustained as provided in section seven, or by the complainant where no trespass is sustained on account of unlawful fence; and if any fence viewer, upon application, shall fail or refuse to view and report the situation of any fence, and damages committed, [he] shall be subject to a fine not exceeding three dollars, at the discretion of the justice of the peace, for the use of the township, or county, where the townships are not organized.

SEC. 11. When no viewers elected justices may appoint. That if there be no fence viewers elected and qualified, the person injured may apply to the justice of the peace in the same township where they are organized, and to the nearest justice where they are not, who shall appoint two householders to perform the duties required of the fence viewers.

SEC. 12. Repealing clause. That an act defining lawful fences, and providing against trespassing animals, approved January 21st, one thousand eight hundred and forty-two, is hereby repealed.

SEC. 13. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 17.

DAMS.

AN ACT authorizing the raising of dams on the Des Moines river.

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

SECTION 1. Proprietors of mill dams allowed to build them higher; not to interfere with the rights of others, nor to obstruct navigation of river; to be liable for any damage occasioned. That all the persons to whom charters and privileges have heretofore been granted to erect dams and construct mills and machinery upon the Des Moines river, their heirs and [24] assigns, be and they are hereby authorized and allowed to raise their said dams, or any one of them, to such height as he or they may deem fit: provided, however, that by such raising, the water shall be flowed back on any mill dam that may be erected, or that may hereafter be erected by virtue of any charter that may have been heretofore granted, when the same, in the opinion of the county commissioners, may be required to improve the navigation of the said river; but in so doing the said county commissioners shall regard equally the interests of said charter: and provided further, that nothing herein contained, shall be so construed as to authorize said charters or corporators to overflow the lands of any person, to obstruct the navigation of said river, or to exempt them from liability for any damages that may be sustained by any person, by the raising of such dam or dams.

SEC. 2. Application to build dams higher; to whom made, by whom granted, under what restrictions. That any person or persons applying for a change in any dam as aforesaid shall make application to the board of county commissioners of the county in which said dam may be situated, who are hereby authorized to grant such change, provided the applicant or applicants shall comply with the requisitions of an act entitled "An act authorizing the several boards of county commissioners to grant permits for constructing dams across navigable rivers," approved February 15th, 1843, in the same manner as is required in the erection of new dams, excepting the ninth section of the aforesaid act.

SEC. 3. "Plymouth company" to erect dam, where to be located; to obtain consent of the owners of the land on each side the river; to have a lock, and be subject to foregoing restrictions. That the incorporation known as the "Plymouth Mill and Manufacturing Company" shall have the right to erect a dam across the Des Moines river for the use of the mill belonging to said company on section thirty-five, township sixty-eight range eight west: provided, said incorporation shall obtain from the owner or owners of the land

on each side of the river, the right to use and occupy said land: provided further, that said dam shall contain a sufficient lock as is required by the act incorporating said company, and shall be subject to all the foregoing liabilities and restrictions.

SEC. 4. Any future legislature may amend, alter, or repeal, this act, whenever they may see fit.

Approved, 14th February, 1844.

CHAPTER 18.

PUBLIC ROADS.

AN ACT to punish the obstructing of public roads, etc.

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

SECTION 1. **Obstruction of roads, streams, etc.; establishment of offensive trades, pollution of streams, etc. prohibited; penalty for; nuisance, how abated.** That if any person in this territory shall obstruct, or injure, or cause or procure to be obstructed or injured, any public [25] road or highway, or common street or alley of any town, or any public bridge or causeway, or public river or stream, declared navigable by law; or shall continue such obstruction so as to render the same inconvenient or dangerous to pass, or shall erect or establish any offensive trade, or manufactory, or business, or continue the same after it has been erected or established; or shall in anywise pollute any water course, lake, pond, marsh or common sewer, or continue such pollution so as to render the same offensive or unwholesome to the county, town, village, or neighborhood thereabout, every person so offending shall, upon conviction thereof, be fined not exceeding one hundred dollars; and every such nuisance may, by order of the district or proper court before whom the conviction may take place, be removed and abated by the sheriff of the proper county; and any inquest and judgment thereon had, under the provisions of any law authorizing a writ of *ad quod damnum*, shall be no bar to a prosecution under this act.

SEC. 2. **This act to be part of criminal law of the territory—duty of judges.** That this act shall be a part of the criminal code of this territory; and the judges of the district courts shall give the same in charge to the grand jurors of the several counties at each term of the court.

Approved, 14th February, 1844.

CHAPTER 19.

ROAD TAX.

AN ACT to amend certain acts relating to roads and highways.

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

SECTION 1. **Road tax, by whom and when levied, amount of, how to be applied; may be worked out on roads at \$1.00 per day.** That it shall be the duty of county commissioners of each county in this territory, at the time

they make a levy of a tax for territorial and county purposes, to fix a per centum of not less than five cents, nor more than fifteen cents on the hundred dollars valuation, on all property made taxable by the revenue laws of this territory, to be expended as provided for by an act entitled "An act to provide for levying a tax on real and personal property for road purposes," approved February 16th, 1842: provided, the said tax may be worked out on the public roads at the rate of one dollar per day.

SEC. 2. **Repealing clause.** That all laws contravening the provisions of this act be and the same are hereby repealed.

SEC. 3. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 14th February, 1844.

[26] CHAPTER 20.

IMPRISONMENT FOR DEBT.

AN ACT to abolish Imprisonment for debt.

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

SECTION 1. **Imprisonment for debt abolished.** That no person shall, after the passage of this act, be arrested, held to bail or imprisoned, on any original, *mesne* or final process or execution, issued in any civil suit instituted in any court in this territory.

SEC. 2. **Not to affect proceedings in case of contempt.** That nothing in this act contained shall be so construed as to prevent the issuance and service of writs of attachment for contempts, as if this act had not been passed.

SEC. 3. **Repealing clause.** That an act entitled "An act concerning bail," approved January 25th, 1839; an act entitled "An act to abolish imprisonment for debt," approved February 8th, 1843, and all acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 4. **Time of taking effect.** This act to take effect from and after its passage.

Approved, 14th February, 1844.

CHAPTER 21.

REVENUE LAW.

AN ACT to provide for assessing and collecting public revenue.

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

OF THE ASSESSOR, HIS ELECTION, DUTIES AND POWERS.

[28] SECTION 1. **Assessor, when and how elected, and for what term.** That there shall be elected on the first Monday of April in each year, by the qualified voters in each township or precinct in this territory, one township or precinct assessor, who shall hold his office for one year from the day of his election, and until his successor is elected and qualified; and shall perform all duties that are or may hereafter be required of him by law.

SEC. 2. **His bond, to whom given, for what sum, by whom preserved.** Each assessor, before entering upon the duties of his office, shall give bond with

two or more securities to the acceptance of the township trustees, or in counties not organized into townships, of the county commissioners, in the sum of two hundred dollars, payable to said trustees or county commissioners, and conditioned for the faithful and impartial performance of his duties according to law; which bond shall be deposited with the township clerk, or the clerk of the board of county commissioners in counties not organized, and by him preserved.

SEC. 3. Must file same in 10 days or office vacated. If any assessor shall not give bond and security as required in the preceding section within ten days after his election, his office shall be considered vacant.

SEC. 4. Office vacated, how filled by appointment. In all cases where the office of assessor shall become vacant by death, removal from the township or precinct, resignation, failure to give bond, or from any other cause, and the interest of the township or precinct requires that such vacancy shall be filled before the next annual election, the trustees or county commissioners, as the case may be, shall forthwith appoint some suitable person in the township or precinct to fill the vacancy.

SEC. 5. Person so appointed, how to qualify, his term. The person so appointed shall give bond as required in the second section, and hold his office until the next annual election, and until his successor is elected and qualified.

SEC. 6. Suit against, by whom instituted. Suit may be instituted in the name of the obligees of the bond of the assessor, either by the territory, county, township, or any person injured by his misconduct in office, or for the omission of any duty, before any tribunal having jurisdiction of the same.

SEC. 7. Compensation paid by county. The assessor shall be allowed one dollar and fifty cents for each day the county commissioners shall be satisfied he has been faithfully and necessarily employed in the discharge of his duties, to be paid out of the county treasury.

SEC. 8. Penalty for not serving, how collected. Any person elected or appointed to the office of assessor, who shall neglect or refuse to serve therein, shall forfeit and pay to the county the sum of five dollars, to be recovered in the name of the county before any justice of the peace of the township or precinct having jurisdiction thereof; and it shall be the duty of the county treasurer to demand, receive, sue for and pay over the same into the county treasury: provided, that no person shall be compelled to serve as assessor any two years in succession.

OF PROPERTY SUBJECT TO TAXATION.

[29] **SEC. 9. Poll tax.** A poll tax may be assessed of not more than fifty cents upon each male person over the age twenty-one years, in the county where he shall be an inhabitant on the first day of May, for county purposes.

SEC. 10. What property subject to tax and what exempt. All real and personal estate, of whatever kind, shall be assessed and taxable, save

First: The property of the United States and of this territory;

Second: The personal property of all literary, benevolent, charitable and scientific institutions, that have or may be incorporated by or under the laws of this territory, and such real estate belonging to such institutions as shall actually be occupied by them for the purposes for which they were incorporated;

Third: The household furniture of every person, not exceeding one hundred dollars in value, and also his necessary wearing apparel;

Fourthly: All farming utensils, mechanics' tools and private libraries, except where they exceed in value one hundred dollars, in which case the excess over that sum shall be taxed;

Fifthly: All houses of religious worship, and the lot or lots on which they may be situated, not exceeding five acres; the pews and furniture within such

houses; all burial grounds, tombs and rights of burial;

Sixthly: All mules, horses and neat cattle, less than one year old, and all swine and sheep less than six months old;

Seventhly: The polls and estates of persons who, by reason of age, infirmity and poverty, may in the judgment of the assessors be unable to contribute towards the public charges; such judgment being always subject to the ratification or reversal by the board of county commissioners.

SEC. 11. Real estate when and to whom taxed. All taxes on real estate shall be assessed in the township or precinct where the estate lies to the person who shall be either the owner or in possession thereof on the first day of May; and in cases of mortgaged real estate the mortgagor shall, for the purposes of taxation, be deemed to be the owner.

SEC. 12. All personal property to be assessed to owner in township where he resides on 1st of May. All personal estate within this territory, subject to taxation, shall, except in the cases enumerated in the following section, be assessed to the owner, in the township or precinct where he shall be an inhabitant on the said first day of May.

SEC. 13. Exceptions to 12th section. The excepted cases mentioned in the preceding section are

First: All goods, wares and merchandise, or any other stock in trade, in townships or precincts within this territory, other than where the owners reside, shall be taxed in those townships or precincts, if the owners hire or occupy stores or shops therein, and shall not be taxable where the owners reside.

Secondly: All machinery employed in any branch of manufactures and belonging to any corporation, private company, or individuals, [30] shall be assessed to such corporation, company or individual, where such machinery may be situated or employed.

Thirdly: All horses, mules, neat cattle, sheep, swine, jacks, jinneys, kept throughout the year, in townships or precincts other than where the owners reside, shall be assessed to the owners in the townships or precincts where they are kept.

Fourthly: All personal property belonging to minors under guardianship shall be assessed to the guardian in the township or precinct where he is an inhabitant, and the personal property of all other persons under guardianship shall be assessed to the guardian in the township or precinct where the ward is an inhabitant.

Fifthly: The personal estate of deceased persons which shall be in the hands of their executors or administrators, and not distributed, shall be assessed to the executors or administrators in the township or precincts where the deceased person last dwelt, until they shall give notice to the assessor that the estate has been distributed and paid over to the parties interested therein.

SEC. 14. Assessment of mortgaged personal property governed by possession. When personal property is mortgaged or pledged, it shall, for the purposes of taxation, be deemed the property of the party who has the possession.

SEC. 15. Property when assessed to heirs or devisees, who to be liable for tax. The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person, without designating any of the heirs or devisees by name, until they shall have given notice to the assessor of the division of the estate and the names of the several heirs or devisees, and such heir or devisee shall be liable for the whole of such tax, and shall have a right to recover of the other heirs or devisees their respective proportions thereof when paid by him.

SEC. 16. Partners, how and when taxed. Partners in mercantile or other

business, whether residing in the same or different townships or precincts, may be jointly taxed under their partnership name, in the township or precinct where their business is carried on, for all the personal property employed in such business; and if they have places of business in two or more townships or precincts, they shall be taxed in those several townships or precincts for the proportions of property employed in such townships or precincts respectively, and in case of being so jointly taxed, each partner shall be liable for the whole tax.

SEC. 17. **Money and stocks, how taxed.** Money at interest and stocks in any corporation or association, shall be deemed and taken to be personal property and shall be taxed at their true value.

SEC. 18. **Assessment roll, by whom prepared, to whom and when delivered, form.** That the clerk of the board of county commissioners of each county in this territory, shall prepare blank forms for each assessor in his county, sufficient for his assessment, ruled in complete order, which roll shall be ready to deliver to each assessor on or before the first day of May, in each year, for which the county shall pay for paper and ruling seventy-five cents per quire. Said form shall be as follows, to-wit:

[31] Total	
Polls	
Miscellaneous	
Furniture	
Wagons and carriages, value of	
No. of	
Mules, jacks and jennies, value of	
No. of	
Swine, value of	
No. of	
Sheep, value of	
No. of	
Horses, value of	
No. of	
Neat cattle, value of	
No. of	
Machinery	
Merchandise	
Money at interest	
Value	
Block	
Lot	
Name of town	
Value	
No. of acres	
Range	
Town	
Section	
Part of Section	
Names of persons	

[32] **SEC. 19. Particulars of assessor's return.** So that the assessor's return shall exhibit the valuation and assessment of the polls and estate of the inhabitants and non-resident owners, assessed in a tabular form, and it shall contain in separate columns the following particulars, to-wit: the names of persons assessed, and opposite to their names the number of polls, description of real estate, number of acres of real estate, value of real estate, description of personal property, whether money at interest, cattle, horses, carriages, machinery, etc., etc., with the true value of such personal property, total amount of assessment.

SEC. 20. Assessment, when to commence; property how valued. The assessor shall, on the first day of May, or within three days thereafter, proceed to assess all the real and personal property within his township or precinct, 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. 21. Real estate, how described. In assessing real estate it shall only be necessary to describe it briefly by its number, or the name the property is usually known by, in the neighborhood or township.

SEC. 22. Non-residents. The names of non-resident owners of property need not be stated on such list, unless known to the assessor.

SEC. 23. Oath may be required in return of property to assessor. The assessor may require each person owning or occupying property in his township or precinct, to return, under oath, each tract of land or town lot separately, and each kind of other property separately, from every other kind; and such person may be sworn to render a just and true account of all property of which he may be owner or holder on said first day of May.

SEC. 24. Person refusing to furnish list of property, how assessor to proceed; penalty for refusal. If any person shall refuse when called on to furnish the assessor with a list of his taxable property as required by this act, the assessor shall obtain, by the best means in his power, the taxable property belonging to such person and the value thereof, and as a penalty for such neglect he shall assess such property at double its value.

SEC. 25. Assessor to administer oath; perjury. When any fact, matter or thing, is required by this act to be verified by oath, the assessor shall have power to administer the same, and false swearing before him shall be perjury.

SEC. 26. Property previously unassessed to be returned. If any estate or property has been omitted by previous assessors and not put upon the assessment list, such property when discovered shall be assessed by the assessor for the time being, for the year or years the property was so omitted.

SEC. 27. Assessment list, when filed. Each assessor shall, on or before the fifteenth day of June, file in the office of the clerk of the board of county commissioners, the original assessment list made by him.

SEC. 28. Notice of filing same, abatement of assessment. He shall at the same time give notice by at least three advertisements in his township or precinct, that he has filed his assessment list with said clerk, and that all persons feeling aggrieved by such assessment, and desiring an abatement, must appear before the board of county commissioners at the office of the clerk on the first Monday of July.

OF THE DUTIES OF COUNTY COMMISSIONERS IN RELATION TO TAXES.

[33] **SEC. 29. Commissioners to meet 1st Monday in July to levy county and territorial tax; amount of each.** The board of county commissioners in

each county shall hold an annual meeting on the first Monday of July in each year, at which they shall examine the several assessment rolls returned to them, and levy a county tax upon such assessment of not more than five mills to the dollar, and a territorial tax as shall from time to time be directed by the legislative assembly of this territory.

OF ABATEMENT OF ASSESSMENT.

SEC. 30. Persons aggrieved may apply for abatement. Any person feeling himself aggrieved by the assessment of his property, or of which he is agent, may appear before the board of county commissioners as aforesaid, and present his grievances.

SEC. 31. Commissioners to take testimony and make abatement. The said board of county commissioners may cause such person and such witnesses as he may present, to be sworn in relation to the assessment, and abate the same as they may think justice and right require.

SEC. 32. List of taxes with warrant, by whom made out; to whom and when delivered for collection. They shall make out, or cause to be made out, a correct list of the county and territorial taxes due upon the lands and property of residents and non-residents, to which they shall attach their warrant, directing and requiring the collection of the same, and deliver said list to the treasurer of the county, on or before the third Monday of August, for which they shall take the receipt of such treasurer.

OF COUNTY TREASURERS, THEIR POWERS, AND DUTIES.

SEC. 33. County treasurers to collect. Every county treasurer receiving any tax list and warrant, shall proceed to collect the taxes therein mentioned according to the warrant.

SEC. 34. Notice of time and place of collection how and when given. That the county treasurer shall, immediately after receiving any tax list and warrant, cause notices to be posted up in three or more places in each township or precinct throughout the county, one of which shall be the place of holding elections in the township, stating in said notices on what day the treasurer, or his deputy, will attend at the place of holding elections in each township for the purpose of receiving such taxes; and the treasurer or his deputy shall attend for the purpose aforesaid on the day and at the place named in said notices, which time shall be during the month of September in each year, and shall attend at his office, at the seat of justice, during the months of October, November and December, to receive taxes from persons wishing to pay them.

SEC. 35. Mistake of name in assessor's list not to prevent collection. If, in the assessor's list, or in the warrant and list committed to the treasurers, there shall be any error in the name of any person taxed, the tax assessed to him may, notwithstanding such errors, be collected off the person intended to be taxed; provided he is taxable and can be identified by the treasurer or assessor.

SEC. 36. Treasurer when resisted may require assistance; penalty of refusal how recovered. Any treasurer, when resisted or impeded in the execution of his office, may require any suitable person to aid him therein; and if such person shall refuse to render such aid, he shall forfeit to the use of the county where the offense is committed, a sum not exceeding ten [34] dollars, to be recovered in the name of the county before any justice of the peace having jurisdiction thereof.

SEC. 37. Before refusal to pay tax, treasurer may distrain; when. If any person shall refuse or neglect to pay his tax before the first day of January in

each year, the treasurer shall levy the same by distress and sale of his goods, excepting such goods as are exempt from taxation.

SEC. 38. In case of distress how treasurer to proceed; sale, charges, notice. The treasurer shall distrain the goods upon his warrant, and keep the same at the expense of the owner, and shall, within seven days after the seizure, offer the same for sale at public auction, for the payment of the tax and the charges of keeping, and of the sale, having given notice of such sale by posting up a notification thereof in three public places in the township five days at least before the sale.

SEC. 39. May adjourn sale; notice of. The treasurer may, if he sees fit, once adjourn such sale for a time not exceeding three days, and shall always adjourn from time to time when there are no bidders, in both of which cases he shall forthwith give notice of such adjournment by posting up a notification thereof at the place of sale when he makes such adjournment.

SEC. 40. If property sell for more than taxes and charges surplus paid to owner. If the distress shall be sold for more than the tax and the charges of keeping the distress and making the sale, the treasurer shall return the surplus to the owner, upon demand, with an account in writing of the sale and charges.

SEC. 41. When person removes from county without payment of tax how treasurer to proceed. When any person shall, after the assessment of a tax upon him, remove out of the county without paying his taxes, the treasurer may demand payment thereof wherever such person may be found; and in default of payment, the treasurer may forthwith proceed to collect the tax by making a distress.

SEC. 42. When person removes, dies, or if a woman marries before payment, how treasurer to proceed; may have process of garnishment. When any person who is taxed shall remove as aforesaid, or shall die, or being an unmarried woman shall be married before payment of the tax, the treasurer may, in his own name, maintain an action of debt or *assumpsit* in like manner as for his own debt; and he may, for that purpose, have a process of garnishment against any person indebted to or having the property of such delinquent.

SEC. 43. Property of tenant not subject to distress for land he occupies. The property of any tenant or person in the occupation of real estate, shall in no case be subject to distress for the taxes due upon such real estate.

SEC. 44. If the treasurer dies or becomes incompetent, commissioners to appoint collector; the administrator of deceased to deliver list to commissioners. If any treasurer shall die, or be prevented by any bodily infirmity or any other cause, from completing his collection of taxes, the board of county commissioners may appoint some suitable person to complete the collection, who shall receive a reasonable compensation to be paid by the county; and in case of such death, the administrators or executors of the deceased treasurer shall forthwith deliver said list into the custody of the board of county commissioners.

SEC. 45. Treasurer to give bond; amount, conditions and effect of. The treasurer, before entering upon the duties of his office, shall file with the clerk of the district court a bond, payable to the board of county commissioners, with freehold securities to be approved of by said clerk, in the penal sum not exceeding twenty thousand dollars, the amount thereof to be determined by the county commissioners, conditioned for a faithful discharge of his duties according to law, and for the payment of all moneys coming to his hands as treasurer, which bond shall operate as, and have the effect of a judgment [35] confessed, until a final settlement with the board of county commission-

ers: provided, that execution shall issue only for the amount said treasurer has received and not paid over: provided, that freehold security shall not be required in counties where the land has not been sold by the United States.

SEC. 46. No mistake to vitiate; construction of. No misrecital, misnomer, or mistake in said bond, shall vitiate it, but it shall be received and construed according to the true intent of the obligors at the time of signing.

SEC. 47. Distress to be levied where person taxed has personal property. It shall be his duty to levy distress in all cases where the person taxed has personal property subject to the distress.

SEC. 48. Return of tax list and money, to whom and when made. Every treasurer shall make due return of all money collected by him, together with his county and territorial tax list, to the board of county commissioners on the first Monday of January in each year.

SEC. 49. Treasurer to make annual statement of condition of county treasury. He shall lay before the board of county commissioners, at their January meeting in each year, all the tax lists, and at the same time a true and complete account of the condition of the county treasury, specifying the amount of taxes received and collected by him.

SEC. 50. To make and file in his office a list of delinquent lands. He shall, so soon after the first day of January in each year as possible, make out a complete list of the lands and property upon which the taxes remain unpaid, which list he shall file in his office.

SEC. 51. His compensation. The treasurer shall receive for his compensation five per cent. for all moneys actually received and disbursed by him under the provisions of this act, and shall be allowed the same fees for making distress and sale of goods and chattels for the payment of taxes, as may be allowed by law to constables for making levy and sale of property on execution, traveling fees to be computed from the seat of justice of the county to the place of making the distress; and also the sum of fifty cents for making a deed for lands sold for taxes.

SEC. 52. Taxes on delinquent list to draw interest, and how much. All taxes upon any lands and property due and unpaid on the first day of January, for the previous year, and returned delinquent as aforesaid, shall draw interest at the rate of fifty per cent. for the first year they shall so remain unpaid, and one hundred per cent. for the second year.

SEC. 53. Taxes on delinquent list receivable within two years. The treasurer shall receive the taxes due upon any of the delinquent lists upon the terms provided for in the foregoing section, and upon no other, during the space of two years from the first day of January next after said lists shall be filed in his office as delinquent.

SEC. 54. Proceeding when taxes remain unpaid for two years; form. When the taxes upon lands in any county in this territory have remained thus due and unpaid for the said term of two years, it shall be the duty of the county treasurer to make report thereof to the district court of his county, at the first term thereafter, which report shall be in the following or equivalent form:

[36] List of lands and other real estate situated in the county of ———, in the territory of Iowa, on which taxes remain due and unpaid for the year herein set forth.

Names of Owners	Town Lots	Costs	Interest	Amount of Tax	Year tax is due	Description	County

SEC. 55. Treasurer to publish list of delinquent land, with notice of intended application for judgment to sell; notice of sale when and where; effect of. Before making the application to the district court provided for in the preceding section, the treasurer shall publish an advertisement in some newspaper printed in his said county, if any such there be, and if there be no such paper printed in his county, then in the nearest newspaper in the territory, which advertisement shall be three times published, one of which shall be at least six weeks prior to said term of said district court; and the said advertisement shall contain a list of the delinquent lands and town lots to be reported to said court, the names of the owners, if known, the amount of taxes, interest and costs, due thereon, and the year or years for which the same are due; shall give notice of the intended application to the court for judgment against said lands and town lots, for said taxes, interest and costs thereon, and for an order to sell the said lands and town lots for the satisfaction thereof; and shall also give notice that on the second Monday next succeeding the adjournment of the said district court, all the lands and town lots against which judgment shall be pronounced, and for the sale of which such order shall be made, will be exposed to public sale at the court house in said county for the amount of said taxes, interest and costs, due thereon; and the advertisement published according to the provisions of this section, shall be deemed and taken to be sufficient and legal notice, both of the aforesaid intended application by the treasurer to the district court for judgment, and also of the sale of said lands under the order of the said court.

SEC. 56. Certificate of due publication to be filed with the clerk district court, together with report. The treasurer shall obtain a copy of the advertisement, together with the certificate of the due publication thereof, from the printer or publisher of the newspaper in which the same shall have been published, and shall file the same with the clerk of the said district [37] court at the said term thereof, together with the said report provided for in the 54th section.

SEC. 57. Certificate and report of treasurer, by whom filed and where recorded; how kept—clerk district court to place same at the head of common law docket. The clerk of the district court, upon filing such report and certificate of publication by the treasurer, shall receive and record the same in a book to be kept for that purpose, in which he shall enter all judgments, orders and other proceedings of the court in relation thereto, and shall keep and preserve the same as a part of the record of the court; and the said clerk shall

place the said report and certificate of said treasurer at the head of the common law docket for said term, in the following form, to wit:—

“TERRITORY OF IOWA, }
 vs. } Suit for Taxes.”
 John Doe et al. }

SEC. 58. Duty of court, manner of proceeding—if no defense to judgment against lands, clerk to issue order for sale; form. It shall be the duty of said court, upon calling the common law docket for said term, if any defense be offered by any of the owners of said land so reported, or by any person having a claim or interest therein, to hear and determine the same in a summary way, without pleadings; and if no defense be made the said court shall pronounce and render judgment against the said lands, and shall thereupon direct the clerk of said court to make out and issue an order for the sale of the same, which shall be in the following form, to wit:—

“TERRITORY OF IOWA, }
 } Sct.
 _____ County }

“Whereas A. B., treasurer of said county, returned to the district court of said county, on the _____ day of _____ the following tracts and parts of tracts of land and town lots, as having been assessed for taxes by the assessor of said county for the year _____, and that the taxes thereon remain due and unpaid on the day of the date of the said treasurer’s return, and that the respective owner or owners have no goods and chattels within his county on which the said treasurer can levy for the taxes, interest and costs, due and unpaid on the following described lands and town lots, to wit:

And whereas, due notice has been given of the intended application for a judgment against said lands and town lots, and no owner hath appeared to make defense or show cause why judgment should not be entered against the said lands and town lots, for the taxes, interest and costs, due and unpaid thereon, for the year herein set forth; therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tract or tracts of land, or parts of tracts and town lots (as the case may be,) in the name of the territory of Iowa, for the sum annexed to each tract or parcel of land or town lot, being the amount of taxes, interest and costs, due severally thereon; and it is ordered by the court, that the said several tracts of land and town lots, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes, interest and costs, annexed to them severally, be sold as the law directs.”

SEC. 59. Form to be pursued. That the form as hereinbefore set forth shall be pursued as near as the nature of the case will permit.

SEC. 60. Clerk to make copy of treasurer’s report, as process, upon which treasurer to sell; return, when and how made. That it shall be the duty of the clerk, within five days [38] after the adjournment of said court, to make out, under the seal of said court, a copy of the treasurer’s report, together with the order of the court thereon, which shall constitute the process on which all lands and town lots shall be sold for county and territorial taxes, and deliver the same to the treasurer of his county, and the treasurer shall thereupon cause the said lands and town lots to be sold on the day specified in the notice given by him for the sale of the same, and make return thereof to the said clerk within twenty days after the last day of said sale.

SEC. 61. Any person may pay tax before sale. Any person or persons owning or claiming lands or town lots advertised for sale as aforesaid, may pay the taxes, interest and costs, due thereon, to the treasurer of the county in which the same are situated, at any time before the sale thereof.

SEC. 62. Figures, when and where used. On all advertisements for the sale of lands or town lots for taxes, and in entries required to be made by the clerk of the court, figures may be used to denote townships, ranges, sections, parts of sections, dates, and the amount of taxes, interest and costs.

SEC. 63. Sale, when and where held; how conducted. The treasurer of each county in which lands or town lots shall have been advertised for sale for taxes, as hereinbefore prescribed, shall attend at the court house, or if there be no court house, then at the place of holding courts in said county, on the day for which said sale is fixed in the said advertisement, and between the hours of ten o'clock, a. m., and three o'clock, p. m., shall proceed to sell each lot, tract or parcel of land, advertised for sale in his county as aforesaid, at public auction, commencing with the first lot or parcel named in the list, and proceeding until the whole are sold. He shall continue the sale each day until three o'clock, p. m., and then adjourn until the next day, and shall thus proceed from day to day (Sundays excepted) till the sales are completed.

SEC. 64. How much of tracts of land to be sold, when whole tract not sold how divided; in case no person will take tract, for tax, to be struck off to county. In selling the said lands the treasurer shall offer the whole tract or lot for sale for the amount of taxes, interest and costs, thereon, including the fees hereinafter mentioned; and so much thereof as may be necessary, shall be struck off to the lowest bidder—that is, to the person who has offered to pay the amount due as aforesaid for the least number of acres. When a portion of a tract shall have been struck off on any such bid, it shall be taken off the east side of said tract, extending the whole length on the east side, and so proportioned in width as to embrace the number of acres sold as aforesaid. If no person shall offer to pay the amount due on said land for less than the whole tract, the whole tract shall be struck off to any bidder for the said amount; but if no person shall offer to pay said amount for the whole tract, the same shall be struck off to the county, and the county set down as the purchaser thereof for the said amount due thereon.

SEC. 65. Treasurer to make deeds; how proved. As soon as may be, after the sale by this act provided for, the said treasurer shall make out a deed for each tract, lot or parcel of land, sold as aforesaid, and deliver the same to the purchaser or purchasers, which deed shall be acknowledged or proven as other deeds may be required by law to be acknowledged or proven.

SEC. 66. Deeds and sales to be valid. Sales made and deeds executed by treasurers as aforesaid [39] shall have the same force and effect, and be of the same legal validity, as sales upon executions from district courts and deeds made by sheriffs upon such sales.

SEC. 67. Funds receivable for taxes. Territorial orders or warrants shall, in all cases, be received at par for territorial taxes; county orders, for county taxes and township orders, warrants or scrip, for township taxes.

TERRITORIAL TAXES.

SEC. 68. Territorial tax, when and how paid by treasurer. It shall be the duty of each county treasurer to transmit to the territorial treasurer the amount of territorial tax that has been returned to him, on or before the first day of March in each year.

SEC. 69. Cameron collector of Des Moines county; from when and for what term; his duties and compensation. That William C. Cameron, of Des Moines county, be and he is hereby authorized and empowered to discharge all the

duties by this act enjoined upon and to be discharged by the treasurer of said county, so far as the collection of the public revenue is concerned, for and during the space of one year from and after the first Monday in August, A. D. 1844: provided, said Cameron shall duly qualify as required by the provisions of this act: provided, that said Cameron shall pay the money so collected into the county treasury monthly, and shall receive for his salary four per cent. for his services.

SEC. 70. Commissioners of Scott and Cedar to levy additional tax; limitation; persons who paid in 1843, credited for 1844 upon the production of evidence to collector. That the respective boards of county commissioners of the counties of Scott and Cedar be and they are hereby authorized, in addition to the tax for county purposes for the year 1844 by this act authorized to be levied, to levy a tax for county purposes not to exceed five mills to the dollar. That any person in either of said counties who shall have paid his county tax, or any part thereof, for the year 1843, shall be credited therefor by the collector for the year 1844, upon such collector being satisfied of such payment either by the return or receipt of the collector for the year 1843.

SEC. 71. Repealing clause; saving clause. That an act entitled "An act to provide for assessing and collecting county and territorial revenue," approved 13th February, 1843, be and the same shall be repealed from and after the first day of April next: provided, however, that by such repeal no right, interest or claim, acquired under the act so repealed, shall abate, make void, or in anywise affect, nor shall such repeal interfere with the collection of taxes now due under the act repealed, but the same shall be proceeded with and collected under said law.

SEC. 72. Time of taking effect. This act to take effect from and after the first day of April, 1844.

Approved, 15th February, 1844.

[40] CHAPTER 22.

JUSTICES OF THE PEACE.

AN ACT amendatory of an act entitled "An Act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings," approved February 9, 1843.

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

SECTION 1. Limitation of civil actions to township where defendant resides; when no justice in such township then justice of adjoining township to have jurisdiction. That the jurisdiction of all justices of the peace, who have been or may hereafter be elected in this territory, shall be limited as follows: Every action cognizable before a justice of the peace, instituted by summons, shall be brought before some justice of the peace of the township or precinct where the defendant resides: provided, that in case from any cause there should be no legal justice of the peace in any township or precinct where the defendant resides, then the justice of any adjoining township or precinct, in the same county may have jurisdiction in said township or precinct.

SEC. 2. Where suit to be instituted against defendants living in different townships. If there are several persons jointly liable to a suit residing in different townships or precincts, in the same county, the suit may be brought in either against all such persons.

SEC. 3. Process by attachment not limited to townships. In every action instituted by attachment, the constable, or officer to whom the same is directed, may serve the same in any [41] township or precinct of the county in which such action shall have been instituted.

SEC. 4. Executions how issued and served: limited to township, when sufficient property can be found; if property not sufficient, may then be levied in any township in county. Executions shall be issued and served as now provided for by law, but shall be limited to the township or precinct in which the judgment upon which it was issued was rendered, except where the defendant has not property sufficient to satisfy the judgment in such township or precinct, subject to levy; and in such case execution may issue to any township or precinct in the county.

SEC. 5. When warrant is issued defendant may deny facts of affidavit; issue how tried, effect of issue found for defendant. When a suit shall be commenced before a justice of the peace by warrant, upon the return thereof, the defendant may deny that the plaintiff had any good and sufficient reasons to believe the facts and allegations stated in the affidavit upon which said warrant issued; which issue shall be tried as other issues before justices are tried. If any of the essential allegations so put in issue be found for the defendant, said plaintiff shall be adjudged to pay all costs of suit; provided, that if, on the said trial, it shall be found that anything is due said plaintiff from said defendant, said plaintiff shall have judgment therefor without his costs.

SEC. 6. Jurisdiction of constables as conservators of peace co-extensive with that of justices. The jurisdiction of constables, as conservators of the peace and executive officers, shall be co-extensive with the jurisdiction of the justices of the peace of the respective townships or precincts in and for which they may have been or shall hereafter be elected or appointed.

SEC. 7. In suit of trespass, if defendant justify by title, how justice to proceed; case, how removed to district court. If, in a suit of trespass upon any lands or tenements, the defendant shall justify the trespass by plea of title, and enter into recognizance as required in cases of appeal, then the justice of the peace before whom such suit is tried shall immediately stop all further proceedings in said trial, make an entry on his docket of the same, and certify and return to the district court of the county a transcript of all the entries made in his docket, together with all the process and other papers relating to the case, which shall be filed therein in the same manner, within the same time, and there to be determined as cases upon an appeal.

SEC. 8. When defendant in attachment cannot be summoned, how plaintiff to proceed; notice required and how proved. That hereafter, when the defendant in suits of attachment cannot be summoned, and his property or effects shall be attached, the plaintiff shall set up the notices required by the eighth section of the eleventh article of the act to which this is amendatory, at least twenty days before judgment, and the setting up thereof may be proved by the affidavit of the party himself, or any other competent person.

SEC. 9. Bloomington township to have three justices; Burlington and Fort Madison two each; one additional to Linn township, Cedar county; where to reside. The sixth section of the first article of the act of which this is amendatory is hereby modified and amended so as to allow the township of Bloomington, in Muscatine county, three justices of the peace only, and the township of Burlington, in Des Moines county, and Fort Madison, in Lee county, shall elect two justices of the peace each, instead of four, as now allowed by law; and that an additional justice of the peace shall be elected annually at the April election in Linn township, Cedar county, who shall reside on the west side of Cedar river, in said county.

SEC. 10. Justices and constables, their duties; to pay over money; to whom to be paid; when to be paid and penalty for failure, how collected. It shall be the duty of every justice of the peace and constable, to pay over all moneys that may come to their hands in con-[42]-sequence of fines and penalties for violations of law, to their township treasurer, or in counties not organized into townships to their county treasurer, within thirty days of the time such fines and penalties shall come to their hands; and upon failure so to do, it shall be the duty of any township or county officer to sue for and recover the same in the name of the township or county, in an action of debt, before any justice of the peace in the same or an adjoining township or precinct.

SEC. 11. If justice or constable fail to pay over, any person may commence suit; citation to appear and show cause why office should not be forfeited; effect of judgment; new election to fill such vacancy. If such justice of the peace or constable shall fail to pay over as aforesaid, it shall be lawful for any person cognizant thereof to file a complaint, in the nature of an information, with the clerk of the district court, setting out the fact of such delinquency and failure, and the clerk shall thereupon issue a citation to such justice or constable, returnable to the next term of his district court, to show cause why the term of his said office shall not cease; and if, upon an investigation of the facts, it shall be found that such officer has failed to pay over moneys as aforesaid, it shall be the duty of the said court to declare such office forfeited and vacant, and a new election shall take place as is provided for by law in cases of vacancy.

SEC. 12. Any person aggrieved may file complaint against justice or constable for non-payment in civil cases. That whenever any person shall feel himself aggrieved by the failure of any justice of the peace to pay over money collected in any civil suit, or which has come to his hands as justice of the peace, after due demand thereof, [he] may file his complaint in the same manner, and the same proceedings be had, as is provided for in section twelve of this act.

SEC. 13. Vacancy in the office of justice of peace, how filled; election, by whom ordered; notice how given, election, how conducted; repealing clause. That hereafter, when any vacancy shall happen in the office of a justice of the peace, in this territory, by death, resignation, or otherwise, such vacancy shall be filled by election; and the clerk of the board of county commissioners, on being notified of the fact of such vacancy, shall order an election to be held to fill such vacancy, by giving ten days notice of the same by advertising in three of the most public places in said township or precinct; which election shall be held and conducted in the same manner that other elections for justices of the peace are. The twelfth section of first article of an act providing for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings, are [is] hereby repealed.

SEC. 14. Specific repeal of certain sections of previous law. The thirty-first, thirty-second, and thirty-third sections of the first article; the fourth and eighteenth sections of the second article; the twelfth section of the third article; section nine in article eleven, and all other portions of the act to which this is amendatory which come in conflict with this act, are hereby repealed.

SEC. 15. This act not to interfere with suits now pending. Nothing in this act shall be construed to affect in any manner suits instituted previous to the taking effect of this act before justices of the peace under the act to which this is amendatory; but all suits so instituted shall be prosecuted to final determination in the same manner as if this act had not been passed.

SEC. 16. Time of taking effect. That this act shall take effect and be in force from and after the twentieth day of March, 1844.

Approved, 14th February, 1844.

[43] CHAPTER 23.

VALUATION LAW.

AN ACT amendatory of 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. Officer to select property, how governed; required to take personal property before real estate. That hereafter, when any writ of execution shall issue against the goods, chattels, lands, tenements, and hereditaments of any person, it shall be the duty of the sheriff, constable, or other officer, to levy said writ of execution upon such of the property of said person subject to execution as the sheriff, constable or other officer, may, in his discretion, think most conducive to the interest of both plaintiff and defendant in execution: provided, that where there is personal property it shall be taken in preference to real estate.

SEC. 2. Officer, how to proceed in selecting personal property. It shall be the duty of the sheriff, constable, or other officer, in levying such execution, to take such property under the previous direction as will be nearest and best adapted in price at two-thirds of the appraised value to the satisfaction of such execution.

SEC. 3. Officer, how to proceed where property will not sell at the expiration of the second six months; to retain levy and require bond for re-delivery; levy when and by whom to be renewed, and how often. That when the personal property levied upon shall have been offered for sale at the end of six months from the time at which it was first offered, under the provisions of the act to which this is amendatory, and it shall not be sold for two-thirds of its appraised value, for the want of bidders, and shall have been offered to and not received by the plaintiff in execution at two-thirds of the appraised value thereof, it shall be the duty of the officer holding such execution to retain the levy on said property, and require a bond for delivery thereof at the expiration of another six months, in like manner and to the same effect as for the previous six months; and it shall be the duty of said officer to dispose of said property during and at the expiration of said last six months in the same manner and to the same effect as prescribed and directed for the disposal thereof in the first six months; and it shall be the duty of the several clerks of the district courts, the clerk of the supreme court, and the justices of the peace, in all cases when there is not time enough under the original execution upon which the levy was made to sell and dispose of the property levied upon under the provisions of this act, to renew the same when issued by justices [44] of the peace, and to issue a *venditioni exponas* when issued by the several clerks, as often as the circumstances shall require it.

SEC. 4. Levy to operate as a lien; lien how released. That whenever an execution shall be levied upon any personal or real property, such levy shall attach a lien on said property for the satisfaction of the judgment upon which said execution issued; and nothing shall release such lien but the substitution of other property, agreeably to the provisions of the act to which this is amendatory, or the consent of the judgment creditor.

SEC. 5. This act how to apply. That this act, and the act to which this is amendatory, shall apply to all judgments and executions of justices of the peace, as well as those of the district and supreme courts.

SEC. 6. Repealing clause. That so much of the act to which this is amendatory as shall come in conflict with this act, and so much of an act entitled

“An act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings,” as shall come in conflict with this act and the act to which this act is amendatory, are hereby repealed.

SEC. 7. Burying grounds not exceeding 4 acres exempt from levy and sale. That in addition to the property now exempt by law from levy and sale upon execution, all public burying grounds, not exceeding four acres, shall be exempt from levy and sale upon any process whatever.

SEC. 8. Real estate mortgaged prior to the passage of the act hereby amended to be sold to the highest bidder; how it may be redeemed within two years, and at what interest. That hereafter, when any real estate may be sold by any decree, or order of any court in chancery, upon any mortgage or deed of trust executed prior to the passage of the laws to which this act is amendatory, the same shall be sold without being valued as required by the provisions of the third section of the act to which this is amendatory to the highest and best bidder, for the best price the same will bring; and the mortgagor or debtor may redeem the said real estate so sold as aforesaid within two years from the date of said sale, by paying to the purchaser, or to the officer selling the same, or to his successor in office, the purchase money, with interest thereon, at the rate of ten per cent. per annum.

SEC. 9. Deeds made by sheriff to be prima facie evidence of what. That all deeds made and executed upon all sales made after the passage of this act, for real estate sold under any execution, order or decree of court, by any sheriff or other officer authorized by law to make the same, shall, in all controversies which may hereafter arise in relation to the title of said real estate, be taken and considered as *prima facie* evidence of the existence of a judgment and execution, authorizing said officer to sell the same, and also of the regularity of said sale.

Approved, 15th February, 1844.

[45] CHAPTER 24.

GRAND AND PETIT JURORS.

AN ACT to amend an act entitled “An act concerning grand and petit jurors,” approved January 4, 1839.

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

SECTION 1. Jurors, number and qualifications of; to be annually selected. That one hundred and fifty judicious persons, having the qualifications of electors, shall be annually selected in each county, where there are that number of electors, and where there are not, all the electors in such county, to serve as grand and petit jurors the ensuing year.

SEC. 2. Apportionment of, in the different townships and precincts; when and by whom made; notice of apportionment, when, by whom, to whom and how given. That the clerks of the board of commissioners in their respective counties, shall, on the first Monday of April in each year, cause the proportion of jurors to be ascertained from the number of white male inhabitants of the age of twenty-one years in their respective townships or precincts, and shall make a statement in writing of the number of jurors apportioned to each township or precinct, and shall deliver the same to the sheriff; and the sheriff at the time he gives notice of the general annual election, shall insert a clause in the notices to be set up in each township or precinct of his county, giving the judges of the election notice of the number of persons to be returned as jurors from each township or precinct.

SEC. 3. Judges, on day of annual election, to select the number apportioned to their respective townships or precincts, and return a list of same, with return of election, to clerk of board of commissioners. That the judges of the said election of each township or precinct, shall, on the day of holding said election, annually select, of good judicious persons having the qualifications of electors, their apportionment of the persons to be returned as jurors, and shall make a list thereof and return the same along with the poll books or return of said election, to the clerk of the board of commissioners in the county where said election is held.

SEC. 4. Jurors, how and by whom drawn; number of; list of to be delivered to clerk of the district court; summons, by whom issued and served. That the said clerk of the board of commissioners shall write the names of said persons so selected upon separate pieces of paper, and put them into a box to be by him provided at the expense of the county; and the said clerk shall, at least thirty days before the sitting of any term of the district court to be holden in said county, in the presence of the sheriff of said county, (the sheriff having first shaken the box so as to mix the ballots on which the names are written,) [46] proceed to draw forty-seven ballots, the first twenty-three of which shall be summoned as grand jurors, and the remaining twenty-four as petit jurors; and the said clerk of the board of commissioners shall, within three days thereafter, make out and deliver to the clerk of the district court of said county, an attested copy of the names of the grand and petit jurors so selected, who shall thereupon issue and deliver to the sheriff of the said county a *venire* or summons, under the seal of the court, commanding him to summon the persons so selected and returned to appear before the said court as is already provided by the act to which this is amendatory.

SEC. 5. Not to serve two terms in succession; how panels to be drawn for succeeding term. That the persons selected and summoned as grand and petit jurors for any one term of the district court shall not be included in the ballots to be drawn from for the next succeeding term of said court; but the panels for the succeeding term shall be drawn from those remaining in the box: provided, that if there be more than two terms of court in any one year, the panel shall be drawn from all the names returned from the different townships or precincts, after taking out the names of the persons who served on the preceding term as jurors.

SEC. 6. Repealing clause; not to affect any selection of jurors heretofore made. That so much of the act to which this is amendatory as conflicts with the provisions of this act be and the same is hereby repealed, but such repeal shall not render void or affect any selection of jurors that may be made before the taking effect of this act; but any jurors selected under the act to which this is amendatory and required to serve as such after the taking effect hereof, shall serve as though this act had not been passed, and be fully qualified as such.

SEC. 7. Time of taking effect. This act to take effect and be in force from and after the first day of April next.

Approved, 15th February, 1844.

CHAPTER 25.

PEDLARS.

AN ACT granting license to pedlars.

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

SECTION 1. Pedlars, by whom licensed; particulars of license, time for which it may be granted; compensation to clerk for issuing, by whom paid.

That the board of commissioners in any county of this territory, when in session, or the clerk of such board of commissioners in vacation, may grant license, under the seal of said [47] board, to pedlars or traveling merchants, to vend clocks or goods, wares and merchandise, either at private sale or public outcry, within their respective counties, for any time not more than one year nor less than three months, stating the time for which such license is granted, and whether for peddling clocks, or goods, wares, etc.; and for issuing such license the clerk shall be paid fifty cents, to be paid by the person applying for the same.

SEC. 2. Application for license, how made; what to contain. Every person desirous to obtain a license as a pedlar or traveling merchant, shall deliver to the said clerk, when such application for license is made, a note in writing, signed by such applicant, or his authorized agent, stating the time for which license is desired, and whether he wishes to vend clocks, or goods, wares, etc.

SEC. 3. Amount to be paid for license; receipt for same, by whom given, and where filed. Every such applicant, before he shall be entitled to a license, shall pay into the treasury of the county the following duties for a license for one year, or a proportionate sum for any less time, to wit: If he intends to vend clocks, thirty dollars; if he wishes to vend goods, wares and merchandise, thirty dollars; for which he shall take the treasurer's receipt, and file the same with the said clerk of the board of commissioners.

SEC. 4. Penalty for peddling without license, how recovered; fine, how applied; refusal to exhibit license when demanded, effect of; exemption in favor of home manufacturers. If any pedlar, or traveling merchant, shall vend any clocks, or other goods, wares and merchandise, either at private sale or public outcry, within any county in this territory, without first obtaining a license so to do, as provided for in this act, he shall forfeit and pay, for every such offense, not less than five dollars nor more than fifty dollars, to be recovered in an action of debt in the name of the board of commissioners of the proper county, before any justice of the peace having jurisdiction thereof, and paid into the treasury of the county in which such offense shall be committed, for the use of such county; and if any such pedlar, or traveling merchant, shall, on demand, refuse to exhibit his license to any person of full age to whom he shall offer any clocks, or goods, wares and merchandise, such refusal shall be taken as conclusive evidence that he has no such license: provided, that all mechanics and manufacturers shall be permitted to vend throughout the territory the goods or wares wholly made or manufactured by them in this territory, without obtaining licenses therefor.

SEC. 5. Violations of this act, by whom prosecuted. That whenever it shall come to the knowledge of the clerk of the board of commissioners, or county treasurer of any county in this territory, upon information, complaint or otherwise, that any of the provisions of this act have been violated, it shall be and is hereby made the duty of said officers to institute suit for the forfeiture incurred; and it shall be lawful for any other person, in case of their neglect, to cause all such offenders to be brought to justice.

SEC. 6. Time of taking effect. This act to be in force and take effect from and after the first day of April next.

Approved, 15th February, 1844.

[48] CHAPTER 26.

CENSUS AND EXTRA SESSION.

AN ACT to provide for taking the census, and an extra session of the legislative assembly of this territory.

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

SECTION 1. Assessors to take the census in their respective districts; returns of, to whom and when made, how certified; certificate of, when and where to be filed. That it shall be the duty of the county, township or precinct assessors, of each county in this territory, to take the census of the white inhabitants of their respective counties, townships or precincts, and the counties to which they are attached if there be no assessors in such attached counties, as the case may be, and make out and certify under oath to the clerk of the board of county commissioners, the aggregate number of white inhabitants residing within their respective counties, townships or precincts, on the first day of May, A. D. 1844; which certificate shall be filed in the office of the clerk of the board of county commissioners on or before the second Monday in the month of June.

SEC. 2. Clerk of the board of county commissioners in each county to transmit a certified copy of returns to secretary of territory, at Iowa City, before the 16th June, 1844. That it shall be the duty of the clerks of the several boards of county commissioners in this territory to transmit a certified copy of the aggregate number of white inhabitants of their respective counties, to be ascertained by the return of the assessors made under the provisions of the first section of this act, to the secretary of the territory, at Iowa City, on or before the sixteenth day of June, 1844.

SEC. 3. Penalty upon clerk or assessor for refusing or neglecting to perform duties required by this act; amount of. That if any clerk or assessor shall neglect or refuse to perform the duties required by this act, he shall forfeit and pay to and for the use of the county to which such clerk or assessor may belong, a sum not exceeding three hundred dollars.

SEC. 4. Special session of legislature, when and where to meet; apportionment—restriction as to holding of same. That an extra session of the legislative assembly of this territory shall be begun and holden at Iowa City on the sixteenth day of June, 1844, for the purpose of making an apportionment of members of the council and house of representatives among the several counties of the territory, giving to each section of the territory representation in the ratio of its white population as nearly as may be, according to the census taken under the provisions of this act: provided, [49] That congress shall, before that time, make an appropriation to defray the expenses of said session, or otherwise legalize the holding of said session.

SEC. 5. Notices of next general election; when, how and by whom to be made out. That it shall be the duty of the clerks of the several boards of county commissioners, at least thirty days previous to the general election on the first Monday in August next, to make out and deliver to the sheriffs of their respective counties three written notices of such election for each township or election precinct, which notices shall be in form according to the laws of this territory regulating general elections.

SEC. 6. Sheriffs to post up notices twenty days before election. That the sheriff aforesaid, to whom such notices shall be delivered as aforesaid, shall post up said notices according to the laws of this territory regulating general

elections, at least twenty days previous to the general election on the first Monday in August, 1844.

SEC. 7. No debt to be incurred by the territory or state in consequence of such session. That no debt or expense shall be incurred against the territory or future state of Iowa in consequence of the extra session of the legislative assembly provided for by this act.

SEC. 8. Repealing clause. That so much of the laws of this territory regulating general elections conflicting with the provisions of this act be and the same are hereby repealed, so far as the same may apply to the general election in 1844.

SEC. 9. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 27.

CHANCERY.

AN ACT amendatory of an act entitled "An act relative to proceedings in chancery," approved January 23, 1839.

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

SECTION 1. Suit in chancery, how commenced against non-resident; notice of, how given and by whom; effect of. That when any person shall file a petition or bill of complaint in chancery with the clerk of the district court of any county in this territory, against a non-resident of said territory, such complainant or petitioner may file with such clerk an affidavit, stating that the defendant to said petition or bill is a non-resident of this territory. Thereupon the clerk shall make out a notice [50] of the pendency of the petition or bill of complaint, containing a brief statement of the object and prayer thereof, which the said complainant shall cause to be published for six weeks successively in some newspaper printed in the county where the petition or bill is filed, if there be one; if not, then in some newspaper printed in the territory; which notice, when published, shall be equivalent to personal service, to enable the trial to proceed at the next term of said court after said notice shall have been published during the said six weeks.

SEC. 2. Where to be published. When by the provisions of this act, or of the act to which this is amendatory, service of the pendency of any bill, petition or other proceeding, is required to be made by publication in some newspaper, such publication shall be made in some newspaper printed in the county where such bill, petition or proceeding, is pending; and if there is no newspaper printed and published in said county, then in a newspaper printed in the nearest county.

SEC. 3. If plea or demurrer is overruled defendant may answer over. When any plea or demurrer of a defendant shall be overruled, he shall be allowed to answer over upon filing an affidavit of merits.

SEC. 4. How absent defendant to verify his answer, and before whom. When the defendant in any chancery suit is without this territory, or is a non-resident, he may swear or affirm to his answer before any notary public, clerk of a court of record, or judge thereof, of any foreign state or territory.

SEC. 5. Proceedings in default of plaintiff or solicitor. If the complainant, or his solicitor, shall not attend at the time appointed for the hearing of his cause before the court, or before a master or commissioner in chancery for that purpose appointed, the court shall examine the bill, answer replication and proofs, and make such order or decree in the premises as the circumstances of the case and equity may require.

SEC. 6. Decree to bind real estate in a different county, where recorded. Where a decree in chancery is made in relation to any real estate lying in the same or in a different county from that wherein such decree was rendered, said decree or order, to operate as a lien, conveyance or release, upon such real estate, must be recorded in the office of the recorder of deeds in the county where the real estate shall be situated.

SEC. 7. Disobedience of injunction, attachment to issue; proceedings thereon. If any person against whom an injunction has issued shall, after its service, disobey the same, the district court, if in session, or a judge thereof in vacation, may issue an attachment against such person for a contempt; and upon being brought before the court or judge, unless he shall disprove or purge himself of the contempt, the court or judge may commit him to jail until the next sitting of the court thereafter, or take bail for his appearance in said court at the next term thereof, to answer for such contempt, and to abide the order of the court thereon.

SEC. 8. Repealing clause. That the sixteenth, twenty-eighth, twenty-ninth, thirtieth, thirty-third, forty-fifth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, eighty-fifth and ninety-first sections of the act to which this is amendatory, be and the same are hereby repealed.

Approved, 15th February, 1844.

[51] CHAPTER 28.

WRITS OF ERROR.

AN ACT to provide for and regulate writs of error coram nobis.

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

SECTION 1. Writ, within when to issue after rendition of judgment; when returnable; not to operate as supersedeas unless person suing out same shall file bond with security; penalty of, by whom approved, conditions of. That any party who shall feel himself aggrieved by the judgment of a district court, by reason of any error in fact, may, at any time within one year after the rendition of such judgment, obtain from the clerk of such district court a writ of error *coram nobis*, returnable to the next term thereafter of the said district court; but such writ of error shall not operate as a *supersedeas*, unless the party suing out the same shall give bond to the opposite party, with good security, and in a penalty to be approved by the said clerk, conditioned to prosecute said writ of error to effect, or to pay and satisfy the judgment which may be rendered in case the original judgment shall be affirmed.

SEC. 2. When plaintiff in error to make assignment; issue, how made up. The plaintiff in error shall file his assignment of errors on the first day of the term of said district court to which said writ of error is returnable,

and the issue upon such assignment of errors, shall be made up in accordance with such rules of practice as the said district court may establish.

SEC. 3. Notice to adverse party, when and how served; effect of notice; if sufficient notice not given and voluntary appearance not made, cause to be adjourned—if defendant in error is non-resident, may be brought in by publication—judgment and effect of. The party suing out such writ of error shall cause notice in writing to be served upon the adverse party or his attorney, of the suing out of the same, ten days before the next succeeding term of said district court; and if ten days shall have elapsed from the time of serving such notice and the first day of said term, the court shall proceed to try and determine the said cause, whether the defendant in error appear or not. If ten days do not intervene, the cause shall be continued to the next term of the court, unless the defendant in error shall enter a voluntary appearance. Whenever the defendant in error resides out of the territory, and has no attorney therein, publication of the pendency of such cause may be made according to such rules as the court may establish, and at the next term after such publication, such cause shall be tried in the same manner as if notice had been duly served; and in all cases of affirmance, when the original judgment shall have been superseded, judgment shall be rendered against the plaintiff in error for the amount of the original judgment, together with ten per centum damages, interest and costs.

Approved, 15th February, 1844.

[52] CHAPTER 29.

TERRITORIAL TAX.

AN ACT for assessing territorial tax, and for other purposes.

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

SECTION 1. Territorial tax, amount to be levied. That an annual territorial tax of one half mill shall be assessed on each dollar of the amount of taxable property returned by the several township or precinct assessors of the counties of this territory.

SEC. 2. Duty of clerk of board of county commissioners in relation thereto. That it shall be the duty of the several clerks of the boards of county commissioners to carry out the territorial tax, on the tax lists, in a separate column from the county tax; and the clerks of said boards of commissioners, for each county, shall, on or before the tenth day of December in each year, certify, under his hand, and transmit to the auditor of public accounts, by mail, the aggregate value of the taxable property of the county, as taken from the corrected valuation of the assessment rolls for that year, as corrected and equalized by the commissioners.

SEC. 3. Duty of county treasurer to collect same, his compensation therefor; to settle with the treasurer of the territory and take duplicate receipts; auditors' warrants to be taken for territorial taxes. That it shall be the duty of the county treasurer to collect the said territorial tax in money, and pay over the same, deducting five per cent. therefrom as his collecting fee, into the office of the territorial treasurer, taking duplicate receipts therefor from the treasurer of the territory, one of which he shall retain, and the other he shall deposit with the auditor of the territory: provided, that nothing here-

in contained, shall be so construed as to prohibit the county treasurer from taking auditor's warrants in payment of territorial tax.

SEC. 4. Delinquent list, when and by whom made out. That it shall be the duty of the county treasurer, on the first Monday of March, to make out a list of all persons who shall be delinquent, and return the same, verified by affidavit, to the clerk of the board of county commissioners.

SEC. 5. County treasurer, when and how to settle with the auditor and treasurer of the territory. The county treasurer shall, within thirty days thereafter, settle with the auditor and treasurer of the territory; and he shall deposit with the auditor of the territory, a copy of his delinquent list, certified by the clerk of the commissioners; and the auditor shall thereupon deliver to said treasurer a certificate of the amount to be [53] paid into the territorial treasury by him, which he shall pay in and take receipts therefor as hereinbefore directed.

SEC. 6. Auditor and treasurer not to shave territorial script, penalty for. The territorial auditor and treasurer, shall be, and they are, hereby prohibited from purchasing auditor's warrants, or any other evidence of debt against the territory, for any less sum than the face of such warrants or other evidence of debt, on pain of forfeiture of their respective offices.

SEC. 7. County treasurer not to purchase territorial obligations; penalty for; amount of and how recovered. That no county treasurer shall take or receive any evidence of debt against the territory, in any other way than in payment of territorial tax, and he is hereby prohibited from paying territorial money for any evidence of debt against said territory; and for any violation of the provisions of this section he shall forfeit and pay to the use of the territory any sum not exceeding five hundred dollars, to be recovered before any court having jurisdiction thereof.

SEC. 8. Mileage of county treasurer in making deposits, may transmit money and accounts at his own risk. The county treasurers shall receive five cents per mile for going to and returning from the seat of government, to make their annual settlement with the territorial treasury: provided, that if the territorial tax of any county does not amount to one hundred dollars, the treasurer shall not be allowed any mileage; and he shall have the privilege of transmitting his money and accounts by any safe conveyance he may select at his own risk.

SEC. 9. Repealing clause. That all acts or parts of acts that come within the purview of this act be and the same are hereby repealed.

SEC. 10. Time of taking effect. This act to take effect and be in force from and after the first day of June next.

Approved, 15th February, 1844.

CHAPTER 30.

CONVEYANCES.

AN ACT amendatory of an act entitled, "An act to regulate conveyances," approved February 16, 1843.

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

SECTION 1. How deed to be made and acknowledged by person out of the territory, to convey property within. That whenever the party executing a

deed or conveyance to property lying within this territory is himself without the territory, such deed may be acknowledged before any court of the United States or before the court of any state or territory having a seal, or the clerk of any such court, or before a notary public.

[54] **SEC. 2. Evidence, what to be competent, in relation to instruments conveying or affecting real estate.** The proof of the execution of any instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity shall be

First: By the testimony of a subscribing witness; or,

Second: When all the subscribing witnesses are dead, or cannot be had, by evidence of the hand writing of the party, and of at least one subscribing witness, given by at least two credible witnesses to each signature.

SEC. 3. Identity of subscribing witness, proof of. No proof by a subscribing witness shall be taken unless such witness shall be personally known to at least one judge of the court, or to the officer taking the proof, to be the person whose name is subscribed to the instrument as a witness thereto, or shall be proved to be such by at least two credible witnesses.

SEC. 4. Certificate of proof, when and under what restrictions granted. No certificate of such proof shall be granted unless such subscribing witness shall prove that the person whose name is subscribed thereto as a party is the person who executed the same, that such person executed the instrument, and that such witness subscribed his name thereto as a witness thereof.

SEC. 5. Repealing clause. The twelfth, thirteenth, fourteenth, and fortieth sections of the act of which this is amendatory, be and the same are hereby repealed.

Approved, 15th February, 1844.

CHAPTER 31.

MILITIA.

AN ACT amendatory of an act entitled, "An act to organize, discipline, and govern the militia of this territory," approved July 31, 1840.

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

SECTION 1. Repealing clause. That section three of title three; section fifteen of article second, title six; section seven of title eight; article first of an act entitled "An act to organize, discipline and govern the militia of this territory," approved July 31st, 1840, and so much of all acts or parts of acts which now require militia drills, musters, trainings, inspections or reviews, in time of peace, be and the same are hereby repealed.

SEC. 2. Assessor to return the names of those subject to duty; clerk to make abstract and return it to adjutant general. That it shall be the duty of assessors in the several counties in this territory, at the time they return their assessment rolls, to return to the clerk of the board of county commissioners the names of all able bodied males, between the ages of eighteen and forty-five [55] years, resident in each township or precinct in their respective counties; and it shall be the duty of said clerks to make out and return forthwith to the adjutant general of this territory complete abstracts of the number of such able bodied males, which abstracts the said adjutant general shall file and carefully preserve in his office.

SEC. 3. This act not to interfere with commander-in-chief. This act shall in no way interfere with the authority of the commander-in-chief, or any other officer, in calling out the militia, or any portion thereof, whenever, in their opinion, the public safety may require it.

SEC. 4. Adjutant general, his compensation. The adjutant general shall receive for his services one hundred dollars per annum.

Approved, 15th February, 1844.

CHAPTER 32.

SHERIFFS' DEEDS.

AN ACT to authorize sheriffs to make and execute deeds for land sold on execution under the redemption law.

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

SECTION 1. Sheriff required to make deeds for land sold under the execution laws, repealed by the act which took effect 20th February, 1843; provided said land shall not have been redeemed. That the sheriffs of each and every organized county in this territory be and they are hereby authorized and required to make and execute a good and sufficient deed to the purchaser of any real estate at sheriff's sale, under the law subjecting real and personal estate to execution, repealed by an act of the legislative assembly which took effect the 20th day of February, 1843: provided, said real estate shall not have been redeemed in accordance with said redemption law: and provided further, that the sale of said real estate shall have been in strict accordance with said redemption law.

SEC. 2. Upon return of certificate sheriff to make deed. That any person holding a sheriff's certificate for land sold by virtue of the last mentioned law, (the same not having been redeemed,) may present the same to the proper sheriff in the county where such real estate is situated; and the said sheriff shall thereupon make out and deliver a deed to the holder of said certificate, in accordance with the law under which the same was sold, the same as though said law had never been repealed.

SEC. 3. Sheriffs and coroners required to make deeds in certain cases. The sheriffs and coroners, as the case may be of the several counties in this territory, be and they are hereby authorized and required to make and execute good and sufficient deeds to the purchasers of any real estate at sheriff's or coroner's sale, under the law [56] subjecting real and personal estate to execution now in force in this territory.

SEC. 4. Time of taking effect. This act shall be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 33.

SHERIFFS.

AN ACT amendatory of the several acts regulating the election and duties of sheriffs.

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

SECTION 1. Time of election. That an election for sheriff shall take place on the first Monday in August next, and on the same day every second year thereafter.

SEC. 2. Limitation of terms. That from and after the passage of this act no person shall be eligible to the office of sheriff for more than two successive terms in six years.

SEC. 3. Vacancy, how filled. That if a vacancy shall happen in the office of sheriff between general elections, by death, resignation or otherwise, such vacancy shall be filled by special election; and the clerk of the county commissioners' court, on being informed of such vacancy, shall order an election and give notice of the same as in case of special elections.

SEC. 4. Repealing clause. That so much of the acts to which this is an amendment as is inconsistent with the provisions of this act are hereby repealed.

SEC. 5. Time of taking effect. This act shall take effect from and after its passage.

Approved, 15th February, 1844.

CHAPTER 34.

MILITIA.

AN ACT to amend the militia law so as to form a fourth division.

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

SECTION 1. Certain counties to form fourth division. That the counties of Davis, Appanoose, [57] Wapello, Kiskekosh, Keokuk, Mahaska, and Poweshiek, shall form the fourth division of the militia of this territory.

SEC. 2. Counties forming first and second brigades. That said division shall be divided into brigades as follows, to wit: the counties of Davis, Appanoose, Wapello and Kiskekosh shall form the first brigade, and the counties of Keokuk, Mahaska and Poweshiek, shall form the second brigade.

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

Approved, 15th February, 1844.

CHAPTER 35.

CORONERS.

AN ACT to amend an act entitled, "An act relative to coroners and their duties," approved December 23, 1839.

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

SECTION 1. In case of absence or disability of coroner to serve process, clerk to appoint some suitable person. That whenever there shall be a vacancy in the office of coroner, in any county in this territory, or whenever any coroner shall be absent, or from any cause unable to serve process, properly directed to him, it shall be lawful for the clerk of the proper district to appoint some suitable person to serve the same, in like manner as he is authorized to do by the provisions of the fourth section of the act to which this is an amendment, in all cases where there is no coroner.

Approved, 15th February, 1844.

CHAPTER 36.

REPEALING LAW.

AN ACT to repeal certain acts herein named.

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

SECTION 1. Repeals certain acts. That an act entitled, "An act to amend an act entitled An act to allow and regulate the action of right and the action of ejectment," approved 16th February, 1843; an act entitled, [58] "An act to prevent damage by the firing of prairies," approved February 16th, 1843; an act entitled "An act regulating the issuing of writs of *ne exeat* and injunctions" approved January 25th, 1839, and "An act confirming grants of property made for the encouragement of education, and for other purposes," approved January 15th, 1839, be and the same are hereby repealed.

SEC. 2. Not to interfere with rights accrued or proceedings now pending. The repeal of the foregoing acts shall not affect any act done, or right accrued, or any proceeding, suit or prosecution, had or commenced previous to the passage hereof; but every such right shall be as valid, and every such suit, prosecution or proceedings, prosecuted, adjudged and determined, as though this act had not passed.

SEC. 3. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 37.

ORGANIZATION OF THE LEGISLATURE.

AN ACT to amend an act entitled, "An act to provide for the annual organization of the Council and House of Representatives of the territory of Iowa," approved 6th January, 1840.

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

SECTION 1. The first and sixth sections of the act approved 6th January 1840, repealed. That the first and sixth sections of the above named act be and the same is [are] hereby repealed.

SEC. 2. Some member of the respective houses to call to order and appoint a presiding officer and clerk. That it shall be the duty of some one of the members present at the time and place of the annual meetings of the legislature, at 12 o'clock, meridian, to call to order their respective houses, and to appoint a presiding officer, and chief clerk or secretary, (as the case may be,) for the time being, who shall proceed to organize in all other respects as is provided for in the act to which this is an amendment.

Approved, 15th February, 1844.

[59] CHAPTER 38.

TOWN PLATS.

AN ACT to authorize the boards of county commissioners to vacate town plats.

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

SECTION 1. County commissioners to have power to vacate town plats, upon petition of owners; not to interfere with the rights of third persons—copy of order of vacation to be certified and recorded; when and by whom. That the several boards of county commissioners be and they are hereby empowered to vacate the plat of the survey of any town lots, or out lots, in their respective counties, upon the petition of the owner or owners thereof: provided, that the vested rights of third persons shall not be thereby impaired, unless their consent shall be obtained thereto: and provided further, that a certified copy of the order of such board of county commissioners, vacating said town lots or out lots, shall be recorded in the recorder's office of the proper county within thirty days after the same shall have been made.

Approved, 15th February, 1844.

CHAPTER 39.

PUBLIC PRINTING.

AN ACT to amend an act entitled "An act establishing the prices of public printing," approved February 2, 1843.

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

SECTION 1. The sixth section of the act of February 2d, 1843, repealed. That the sixth section of the above named act be and the same is hereby repealed.

SEC. 2. Time of taking effect. This act shall take effect and be in force from and after the 15th of June next.

Approved, 15th February, 1844.

[60] CHAPTER 40.

COSTS AND FEES.

AN ACT to amend an act entitled "An act concerning costs and fees."

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

SECTION 1. Repeal of 17th section of the act concerning costs and fees. That the seventeenth section of an act entitled "An act concerning costs and fees" be and the same is hereby repealed.

SEC. 2. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 41.

APPROPRIATION BILL.

AN ACT to provide for the compensation of members and officers of both houses of the present session, and for other purposes.

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

[61] SECTION 1. **Pay and mileage of members of council.** That the following sums be and they 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, three thousand two hundred and thirteen dollars and ninety cents.

SEC. 2. **Officers of council, pay of.** For pay of the officers of the council eleven hundred and thirteen dollars.

SEC. 3. **Pay and mileage of members of the house of representatives; pay to officers of H. R.** For pay and mileage of the members of the house of representatives, six thousand four hundred and eleven dollars and seventy-five cents; for pay of the officers of the house of representatives, eleven hundred and ten dollars.

SEC. 4. **Extra to president of council.** For extra pay to the president of the council one hundred and eleven dollars.

SEC. 5. **Extra to president of council pro tem.** For extra pay to the president *pro tem.* of the council, one hundred and fourteen dollars.

SEC. 6. **Extra pay to the speaker of house of representatives.** For extra pay to the speaker of the house of representatives, two hundred and twenty-five dollars.

SEC. 7. **Postage for house of representatives.** To S. C. Trowbridge, for postage on letters, papers, documents, etc., for the house of representatives, the sum of three hundred and sixty-six dollars and sixty-seven and three-fourths cents.

SEC. 8. **Postage for council.** For postage on letters, papers, documents, etc., for the council, the sum of one hundred and ninety-one dollars and twenty-three cents.

SEC. 9. **Hughes & Williams, for printing for house of representatives.** To Hughes & Williams, for printing, as per bill rendered, the sum of eight hundred and ninety-four dollars and twenty cents, for the house of representatives.

SEC. 10. **Hughes & Williams, for printing for council.** To Hughes & Williams, printing, as per bill rendered, for the council.

SEC. 11. **William Crum, for printing for council.** To William Crum, for printing as per bill rendered, for the council, seven hundred and forty-eight dollars and fifty cents.

SEC. 12. **William Crum, for printing for house of representatives.** To William Crum, for printing, as per bill rendered, for the house of representatives, thirty-six dollars.

SEC. 13. **Allowance to Jones & Powell, for articles furnished secretary of territory.** To Jones and Powell, for articles furnished S. J. Burr, secretary of the territory, for the legislative assembly of Iowa territory, four hundred and seven dollars and thirty cents.

SEC. 14. **Allowance to Bridgman Brothers.** To Bridgman & Brothers, for articles furnished the legislative assembly, as per bill rendered, two hundred and forty-three dollars and twenty-five cents.

SEC. 15. **Allowance to William Sheets.** To William Sheets, for articles furnished the legislative assembly, as per bill rendered, three hundred and thirty dollars and fifty cents.

SEC. 16. **Allowance to J. G. Edwards, for newspapers.** To James G. Edwards, editor of the Hawkeye, for newspapers furnished, as per bill rendered, thirteen dollars.

SEC. 17. **Allowance to James Clarke, for newspapers.** To James Clarke, editor of the Territorial Gazette, for newspapers furnished, as per bill rendered, seventeen dollars.

SEC. 18. **Allowance to Alfred Sanders, for newspapers.** To Alfred Sanders, editor of the Davenport Gazette, for newspapers furnished, as per bill rendered, eight dollars.

SEC. 19. **Allowance to Shepard & Mitchell, for newspapers.** To Shepard & Mitchell, editors of the Iowa Democrat, for newspapers furnished, as per bill rendered, seven dollars.

[62] SEC. 20. **Allowance to R. W. Albright for newspapers.** To R. W. Albright, editor of the Lee County Democrat, for newspapers furnished, as per bill rendered, twelve dollars.

SEC. 21. **Allowance to Houghton & Wharton, for newspapers.** To Houghton & Wharton, editors of the DuBuque Transcript, for newspapers furnished, as per bill rendered, six dollars.

SEC. 22. **Wilson & Keesecker, for newspapers.** To Wilson & Keesecker, editors of the Miners' Express, for newspapers furnished, as per bill rendered, the sum of nineteen dollars.

SEC. 23. **J. B. Russell, for newspapers.** To John B. Russell, editor of the Bloomington Herald, for newspapers furnished, as per bill rendered, the sum of sixteen dollars.

SEC. 24. **W. L. Gilbert, for administering oath to members of house of representatives.** To William L. Gilbert, (notary public,) for administering official oaths to the several members of the house of representatives, the sum of three dollars.

SEC. 25. **J. G. McDonald, sergeant-at-arms, pro tem.** To John G. McDonald, for services rendered as sergeant-at-arms, *pro tem.*, three days, the sum of nine dollars, as per resolution.

SEC. 26. **John Lorton, messenger pro tem.** To John Lorton, for services as messenger for three days, nine dollars, as per resolution.

SEC. 27. **Peter Conboy, for cutting wood.** To Peter Conboy, for cutting wood and making fires, the sum of twelve dollars, as per resolution.

SEC. 28. **S. E. McArthur.** To S. E. McArthur, for two cords of wood for library, as per bill rendered, four dollars.

SEC. 29. **Extra to S. C. Trowbridge, for postage.** To extra pay to S. C. Trowbridge, for postage paid for session of 1842-3, the sum of four dollars and eighty cents.

SEC. 30. **N. H. White, for paste.** To N. H. White, for paste furnished the house of representatives, the sum of one dollar.

SEC. 31. **To secretary of territory, for trip to St. Louis for specie.** To the secretary of the territory for going to St. Louis, and expenses in transporting specie from there to this city, eighty-five dollars; and for team hire for that purpose, fifty-nine dollars and fifty cents.

SEC. 32. B. F. Wallace & Joseph T. Fales, for superintendence of printing of journals. To B. F. Wallace and Joseph T. Fales, each, the sum of three hundred dollars, for indexing, superintending the printing of the journal of the council of the present session and distributing the same.

SEC. 33. To S. J. Burr for superintending, indexing and distributing, the laws of 1843-4. To S. J. Burr, secretary of the territory, the sum of five hundred dollars, for supervising, indexing and distributing, the laws of the session of 1843 and 1844.

Approved, 16th February, 1844.

CHAPTER 42.

NEW JUDICIAL DISTRICT.

AN ACT to form a fourth judicial district.

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

SECTION 1. District to be created if congress pass a law to appoint additional judge; counties to compose 4th judicial district. That if congress should pass a law grant- [63] ing to this territory an additional judge or justice of the supreme court of said territory, then, and in that case, the counties of Jefferson, Davis, Wapello, Keokuk and Mahaska, shall constitute the fourth judicial district of this territory.

SEC. 2. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 43.

IMMORAL PRACTICES.

AN ACT for the prevention of certain immoral practices.

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

SECTION 1. Fine for engaging in common labor, fishing, shooting, etc. on the Sabbath day. That if any person of the age of fourteen years or upwards, shall be found on the first day of the week, commonly called Sunday, rioting, quarreling, fishing, shooting, or at common labor, (works of necessity and charity only excepted,) he or they shall be fined in any sum not exceeding five dollars: provided, nothing herein contained shall be so construed as to extend to those who conscientiously do observe the seventh day of the week as the Sabbath, nor to prevent persons from traveling, watermen from landing their passengers or freight, or ferrymen from conveying any person over the waters on such day.

SEC. 2. Fine for selling intoxicating liquors on the Sabbath, except to be used as a medicine. That if any grocery keeper or other person shall sell or barter any spirituous liquors on the first day of the week, commonly called Sunday, (except prescribed by physicians, or if such grocery keeper or other

person shall know that such spirituous liquors are wanted to be used as medicine,) such grocery keeper, or other person so offending shall be fined in any sum not exceeding five dollars.

SEC. 3. Fine for swearing within hearing of any religious assemblage. That if any person of the age of fourteen years and upwards shall profanely curse or damn, or profanely swear by the name of God, Jesus Christ, or the Holy Ghost, in any court of justice, or within hearing of any religious assemblage, each and every person so offending shall be fined in any sum not exceeding one dollar, nor less than twenty-five cents for each offense.

SEC. 4. Fines, how collected and to what applied; limitation of suits, etc. That all fines accruing under the provisions of this act, shall be collected in the name of the United States, as in other cases of a breach of the peace, and be paid into the township treasury for the use of common schools in the township in which the offense shall have been committed, (excepting in such counties as have not been organized into townships;) in which case the fine aforesaid shall be paid over to [64] the county treasurer for the use aforesaid, within thirty days after collected; and if any officer fail to pay over such fine by him collected, agreeably to the provisions of this act, such officer shall, for any such neglect, forfeit and pay into the treasury aforesaid double the amount of any such fine or fines by him collected, to be collected in a summary way before any justice of the peace having cognizance of the same, at the suit of the township or county treasurer, as the case may be: provided, that all prosecutions under the provisions of this act shall be commenced within ten days after the offense is committed, except prosecutions against justices of the peace for not paying over any fine or fines as aforesaid.

Approved 10th February, 1843.

[The foregoing entitled act is reprinted by order of the legislative assembly, per joint resolution number 16 of session 1843-4.

CHAPTER 44.

ASPEN GROVE CEMETERY.

AN ACT to incorporate the Aspen Grove Cemetery Association.

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

SECTION 1. Organization of, name and style of, general powers of, limitation of real estate, object of incorporation. That Abiathar White, Arthur Bridgman, George Temple, John Johnson, Levi Hager, and their associates, be and they are hereby created and declared a body corporate and politic, with perpetual succession, by the name and style of "The Aspen Grove Cemetery Association;" and by that name may sue and be sued in any court of law or equity in this territory; may hold, enjoy and convey, real estate, not exceeding fifty acres, and make, ordain and establish, such by-laws, rules and regulations, for the conveyance and disposition of their real estate, interment of the dead, and for the embellishing and adornment of the grounds and lots belonging to said association, as a majority of the stockholders, at their first meeting, and from time to time may deem fit.

SEC. 2. First meeting, when held; acceptance of charter, when and how determined. That it shall be the duty of the persons, or a majority of them, above named, to call a meeting of the stockholders within sixty days from

the passage of this act; at which meeting, it shall be determined by a vote, and entered upon the minutes of said association, whether or not they will accept this charter.

SEC. 3. Description of land to be filed with recorder of Des Moines Co.; when and by whom. That if this charter is accepted by said association, it [65] shall be their duty to file with the recorder of Des Moines county, within thirty days, after such acceptance, a description of the land selected by said association for burial purposes; which said land, when so selected and conveyed to said association, and all real estate, owned or used, or to be owned or used, and all personal property used or to be used by said association for burial purposes, and all real estate conveyed by said association, or under and by their direction, to any individual stockholder for the purposes aforesaid, shall be and hereby is declared forever exempt and free from all taxation by any person or body politic, and exempt from attachment, levy and sale, upon any execution at the suit of any person or persons whatever.

SEC. 4. Property held or conveyed for burial purposes, to be free from taxation and all judicial process; plat to be filed with recorder, when; how grants of burial lots to be construed; exemption as aforesaid. That as soon as may be after a burial ground shall have been selected by said association, it shall be their duty to file and enter for record, with the recorder of said county, a plat of the ground and lots as surveyed; and all burial lots included in said grounds, conveyed by any person having the title thereto, to any stockholder in said association, shall be deemed and taken to be within this act, and shall be forever free from taxation, attachment, levy and sale, as aforesaid.

Approved, 18th December, 1843.

CHAPTER 45.

ROAD.

AN ACT to locate a territorial road, from Farmington, in Van Buren county, to Autumwa, in Wapello county.

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

SECTION 1. Commissioners, appointment of; road to commence at Farmington, Van Buren county; route of. That John Godard and Jesse Wright, of Van Buren county, and Van Caldwell, of Wapello county, be and they are hereby appointed commissioners to locate and mark a territorial road, commencing at Farmington, in Van Buren county; thence, via Hartford and Green's mill, in said county, Woods' mill, in Davis county, to Autumwa, in Wapello county.

SEC. 2. Commissioners, when and where to meet. Said commissioners, or a majority of them, shall meet at Farmington, in Van Buren county, on the first Tuesday in April next, or at some convenient time within three months thereafter, and proceed to locate and mark said road as above designated.

SEC. 3. Commissioners, how to proceed; commissioners and others, how paid. Said commissioners shall, in locating said road, take into consideration the interests of the citizens on said road, as well as the general good of the public, in locating said road; and for their services, together with the hands employed in locating said road, the compensation [66] allowed by law for their services, to be allowed and paid out of the county treasury of each county through which said road passes, in proportion to the length of said road.

Approved, 19th December, 1843.

CHAPTER 46.

FERRY.

AN ACT to authorize Daniel C. Davis, his heirs and assigns, to establish and keep a ferry across the Mississippi river, at the town of Montrose, in Lee county.

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

SECTION 1. Ferry to be kept at Montrose; duration of term, place of landing, when to be put in operation, duty of company; not to interfere with rights of others. That Daniel C. Davis, his heirs and assigns, of the county of Lee, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Montrose, for the term of ten years, with exclusive privileges, for one mile and a half above and one mile and a half below the mouth of the slough at Rogers' brick yard, on said river: provided, the said Daniel C. Davis, his heirs and assigns, shall, within twelve months from the passage of this act, procure a good and sufficient horse boat to be propelled by either four or six horses, with a sufficient number of hands to work the same, for the safe transportation of all persons and their property across said river when practicable without delay: provided, that the said ferry, when so established, shall not interfere with the rights and privileges of any person or persons, or the property of the United States.

SEC. 2. Flat boat to be kept where. That it shall be the duty of the said Daniel C. Davis, his heirs and assigns, until said horse boat shall be procured, to keep constantly on hand a sufficient number of flat boats for the purposes specified in the first section of this act.

SEC. 3. Ferry, how regulated, rates of toll. That said ferry, when so established, shall be subject to the same rules and regulations as other ferries are or may be by law, fixing the rates of toll and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 4. Repealing power reserved; time of taking effect. This act may be altered or amended by any future legislature, and shall take effect and be in force from and after its passage.

Approved, 4th January, 1844.

[67] CHAPTER 47.

ISAAC PARSONS, CORONER.

AN ACT to legalize the acts of Isaac Parsons, coroner of Louisa county, and also an acting justice of the peace of Jefferson township, in said county.

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

SECTION 1. His acts as coroner and justice declared valid; exempt from the effect of the tenth section of the act of Feb. 9th, 1843. That the official acts and proceedings of Isaac Parsons, coroner of Louisa county, and also an acting justice of the peace in and for the township of Jefferson, in said county, are hereby declared to be legal and valid; and the 10th section of the act to provide for the election of justices of the peace, to prescribe their powers and duties, and to regulate their proceedings, approved February 9th, 1843, shall not extend or apply to him during the term for which he has been elected to

either of said offices; but all his official acts and proceedings, both as coroner and justice of the peace, shall be as legal and valid, during the term for which he has been elected to either of said offices, as if the 10th section of said act had not become a law: provided, always, that nothing in this act shall be so construed as to legalize any act or acts of said Isaac Parsons, which would have been illegal had the aforesaid section not been enacted.

SEC. 2. Time of taking effect. This act to take effect from and after its passage.

Approved, 4th January, 1844.

CHAPTER 48.

FERRY CHARTER.

AN ACT to amend an act entitled "An act to authorize Thomas McCraney and James Churchman to keep a ferry across the Mississippi river at or near the upper end of the city of Dubuque," approved February 13, 1843.

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

SECTION 1. Part of act of February 13th, 1843, repealed and time extended. That so much of the above named act as requires Thomas McCraney and James Churchman to put said ferry into operation by the first day of April, 1843, is hereby repealed; and that said Thomas McCraney and James Churchman be and they are hereby authorized and required to comply with the requisitions of said act by the first day of June next.

[68] **SEC. 2. Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 5th January, 1844.

CHAPTER 49.

ROAD.

AN ACT to establish and locate a road from the lower end of Water street, in the city of Burlington, to David B. Anderson's mill.

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

SECTION 1. Commissioners, appointment of, route of road. That John Moore, George Spear and Martin Brown, of the county of Des Moines, be and they are hereby appointed commissioners to locate and establish a road, commencing at the lower end of the city of Burlington, in Des Moines county, and running thence on the nearest and best route to David B. Anderson's steam mill, on the Mississippi river.

SEC. 2. Commissioners, where and when to meet, duty of. That the said commissioners, or a majority of them, shall meet at the steam grist mill of David B. Anderson, on the first Monday of March next, or as soon thereafter as convenient, and proceed to lay out and establish said road, according to the provisions of an act to establish territorial roads.

SEC. 3. Commissioners, how paid. That the commissioners, chain carriers and other hands employed to locate said road, as herein prescribed, shall receive such compensation for their services as may be allowed by the board of county commissioners of Des Moines county.

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

Approved, 17th January, 1844.

CHAPTER 50.

AARON STREET, ADMINISTRATOR.

AN ACT to authorize Aaron Street, Jr., as administrator of Peter Boyer, deceased, to make a title to certain real estate in and near Salem, in Henry county.

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

[69] **SECTION 1. As administrator to make certain deeds, under direction of the judge of probate—not to make deed when right to property disputed.** That Aaron Street, jr. administrator of the estate of Peter Boyer, deceased, of the town of Salem, in Henry county, is hereby empowered to make and execute good and sufficient deeds in fee simple, for such town lots in the town of Salem aforesaid, and such other tract or tracts of land in the vicinity of Salem, as was sold by said Peter Boyer before his decease, without his making deeds therefor to the respective persons now entitled to the same, under the order and direction of the judge of probate of said county: provided, that this act shall not extend to cases where there is any dispute about the rights of different persons to the title of said lots or tracts, of land.

SEC. 2. Time of taking effect. This act to be in force from and after its passage.

Approved, 17th January, 1844.

CHAPTER 51.

RACHAEL HAMILTON.

AN ACT to authorize Rachael Hamilton, administratrix of the estate of James Hamilton, deceased, to sell and convey certain real property therein named.

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

SECTION 1. Authorized as administratrix to sell and convey real estate. That Rachael Hamilton, administratrix of James Hamilton, deceased, is hereby authorized, either at private or public sale, to sell and convey the following described real property, of which James Hamilton, deceased, late of Lee county, died seized, to wit: The west half of the southeast quarter of section four, the north half of the west half of the northeast quarter of section seventeen, the southeast quarter of the southwest quarter of section eight, and the south half of the west half of the southeast quarter of section eight, all in township sixty-nine north of range five west, containing two hundred acres.

SEC. 2. To execute a deed to convey the rights of the heirs of James Hamilton. That upon the sale of the property aforesaid, said Rachael Hamilton shall make and execute to the purchaser or purchasers a good and sufficient deed in fee simple for the said property, which said deed shall convey all the interest, right and title, of the heirs of said James Hamilton to the said property, to the purchaser or purchasers.

SEC. 3. Proceeds of sale to be accounted for to the judge of probate within 20 days. That the proceeds of the sale of the property aforesaid shall be accounted for to the judge of probate of the proper county by the said Rachael Hamilton, as assets of said estate, within twenty days after said sale.

[70] **SEC. 4. Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 17th January, 1844.

CHAPTER 52.

FERRY.

AN ACT to authorize David B. Anderson and Henry C. Anderson to keep a ferry across the Mississippi river, opposite the lower end of Burlington.

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

SECTION 1. Privilege of ferriage within certain limits. Duration of term 10 years; not to interfere with any existing rights enacted by the act approved 19th January, 1838. That David B. Anderson and Henry C. Anderson, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, opposite the lower end of Burlington, departing from the west bank of said river at any point below Washington street not exceeding one mile, to the east bank of the Mississippi river, in the state of Illinois, with the exclusive privilege within the above limits, for the term of ten years from and after the passage of this act: provided, that the said ferry, when so established, shall be subject to the same rules and regulations, and under the same restrictions, as other ferries are or may hereafter be by the laws of this territory fixing the rates of ferriage, and prescribing the manner in which licensed ferries shall be kept and regulated: provided further, that nothing herein contained shall be so construed as to impair, interfere with, or in any way affect, any right or rights now existing by virtue of an act entitled "An act to establish ferries across the Mississippi river, opposite the town of Burlington, in Des Moines county," approved January 19th, 1838.

SEC. 2. Right of purchase at appraisement reserved to city of Burlington; appraisers, how selected. If, at any time after the passage of this act, the corporation of the city of Burlington desires to procure, own and control, franchises and rights hereby conferred and granted, they shall select one appraiser, the said David B. Anderson and Henry C. Anderson, their heirs and assigns, another, and those two another appraiser, who shall appraise the value of any boats, tackle, or other machinery, which may be used and required for propelling said boat at their true cash value at the time of appraisement; and upon the payment of such appraisement to David B. Anderson and Henry C. Anderson, their heirs and assigns, all the rights, privileges and franchises, granted by this act, together with the boat or boats, tackle and apparatus aforesaid, shall vest absolutely in the city of Burlington; and said ferry and fer-[71]-ry privilege and franchise shall ever after be owned and controlled by said city of Burlington.

SEC. 3. **Upon failure of Anderson to select, city may select all.** If the said David B. Anderson and Henry C. Anderson, their heirs and assigns, shall fail to select an appraiser as aforesaid, when notified so to do, the said city shall select all of said appraisers.

SEC. 4. **Ferry to go into operation within 9 months.** That the said David B. Anderson and Henry C. Anderson, their heirs and assigns, shall, on or before the expiration of nine months from and after the passage of this act, procure and constantly keep for said ferry a good and sufficient horse boat, or other sufficient water craft, with a suitable number of hands, to carry all persons and their property across said river, when passable, without delay.

SEC. 5. This act to take effect and be in force from and after its passage.
Approved, 19th January, 1844.

CHAPTER 53.

W. B. PECK AND A. M. PECK.

AN ACT to change the name of William B. Peck and Ann M. Peck.

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

SECTION 1. **William B. Peck changed to William F. Telford, change not to affect right or liabilities.** That the name of William B. Peck, of Lee county, in said territory, be and the same is hereby changed to William Frederick Telford, and that he shall hereafter be known and called by the name of William Frederick Telford: provided, that such change of name shall in no way affect the collection of debts owing to, or due from, the said William B. Peck, or in any way affect his legal rights or liabilities.

SEC. 2. **A. M. P. changed to A. M. Telford.** That the name of Ann M. Peck, wife of the said William B. Peck, be and the same is hereby changed to Ann M. Telford, and that she shall hereafter be known and called by the name of Ann M. Telford, which shall be her lawful name.

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

Approved, 19th January, 1844.

[72] CHAPTER 54.

MECHANICS' INSTITUTE.

AN ACT to incorporate the Burlington Mechanics' Institute.

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

SECTION 1. **Organization of, name and style of; general powers of.** That George Temple, James McKell, Silas A. Hudson, Anthony W. Carpenter, Morgan Evans, John L. Crose, Jacob K. Field, and their associates and successors, be and they are hereby declared to be a body politic and corporate, by the name and style of "The Burlington Mechanics' Institute," and by that name may sue and be sued, may have a common seal, shall have contin-

ual succession, and may purchase, take by gift or devise, hold, enjoy, dispose of, sell and convey, any estate, real, personal or mixed, for the use and benefit of said institute.

SEC. 2. Objects of. The objects of said institute are declared to be to improve the members thereof in literature, the sciences, arts and morals; for the establishment of a library, reading room, cabinets of geological, mineralogical, botanical, and other specimens; to endow and support a school for the education of the children of indigent mechanics and others, and to advance the social, intellectual and moral condition, of its members generally.

SEC. 3. Certain articles of property exempt from taxation and execution. The library and books, maps, instruments, models, scientific apparatus, museums, cabinets and furniture of said institute, shall be forever free from taxation by any law of this territory; nor shall the same be taken upon execution or held liable for the debt of any individual member of said institute.

SEC. 4. To be governed by their own rules and by-laws. The institute shall be governed by the constitution, by-laws and regulations, already established, but shall have power to alter and amend the same as provided for in its constitution, not incompatible with the laws of the United States and of this territory.

SEC. 5. How company to be proceeded against for violation of charter; charter, when forfeited. Whenever any person shall feel himself aggrieved by any violation of this charter by the corporators, he may file his complaint setting out such violation with the clerk of the district court of Des Moines county, who shall forthwith issue a *scira facias* against such corporation, returnable to the next term of the court thereafter, which process shall be served as is process in other suits against corporations; and if, upon the hearing of said complaint, a violation of this charter shall be found, the court shall adjudge and decree it to be forfeited.

SEC. 6. Suit by whom prosecuted and at whose expense. In case of such complaint or information being filed, it shall be prosecuted by the district attorney of said county, and at the expense of the county if a forfeiture shall be declared; but if the [73] court is satisfied that the complaint was wantonly or maliciously filed, the complainant shall be declared to pay all costs.

SEC. 7. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 25th January, 1844.

CHAPTER 55.

THOMAS SUMMERLIN.

AN ACT for the relief of Thomas Summerlin, collector for Van Buren county.

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

SECTION 1. Board commissioners to allow him further time to make return of tax list for 1843; limitation. That the board of county commissioners of Van Buren county be and they are hereby authorized to allow Thomas Summerlin, of said county of Van Buren, such time as they may deem reasonable for said collector to make a return of the tax list of said county, placed in his hands for collection, for the year 1843: provided, that said time shall not be extended beyond the first day of January, 1845.

SEC. 2. Board may postpone sale of lands on delinquent list of 1843; limitation. That said board of commissioners may, in their discretion, postpone the sales of any lands or town lots in said county, which, under the existing laws of this territory, may be subject to sale for delinquent taxes accruing for the year 1843, to such time as they may deem proper, provided such postponement does not extend beyond the first Monday of December, 1844.

SEC. 3. Not to release collector from obligation of bond. That nothing herein contained shall be so construed as to release the said collector, or his securities, from the obligation of the bond filed by him for the faithful performance of his duties as such collector.

SEC. 4. If time extended collector may distrain for taxes of 1843; limitation. That said collector, provided said board of commissioners extend the time for collecting the taxes of said county as herein allowed, shall have full power to collect, by distress or otherwise, the amount of all unpaid taxes for the year 1843, up to the time allowed him by the said board of commissioners: provided, the time so allowed does not extend beyond the first day of January, 1845, as aforesaid.

SEC. 5. Board to fix day of tax sale, notice to be given by collector, sale and effect of. That the board of commissioners of said county shall fix a day for the sale of all lands and town lots on which the taxes for the year 1843 may remain due and unpaid; and the said collector shall give the same notice for the sale thereof, and conduct the sale of the same in the [74] same manner that is now required by law; and the sale so made shall be as legal and valid as though the same had been held on the day provided by the existing law.

SEC. 6. Time of taking effect. This act to be in force from and after its passage.

Approved, 25th January, 1844.

CHAPTER 56.

LEGALIZING ACT.

AN ACT to legalize the acts of John A. Drake and Samuel B. Ayres, acting justices of the peace.

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

SECTION 1. Appointment of Drake and Ayres, and their acts as justices of the peace declared valid. That the appointment of John A. Drake and Samuel B. Ayres, to the office of justice of the peace in the county of Lee, in Fort Madison and West Point townships, by the board of county commissioners of said county, is hereby made good and valid; and that all acts had and done by the said John A. Drake and Samuel B. Ayres, as justices of the peace, by reason of said appointment, as if they had been elected and duly qualified as provided for by law providing for the election of justices of the peace.

SEC. 2. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 25th January, 1844.

CHAPTER 57.

. ROAD.

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

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

SECTION 1. **Commissioners to locate road; where to commence and route of.** That Thomas Stoddard and Merit Jamison, of Louisa county, and James Bridges, of Des Moines county, be and they are hereby appointed commissioners to locate and mark a terri- [75] torial road, commencing at Wapello, in Louisa county; thence running in a south direction to the N. E. corner of N. W. quarter of section 32, township 73 N., range 3 west; thence to Buffalo Springs; thence on the east side of Linn Grove, via Archer's Point, to Augusta, in Des Moines county.

SEC. 2. **Commissioners where and when to meet; how to proceed in discharge of duties, counties of Louisa and Des Moines not bear any part of expenses.** That said commissioners, or a majority of them, shall meet at Wapello on the second Monday of April next, or as soon thereafter as convenient, and shall proceed to locate said road according to the provisions of an act to provide for laying out and opening territorial roads, approved December 29th, 1838; provided, that the counties of Louisa and Des Moines shall not be charged with any of the expenses for locating and marking the road aforesaid.

Approved, 27th January, 1844.

CHAPTER 58.

BURLINGTON UNIVERSITY.

AN ACT to incorporate the Burlington University.

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

SECTION 1. **To be located at Yellow Springs; object of, name and style of.** That there be erected and established at Yellow Springs, in the county of Des Moines, a college for the purpose of educating youth, to be called and known by the name of "Burlington University," which shall be under the government and regulation of a body politic and corporate as hereafter in this act is provided.

SEC. 2. **Board of regents, number of; first board.** That the corporate powers shall be and are hereby vested in a board of regents, to consist of a number not less than five nor more than seven, and that the president of the college shall *ex-officio* be a member and chairman of said board, which board shall have power from time to time to fill all vacancies in their bodies; and that E. Carter Hutchinson, John Withers, Edward Berry, George W. Sill and John A. Harrison, shall be the first members of said board.

SEC. 3. **General powers of, how used and exercised; quorum.** That the said board of regents, and their successors forever, shall have full power and authority to appoint all such officers and servants as they shall judge convenient and useful, to displace the same, and to declare the tenures, duties

and emoluments, of their respective offices; to remove a regent for any cause which a majority of the whole number may deem sufficient; to define the qualifications of a regent; to enact and enforce by reasonable penalties or otherwise all such statutes and ordinances as they shall deem expedient, as well for [76] the better management of the revenues and proprietary interests of the college, as for the advancement of science, learning and piety, so that the same be not repugnant to the laws of the land; to establish different departments; to confer degrees and distinguish merit by such literary honors and rewards as they may judge proper, and generally to possess and enjoy all those powers, rights and privileges, usually exercised by universities: provided, that no corporate business shall be transacted at any meeting unless three members are present, which number shall be a quorum.

SEC. 4. Seal, contracts how made. That said corporation shall have a common seal, with some distinctive device and inscription; and all deeds or other instruments signed and delivered by the president of the college, and sealed with said common seal, by order of the board, shall be in law the act of said corporation. Said corporation may contract and be contracted with, and may sue and be sued by said corporate name, in all actions, real, personal or mixed; may receive and hold by gift, grant, devise or otherwise, any lands, tenements and hereditaments, money, rents, goods, chattels and effects, which are given, granted, or devised to, or purchased by said regents, for the use of said college; and may sell, mortgage, lease, or dispose of the same, in such manner as may be judged most expedient for the promotion of the interest of said college.

SEC. 5. Funds of, how and for what purpose applied. That the property and funds of said institution shall be appropriated by the board to the endowment and support of said college, in such manner as shall most effectually promote sound learning, virtue and piety: provided, that no property or funds, given for a specific purpose, shall be appropriated in behalf of any objects other than those intended by the donor.

SEC. 6. First meeting by whom called, notice how given. That the person first named in this corporation be and he is hereby authorized to fix the time and place for holding the first meeting of the said corporation, of which he shall give notice in writing to each of the regents at least ten days previous thereto.

SEC. 7. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 59.

COMMON SCHOOL ASSOCIATION.

AN ACT to incorporate the Henry county Common School Association.

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

SECTION 1. Name and style of school; may sue and be sued; may hold and sell property—amount limited. That John B. Crawford, George W. Carson, Wm. C. Johnson, R. M. Clark, John Pencil, Wilkinson Grant, Linus [77] Fairchild, Thomas Grant, and their associates, together with such as may associate with them, be and they are hereby created a body corporate and politic,

with perpetual succession, by the name and style of the "Henry County Common School Association;" and by that name they may sue and be sued, plead and be impleaded, in all courts of law and equity. They shall be capable of holding real or personal estate by gift, grant or devise, and may sell and convey the same, provided the value thereof shall not exceed one thousand dollars; and the same shall be devoted exclusively to the object of promoting common school education, and the title of said lands may be vested either in trustees appointed by said corporation or in the whole corporation, and may be conveyed by the president and secretary, or such other officers as the corporation at a meeting may appoint for that purpose.

SEC. 2. Power to make by-laws to regulate affairs of; may alter the same. They shall have power to adopt rules and regulations for the government of said corporation, the management and regulation of its fiscal concerns, the admission of its members and election of its officers, together with all power necessary for carrying into effect the object of the corporation; and may provide in said rules the kind of officers, and their powers and duties, and may alter the same at pleasure at an annual meeting: provided, that said rules and regulations shall not contravene the laws of the United States or this territory or future state.

SEC. 3. Time of taking effect. This act to be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 60.

SCOTT COUNTY.

AN ACT to district the county of Scott for the election of county commissioners.

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

SECTION 1. To be divided into three commissioners' districts before 1st of August, 1844; districts, how numbered. That the board of commissioners of the county of Scott be and they are hereby authorized and required to lay off said county into county commissioners' districts, prior to the first day of August, A. D. 1844, which districts shall be numbered first, second and third.

SEC. 2. Where commissioners to be elected at first election to reside; subsequent elections, how to be conducted. That the commissioner to be elected at the next election shall not be a resident of the district in which either of the commissioners whose term of office does not expire until after the year 1844 shall reside, and alternately thereafter there shall be elected from each district one county commissioner annually, in accordance with the provisions of an act organizing a board of commissioners in each county, ap-[78]-proved February 15th, 1843, in like manner as though the county had been divided under the provisions of said act.

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

Approved, 29th January, 1844.

CHAPTER 61.

FERRY AT KEOKUK.

AN ACT to authorize John O'Hara, his heirs and assigns, to establish and keep a ferry across the Mississippi river at 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. **Ferry, where established; extent of privilege, duration of term.** That John O'Hara, of the county of Lee, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Keokuk, in said county, with exclusive privilege from the lower part of Marine street, below Field's wharf, up to the foot of the lower chain or last descent of the rapids, for the term of ten years: provided, said ferry, when so established, shall be subject to the same rules and regulations as other licensed ferries are or may hereafter be by law fixing the rate of toll, etc.

SEC. 2. **Kind of boat to be procured, and within when; until procured ferry to be kept with flat boats.** It shall be the duty of the said John O'Hara, his heirs and assigns, to procure a good and sufficient horse or steam boat, within eighteen months from the passage of this act, for the use of said ferry; and until said horse or steam boat shall be procured, it shall be the duty of the said John O'Hara, his heirs and assigns, to keep constantly on hand a sufficient number of flat boats, or other water craft, and hands to work the same, for the purpose of transporting all persons and their property across said river, when practicable, without delay.

SEC. 3. **Power to repeal reserved.** That any future legislature may repeal, alter or amend, this act.

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

Approved, 29th January, 1844.

[79] CHAPTER 62.

MUTUAL AID ASSOCIATION.

AN ACT donating certain property in Iowa City to the Mechanics' Mutual Aid Association of Iowa City.

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

SECTION 1. **Part of school reserve donated to.** That the north half of the west half of block No. sixty in Iowa City, being a portion of the school reserve in said city, be and the same is hereby donated to the Mechanics' Mutual Aid Association of Iowa City, for literary purposes.

SEC. 2. **Deed, by whom to be made; contents of, for what purpose property to be used, where to revert.** That it shall be the duty of the secretary of the territory to make out and deliver to said association a deed of conveyance of the premises aforesaid, which deed shall be executed in the same manner as other deeds for lots sold in Iowa City, and be of equal force and validity: provided, that said deed shall contain a clause that said premises shall be occupied and used for literary purposes alone; and that the said deed shall

be void, and said premises revert back to the territory of Iowa, whenever said premises shall be occupied or used by said association, or their successors or assigns, in any other way or manner than that of literary purposes.

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

Approved, 29th January, 1844.

CHAPTER 63.

FARMINGTON ACADEMY.

AN ACT to incorporate the Farmington Academy and high school.

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

SECTION 1. Where established, name and style of, general powers of. That there shall be established in the town of Farmington, in Van Buren county, an institution of learning to be known and designated as the "Farmington Academy and High School," and by that name may sue and be sued, contract and be contracted [80] with, use a common seal, purchase, receive by gift or devise, hold, control, enjoy, sell and convey, any property, real, personal or mixed, for the use and benefit of said institution.

SEC. 2. Object of incorporation. The design of the institution hereby created is declared to be for the instruction of youth in the arts and sciences, and to advance learning and sound morals, by the establishment of good schools, procuring competent teachers, a library, scientific instruments and apparatus, and the collection of cabinets of mineral, plants, etc.

SEC. 3. Trustees of, quorum, their powers and duties. Festus Dunning, Russell Smith, Jonas Houghton, O. Town and H. G. Stewart, are constituted trustees of said academy and high school, a majority of whom shall be a quorum, open books, and receive subscriptions to the stock of said institution, elect their successors, and make and ordain all needful by-laws, rules and regulations.

SEC. 4. Stock, how divided; shares \$5 each. The trustees may divide the capital stock into as many shares as they deem fit, setting out the ownership of each share upon the books of the trustees and stockholders, each share being five dollars.

SEC. 5. Certain articles of property exempt from taxation. All books, maps, medals, scientific apparatus, cabinets of minerals, plants and curiosities, belonging to said corporation, shall be forever free and exempt from taxation by the laws of this territory.

SEC. 6. Repeal power reserved. That any future legislature may amend, alter or repeal, this act.

SEC. 7. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 29th January, 1844.

CHAPTER 64.

HALF BREED LAND COMPANY.

AN ACT to amend an act entitled, "An act to incorporate the Farmers' Half Breed Land Company, in the county of Lee."

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

SECTION 1. 16th section of original charter repealed; restriction upon banking. That the 16th section of an act entitled, "An act to incorporate the Farmers' Half Breed Land Company, in the county of Lee," be and the same is hereby repealed: provided, that nothing herein contained, or the act to which this is amendatory, shall be so construed as to allow the said corporation any banking privileges.

SEC. 2. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 29th January, 1844.

[81] CHAPTER 65.

ROAD.

AN ACT to locate a territorial road from Fairfield, in Jefferson county, to the Indian boundary, in the direction of the Indian Agency, at the Raccoon Fork of the Des Moines river.

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

SECTION 1. Appointment of commissioners; road to commence at Fairfield, in Jefferson; route of. That Samuel Harrow and Abraham Fleener, of Jefferson county, and Silas Martin, of Mahaska county, be and they are hereby appointed commissioners to locate and mark a road, commencing at Fairfield, in Jefferson county; thence to Bennet's Point, in Keokuk county; thence to the county seat of Mahaska county; thence to the Indian boundary, in the direction of the Indian agency, at the Raccoon Fork of the Des Moines river.

SEC. 2. Commissioners, when and where to meet; their duty. Said commissioners shall meet at the town of Fairfield, on the first Monday in June next, or as soon thereafter as a majority of them may agree, and proceed to locate and mark said road, agreeably to an act entitled "An act to provide for laying out and opening territorial roads," approved December 29th, 1838.

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

Approved, 29th January, 1844.

CHAPTER 66.

CHAUNCEY SWAN.

AN ACT for the relief of Chauncey Swan.

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

SECTION 1. Territorial agent to refund \$100, with interest, to Chauncey Swan. That the territorial agent is hereby authorized and required to refund to Chauncey Swan the sum of one hundred dollars, the same having been

paid by said Swan while holding the office of acting commissioner of public buildings, at Iowa City, to one William Skeen, a workman on the state house, and not charged by him in his account, together with interest on the same from the time the said Swan went out of office as acting commissioner aforesaid.

SEC. 2. Time of taking effect. This act to take effect from and after its passage.

Approved, 29th January, 1844.

[82] CHAPTER 67.

FIRE INSURANCE COMPANY.

AN ACT to incorporate the Du Buque, Clayton, Delaware and Jackson Mutual Fire Insurance Company.

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

SECTION 1. Organization of company; name and style; object of; in what cases company to be liable; powers of. That John Gammel, E. G. Potter, Ansel Briggs, Patrick Maloney, Thomas Wright, R. B. Wykoff, James McCabe, Thomas McCraney, James Langworthy, William Myers, Lyman Dillon, J. M. Emerson, Caleb H. Booth, Robert Waller, and David Moreland, and all other persons who may hereafter become members of said company in the manner herein prescribed, be and are hereby incorporated and made a body politic and corporate, by the name and style of "The Du Buque and Jackson Mutual Fire Insurance Company," for the purpose of insuring their respective dwelling houses, stores, shops, and other buildings, household furniture and merchandise, against loss or damage by fire, whether the same shall happen by accident, lightning, or by any other means, except that of design in the assured or by the invasion of an enemy or insurrection of the citizens of this territory, or of any other of the United States; and by that name they may sue and be sued, plead and be impleaded, appear, prosecute and defend, in any court of record or other place whatever; may have and use a common seal, and alter the same at pleasure; may purchase and hold such real and personal estate as may be necessary to effect the objects of their association, and the same may sell and convey at pleasure; may make, establish and put in execution, such [83] by-laws, ordinances and resolutions, not being incompatible to the constitution and laws of the United States, or the laws of this territory, as may seem necessary or convenient for their regulation and government, and for the management of their affairs, and do and execute all such acts and things as may be necessary to carry into full effect the purposes intended by this grant.

SEC. 2. First meeting of commissioners, when and where to be held; president and secretary when to be elected, who to be members and how long. That the above named commissioners, or a majority of them, shall meet on the first Saturday after the first Monday in August next, in the city of Du Buque, at the house of Emerson, Shields & Co., or at such other place as to them may seem fit, and proceed to elect from their number a president and secretary, who shall act as such agreeable to the rules and by-laws of the association; and all and every person and persons who shall at any time become interested in said company, by insuring therein, and also their respective heirs, executors, administrators and assigns, continuing to be insured therein

as hereinafter provided, shall be deemed and taken to be members thereof, for and during the time of their respective policies and no longer, and shall at all times be concluded and bound by the provisions of this act.

SEC. 3. Annual meeting where and when held, notice and particulars of, by whom given, how given; to choose directors; number of, their term of office; vacancies in how filled; quorum, special meetings. That there shall be a meeting of said company annually, at such time and place in the county of Du Buque, as shall be determined by the directors, or on such other day as the said company may hereafter determine, notice of which shall be given by the secretary, or on his failure by the president or either of the directors, stating the time, place, and design of said meeting, by publication four weeks successively in a newspaper printed in the county of Du Buque, the last of which publications shall be at least eight days previous to the time of holding said meeting, at which meeting there shall be chosen by a major vote of the members present a board of directors, consisting of not more than thirteen nor less than nine members, who shall continue in office until others shall have been chosen and qualified. All vacancies happening in said board may be filled by the remaining members thereof until the next annual meeting, and a majority of the whole number of said board shall constitute a quorum for the transaction of business; special meetings of the company may be called by order of the directors, or in such manner as the by-laws thereof may prescribe.

SEC. 4. Premium notes, when to be executed; extent of liability of the assured thereon. That every person who shall become a member of said company by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such a sum of money as shall be determined by the directors, which shall not exceed six per cent. of which said note shall be immediately paid for the purpose of discharging the incidental expenses of the institution, and the remainder of said deposit note shall be payable in part, or the whole, at any time when the directors shall deem the same requisite for the payment of losses or other expenses; and at the expiration of the term of insurance, the said note, or such part of the same as shall remain unpaid after deducting all losses and expenses occurring during said term, shall be relinquished and given up to the signer thereof.

SEC. 5. Each member obliged to pay his proportion of the general loss; lien on his property to secure same. That every member of said company shall be and hereby [84] is bound and obliged to pay his portion of all losses and expenses happening or accruing in and to said company; and all buildings insured by and with said company, together with the right, title and interest of the assured, to the lands on which they stand, shall be pledged to said company; and the said company shall have a lien thereon against the assured during the continuance of his, her, or their policies.

SEC. 6. In case any person insured sustain loss, notice of loss how and to whom given; amount of damage, how ascertained and recovered; proceedings in district court, judgment, effect of, execution on, when to issue against company. That in case of any loss or damage happening by fire to any member of the association upon property insured in and with said company, the said member shall give notice thereof in writing to the directors or some one of them, or to the secretary of said company, within thirty days from the time such loss or damage may have happened; and the directors, upon a view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of said loss or damage, and if the party suffering is not satisfied with the determination of the directors, the question may be submitted to referees, or the said party may bring an action against said company for loss or damage at the next court, to be holden in the county of Du Buque, unless said court shall be holden within thirty days after said

determination; but if holden within that time then at the next court to be holden in said county thereafter; and if, upon trial of said action, a greater sum shall be recovered than the amount determined upon by the directors, the party suffering shall have judgment therefor against said company, with interest thereon from the time the loss or damage happened, and costs of suit; but if no more shall be recovered than the amount aforesaid, the party shall suffer a non-suit, and the said company shall recover their costs: provided, however, that the judgment last mentioned shall in nowise affect the claim of the said suffering party to the amount of loss or damage as determined by the directors aforesaid: and provided also, that execution shall not issue on any judgment against said company until the expiration of sixty days from the rendition thereof.

SEC. 7. When any loss is ascertained directors to fix the amount to be paid by each member on deposit note; application of money when collected. That the directors, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment as aforesaid against said company, for said loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective proportion of such loss, and publish the same in such a manner as they shall see fit, or as the by-laws shall have prescribed; and the sums to be paid by each member shall always be in proportion to the original amount of his deposit note, and shall be paid to the treasurer within thirty days after publication of said notice. And if any member shall, after the space of thirty days from the publication of said notice, neglect or refuse to pay the sum assessed upon him, her or them, as his, her, or their proportion of any loss as aforesaid, in such case the directors may sue for and recover the whole amount of his, her or their deposit note or notes, with costs of suit; and the money thus collected shall remain in the treasury of said company, subject to the payment of such losses and expenses as have or may hereafter accrue, and the balance, if any remain, shall be returned to the party of whom it was collected, on demand after thirty days from the expiration of the term for which the assurance was made.

[85] **SEC. 8. Not to insure for a longer term than seven years; policy, how executed; effect of in cases where assured has a clear title in fee simple to the property; in cases where he has a less title or one incumbered.** That the said company may make insurance for any term not exceeding seven years; and the policy of insurance issued by said company, signed by the president and countersigned by the secretary, shall be deemed valid and binding on said company, in all cases when the assured has a title in fee simple unincumbered to the building or buildings insured, and to the land covered by them; but if the assured have a less estate therein, or if the premises be incumbered, the policy shall be void unless the true title of the assured and the incumbrance of the premises be expressed therein, and in the application therefor.

SEC. 9. Where loss sustained on leased lands, premium notes may be retained until the expiration of insurance. That in case any building upon leased lands, and insured by said company, be destroyed by fire, in such cases the directors may retain the amount of the premium note given for insurance thereof until the time for which insurance was made shall have expired, and at the expiration thereof the assured shall have a right to demand and receive such part of said retained sum or sums as has not been expended in losses or assurances.

SEC. 10. Double insurance, consent of directors necessary to create liability. That if insurance on any house or building shall be and subsist in said company and in any other office, or from any other person or persons at the same time, the insurance made in and by said company shall be deemed and become

void, unless such double insurance subsist with the consent of the directors, signified by endorsement on the back of the policy, signed by the president and secretary.

SEC. 11. Repeal power reserved; time of taking effect. That it shall be in the power of the legislative assembly of this territory, or the future state of Iowa, at any time, to annul, vacate, and make void, this charter. This act to take effect from and after the first day of August next.

Approved, 5th February, 1844.

CHAPTER 68.

NEW COUNTIES.

AN ACT to organize the counties of Keokuk and Mahaska.

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

[86] **SECTION 1. Organization of from 1st of March next, rights of citizens, to be part of 2d judicial district.** That the counties of Keokuk and Mahaska 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 to; and the said counties shall constitute a part of the second judicial district of this territory.

SEC. 2. First election in, by whom ordered, number of officers to be elected for each, when election to be held, place and judges of election, by whom appointed; notice of, how given. That for the purpose of organizing said counties, it is hereby made the duty of the clerk of the district court of each of said counties, and in case there should be no such clerk appointed and qualified, or for any cause, said offices or either of them should become vacant on or before the tenth day of March next, then it shall be the duty of the sheriff of such county, to proceed immediately after the tenth day of March next to order a special election in their respective counties, for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one recorder of deeds, and such number of justices of the peace and constables for each of said counties as may be directed by the officer ordering said elections, (the said officer having due regard to the convenience of the people,) which special election shall be on the first Monday in the month of April next; and that the officer ordering such elections shall appoint as many places of holding elections in said counties as the convenience of the people may require, and shall appoint three judges of election for each place of holding election in said counties, and issue certificates to said judges of their appointment; and the officers ordering such election shall give at least ten days previous notice of the time and place of holding such election, by at least three written or printed advertisements, which shall be posted up at three or more of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. To whom returns to be made; by whom certificates of election granted; duty of clerk of board of commissioners, by whom discharged and how long. That the officer ordering each of the elections aforesaid shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act; and in all cases not provided for by this act, the officer ordering each of said elections shall discharge the duties

of a clerk of the board of county commissioners until there shall be a clerk of the board of county commissioners elected and qualified for each of said counties, under the provisions of this act.

SEC. 4. How election to be conducted. Said election shall in all cases not provided for by this act [87] be conducted according to the laws of this territory regulating general elections.

SEC. 5. Persons elected, term of office of. The officers elected under the provisions of this act shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 6. Books and papers, to whom returned. The officer ordering the election in each of said counties shall return all the books and papers which may come into their hands by virtue of this act to the clerk of the board of commissioners of their respective counties, forthwith, after such clerks shall have been elected and qualified.

SEC. 7. Appointment of sheriffs in; oath; bond, how approved; duties. That Harvey Stevens be and he is hereby appointed to discharge the duties and functions of the office of sheriff for the county of Keokuk, and William Edmonson be and he is hereby appointed to discharge the duties and functions of the office of sheriff for the county of Mahaska, who shall exercise the duties and functions of said office until the first Monday in the month of April next, and until there shall be a sheriff elected and qualified for each of their respective counties; and the said Harvey Stevens and William Edmonson shall give bond and security, and shall take the same oath of office that is required to be taken by sheriffs, which bond shall be approved and the necessary oath of office administered by the clerk of the district court of their respective counties; and in case there should be no such clerk of the district court for said counties, or any one of them, on the first day of March next, then it shall be the duty of the clerk of the district court of Washington county to approve the bond and administer the oath required by this act.

SEC. 8. Clerks of district court in, how appointed, when to commence duties. That clerks of the district court for each of the said counties of Keokuk and Mahaska may be appointed by the court, and qualified at any time after the passage of this act, but shall not enter upon the discharge of the duties of their respective offices prior to the first day of March next.

SEC. 9. Not to affect actions pending in the district court of Washington county. That all actions at law in the district court for the county of Washington, commenced prior to the organization of the said counties of Keokuk and Mahaska, where the parties or either of them reside in either of the aforesaid counties of Keokuk and Mahaska, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

SEC. 10. Books and papers of justices, to whom returned; not to interfere with unfinished business. That it shall be the duty of all justices of the peace residing within said counties 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 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 justices of the peace and unfinished, shall be completed or prosecuted to final judgment by the justices of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 11. Assessors in, their duty. That the county assessors elected under the provisions of this act for the counties of Keokuk and Mahaska, shall assess their respective counties in the manner and be under the same obligations and liabilities as is now or may hereafter be provided by law in relation to township assessors.

[88] **SEC. 12. County seat of Keokuk, commissioners to locate; time and place of meeting.** That John Stuart and George H. Stone, of Washington county, and Samuel Shuffleton, of Jefferson county, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Keokuk. Said commissioners, or any two of them, shall meet at the house of William Grimsley, in said county, on the first Monday in the month of May next, or at such other time within the month of May next as a majority of said commissioners shall agree, in pursuance of their duties under this act.

SEC. 13. County seat of Mahaska, commissioners to locate; time and place of meeting. That Jesse Williams, of Johnson county, Ebenezer Perkins of Washington county, and Thomas Henderson, of Keokuk county, be and they are hereby appointed commissioners to locate and establish the seat of justice of the county of Mahaska. Said commissioners, or any two of them, shall meet at the house of Mathew D. Springer, in said county, on the first Monday in the month of May next, or at such other time within the month of May next as a majority of said commissioners shall agree, in pursuance of their duties under this act.

SEC. 14. Oath of commissioners, by whom administered, how certified, when filed, and by whom recorded. 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 Keokuk, (or Mahaska, 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 the said county;" which oath shall be administered by the clerk of the district court, notary public, or some justice of the peace in the county for whose seat of justice said commissioners are appointed to locate; and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of such county, whose duty it shall be to record the same.

SEC. 15. Commissioners, duty of; certificate of location with whom filed, by whom recorded and preserved. 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 board of county commissioners 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 his office; and the place thus designated shall be the seat of justice of such county.

SEC. 16. Commissioners' compensation, by whom paid. Said commissioners shall each receive the sum of two dollars per day while necessarily employed in 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 funds arising from the sales of town lots in such seat of justice.

SEC. 17. Territory attached to Mahaska. That the territory of country west of the county of Mahaska, be and the same is hereby attached to said county for election, revenue and judicial purposes.

SEC. 18. County of Poweshiek and territory west attached to Mahaska. That the county of Poweshiek and the territory west of said county, be and the same is hereby attached to the county of Mahaska, for election, revenue and judicial purposes.

[89] **SEC. 19. Time of taking effect.** This act to take effect and be in force from and after its passage.

Approved, 5th February, 1844.

CHAPTER 69.

DAM.

AN ACT to incorporate the subscribers for erecting a dam across the Muscatine slough.

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

SECTION 1. Persons associated; style of company, object of incorporation, general powers. That John Vanater, Samuel Holliday, Err Thompson, Geo. W. Fitch, Henry Judy, Abraham Smalley, Robert Davis and S. C. Hastings, with such other persons as shall become associated with them by subscription, be and they are hereby created a body corporate and politic, by the name and style of "The subscribers for erecting a Dam across the Muscatine Slough;" and as such shall be capable of electing a clerk and other officers, and of exercising the usual and necessary powers of a corporate body for the purposes specified.

SEC. 2. Power to make by-laws and elect officers. Said association may make all proper and necessary by-laws consistent with the laws of the land, and may provide therein for the election of such officers as they may deem expedient.

SEC. 3. Dam, place of erection; authority to construct. The said subscribers are hereby authorized to construct and keep in repair a dam across the Muscatine Slough, at or near its head, within the limits of township seventy-six, north of range two west, of such dimensions as they may deem the exigencies of the case may require.

SEC. 4. Time of taking effect. This act shall take effect from and after its passage.

Approved, 5th February, 1844.

[90] CHAPTER 70.

BOTANIC MEDICAL SOCIETY.

AN ACT to incorporate the Iowa Botanic Medical Society.

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

SECTION 1. Persons composing same; style of corporation, may sue and be sued, to hold and transfer real estate, or personal property; amount limited. That James Robinson, J. M. Margrove, J. Mallet, E. Metcalf, G. Webber, J. L. Frost, J. Heberon, S. H. Bonham, J. M. Price, J. A. Miller, B. S. Holmes, Wm. Patterson, J. N. Balls, E. K. Hart, D. Switzer, T. Snyder, T. Fry, N. Fellows, J. Barlow, J. Walters, Alexander Evans, B. W. Patterson, John Haggard, R. P. Campbell, John T. Stephens, Jacob L. Myers, John Parsons and their associates, together with such as may associate with them, be and they are hereby created a body corporate and politic, with perpetual succession, by the name and style of the "Iowa Botanic Medical Society;" and by that name they may sue and be sued, plead and be impleaded, in all courts of law and equity; may have a common seal, and may change the same at pleasure. They shall be capable of holding real or personal estate, by gift, grant or de-

wise, and may sell and convey the same, provided the value thereof shall not exceed twenty thousand dollars, and the same shall be devoted exclusively to the object of promoting and elevating the cause of medical science and its collateral branches.

SEC. 2. Power to adopt constitution and by-laws; to grant diplomas. That they shall have power to form and ratify a constitution, and adopt by-laws for the government of such corporation, the management and regulation of its fiscal concerns, the admission of its members, and election of its officers; to grant diplomas, together with all powers necessary for corporate existence, and the efficient management of its concerns: provided, that none of its by-laws or regulations shall contravene the laws of this territory or of the United States.

SEC. 3. Time of taking effect. This act to be in force from and after its passage.

SEC. 4. Power of repeal reserved. That any future legislature may alter, amend, or repeal this act.

Approved, 5th February, 1844.

[91] CHAPTER 71.

ROAD.

AN ACT to extend the territorial road from Mount Pleasant, via Fairfield, to the Indian boundary line, commencing at Marks' and Bushe's mill, on Cedar, in Jefferson county, and leading to Lake Prairie, opposite the mouth of White Breast, in Mahaska county.

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

SECTION 1. Commissioners, appointment of; road, where to commence, route of. That John Shields, of Jefferson county, R. R. Jones, of Wapello county, John Rose, of Mahaska, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at Marks' and Bushe's mill, on Cedar, in Jefferson county; from thence to Agency City, in Wapello county; thence to Autumwa, in said county; thence the nearest and best route to Eddysville; thence to Harrisburg, in Mahaska county; thence up the Des Moines river to Lake Prairie, opposite the mouth of White Breast, in said county of Mahaska.

SEC. 2. Commissioners, where and when to meet; surveyor and hands, oath of commissioners and others; commissioners how to proceed. That said commissioners, or a majority of them, shall meet at Marks' and Bushes' mill, in Jefferson county, on the first Monday in June next, or within two months thereafter, and proceed to locate and establish said road by taking to their assistance a competent surveyor, two chain men and one marker, who, together with the commissioners, shall take an oath for the faithful performance of their respective duties.

SEC. 3. Commissioners and others how paid. Said commissioners shall locate said road according to the provisions of, and be governed by, "An act to provide for laying out and opening territorial roads," approved Dec. 29th, 1838; and shall, together with the surveyor, and chainmen and marker, be paid in the manner pointed out in the act approved February 1st, 1843.

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

Approved, 5th February, 1844.

[92] CHAPTER 72.

ROAD.

AN ACT to establish a territorial road from Iowaville, on the Des Moines river, to the Missouri line at the point where the Mormon trace crosses said line.

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

SECTION 1. Commissioners, appointment of, road to commence at Iowaville, on Des Moines River, route of. That Robert Merchant, Levine N. English, of Davis county, and James Jordan, of Van Buren county, be and they are hereby appointed commissioners to locate a territorial road from Iowaville on the Des Moines, via the residences of Wm. Wooden and L. N. English, to the point on the line of the state of Missouri where the Mormon trace crosses said line.

SEC. 2. Commissioners where and when to meet. That said commissioners, or a majority of them, shall meet at Iowaville on the first Monday of May, 1844, or at some convenient period within three months thereafter, and proceed to locate said road according to law, from said town of Iowaville to its termination, as specified in the first section of this act.

SEC. 3. Compensation of commissioners and others, and by whom paid. Said commissioners and other persons necessarily employed in locating said road shall be allowed such compensation for their services as the county commissioners of the counties through which said road shall pass may think right and just.

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

Approved, 5th February, 1844.

CHAPTER 73.

ROAD.

AN ACT to locate a territorial road from Davenport to Iowa City.

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

SECTION 1. Appointment of commissioners; road, where to commence, route of. That Richard Randall, of Muscatine county, John Boydston, of Cedar county, and Peter H. Patterson, of Johnson [93] county, be and they are hereby appointed commissioners to lay out and establish a territorial road, from Davenport, in Scott county, by way of Centre Grove, in Muscatine county, and Rochester, in Cedar county, to Iowa City, in Johnson county.

SEC. 2. Commissioners where and when to meet, oath of; how to proceed in location, compensation for, how paid. That said commissioners shall meet at the town of Davenport, on the first Monday in June next, or on any day thereafter in said month upon which said commissioners may agree, and proceed to locate said road, with the assistance of a competent surveyor, two chainmen and one marker, who, together with the commissioners, shall take an oath for the faithful and impartial performance of their respective duties. Said commissioners shall locate said road according to the provisions of and be

governed by "An act to provide for laying out and opening territorial roads," approved December 29th, 1838; and shall, together with the surveyor, chainmen and marker, be paid in the manner pointed out in said act.

SEC. 3. Amount of compensation to commissioners and others. That the commissioners, surveyor, chainmen and marker, shall receive for their services the following compensation: the commissioners two dollars each, per day; the surveyor two dollars per day; the chainmen one dollar and fifty cents each, per day; and the marker one dollar and fifty cents per day, for every day that they may be necessarily employed in performing the duties enjoined upon them by this act.

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

Approved, 5th February, 1844.

CHAPTER 74.

CHANGE OF NAME.

AN ACT to allow Avery Thomas to change his name.

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

SECTION 1. May take name of Lewis Ashton Thomas, instead of Avery Thomas. That Avery Thomas, of Dubuque county, in said territory, may take the name of Lewis Ashton Thomas, instead of his present name of Avery Thomas.

SEC. 2. Not to affect contracts or liabilities. That this act shall in no way affect or impair any contract heretofore made or entered into by said Thomas, or in any manner affect any debt or liability now resting upon him.

Approved, 5th February, 1844.

[94] CHAPTER 75.

FERRY.

AN ACT to authorize Guy Wells and James Wilson to keep a ferry across the Mississippi river at Fort Madison.

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

SECTION 1. Authority to keep ferry, when to be established, nature of privilege, duration of term, restriction. That Guy Wells and James Wilson, their heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the town of Fort Madison, in Lee county, within the following limits: commencing at the west side of Cedar street, and extending down said river so far as said town of Fort Madison is bounded by the same below said street; and that the said Guy Wells and James Wilson, their heirs and assigns, have the exclusive privilege of ferrying within the above limits for the term of fifteen years from and after the passage of this act: provided, that said ferry shall be subject to the same regulations and re-

strictions as other ferries are or may hereafter be by law in this territory fixing the rates of toll, and prescribing the manner in which licensed ferries shall be kept.

SEC. 2. Duty of company. That the said Guy Wells and James Wilson, their heirs and assigns, shall keep or cause to be kept, at the place aforesaid, a good steam or horse ferry boat, with a sufficient number of hands to work the same, for the transportation of all persons and their property across said river when passable without delay.

SEC. 3. Not to interfere with rights of others. Provided also, that nothing in this act shall be so construed as to interfere with the right that any individual may have to the lands on either side of said river.

SEC. 4. Power to repeal reserved. That any future legislature may have a right to alter, amend, or repeal this charter.

SEC. 5. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 6th February, 1844.

[95] CHAPTER 76.

FERRY.

AN ACT to amend an act entitled, "An act to authorize R. M. G. Patterson to establish and keep a ferry across the Mississippi river, at the mouth of Nassau slough."

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

SECTION 1. Act of January 28th, 1844, so amended as to restrain court and commissioners. That the act entitled "An act to authorize Robert M. G. Patterson to establish and keep a ferry across the Mississippi river, at the mouth of Nassua Slough," approved January 28th, 1844, be so amended that no court or board of county commissioners shall authorize any person or persons to keep a ferry at any point between the mouth of said slough and the lower end of the Nassua Island.

SEC. 2. Power of repeal reserved. That any future legislature shall have power to repeal, alter, or amend this charter.

Approved, 6th February, 1844.

CHAPTER 77.

LITERARY SOCIETY.

AN ACT to incorporate the Grandview Literary and Philosophical Society of Louisa county.

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

SECTION 1. Organization of, name and style of, duration of term, general powers, limitation of capital, restriction, may have common seal. That Alexander McCall, Lewis Kinsey, Robert Childers, Spencer Wilson and Abraham McCleary, and their associates, be and they are hereby created a body poli-

tic and corporate, for the term of thirty years, by the name and style of the "Grandview Literary and Philosophical Society of Grandview, Louisa county;" and by that name may sue and be sued, plead and be impleaded, answer [96] and be answered, and defend suits of whatever nature, in any court having competent jurisdiction in this territory or elsewhere; may acquire and hold property by purchase, gift or devise, either real or personal, not exceeding five thousand dollars; may sell and convey the same in accordance with the provisions of the general laws of this territory, and may have a common seal which they may alter at pleasure.

SEC. 2. Number of officers, how elected; term of office. The officers of the society shall be a president, vice president, treasurer, librarian and secretary, and an executive committee to consist of five persons, who shall be elected separately by ballot, and take precedence in the order in which they are elected; all which officers shall hold their offices for one year and until their successors are chosen.

SEC. 3. Executive committee to levy taxes for certain purposes. The executive committee shall have power to levy a tax not exceeding five dollars in any one year upon each member, for the purchase of books, maps, charts and philosophical apparatus, for the use of the society; and may also levy a tax upon the members sufficient to defray the expenses of the society, and to appoint such agents as may be necessary to advance the interests of the society.

SEC. 4. Meeting of society, for what purpose and when held. The society shall hold annual meetings for the election of officers, on the first Saturday of February in each year, and such other meetings as may be prescribed in the by-laws and ordinances hereinafter provided for.

SEC. 5. Society to make rules and by-laws for government of; to lay and collect fines, how much and how appropriated. The society may, from time to time, enact such by-laws and ordinances for its government as may be necessary and proper, not inconsistent with the constitution and laws of the United States and of this territory, or with the provisions of this act; and may assess such fines and penalties against its members for any violation of the provisions of this act, or the by-laws or ordinances under them, not exceeding one dollar, which fines and penalties shall be paid into the general fund of the society.

SEC. 6. Executive committee to prescribe mode of taxation and make annual financial report; power of superintendence. The executive committee shall prescribe the mode of levying taxes, superintend the affairs of the society generally; shall annually report to the society the state of the funds and property, and shall perform such other duties as may be prescribed by the by-laws.

SEC. 7. Fines and taxes, how collected. All taxes, fines, and other liabilities, assessed or levied upon the members of the society, may be sued for and collected in conformity with the general laws of this territory applicable to the collection of debts in ordinary cases.

SEC. 8. Power of repeal reserved; saving clause. Any future legislature may alter, amend, or repeal this act: provided, such alteration, amendment or repeal, shall not affect the title to any property acquired or conveyed under its provisions.

Approved, 7th February, 1844.

[97] CHAPTER 78.

JEFFERSON ACADEMY.

AN ACT to incorporate the Jefferson Academy, in Des Moines county.

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

SECTION 1. Academy, where to be established; object of, name and style, organization of. That there shall be established in Yellow Spring township, in Des Moines county, a seminary of learning for the instruction of young persons of both sexes, in science and literature, to be called and known as the "Jefferson Academy;" and that Frederick Heizer, James Bruce, Levi Anderson, Thomas Blair, A. L. Leonard, Joshua Heizer, James Hukill, John Anderson and P. B. Bell, and their associates and successors, are hereby declared a body politic and corporate in law, by the name and style of the "Jefferson Academy," as aforesaid.

SEC. 2. General powers of. The corporation before named shall have perpetual succession, and power to acquire, possess and retain, alien and dispose of, property, real, personal and mixed; and they shall have power to contract, sue and plead, in all courts of law and equity, and to have and use a common seal with power to alter it at pleasure.

SEC. 3. Stock divided in shares of \$10 each; personal property, and how transferable; restricted to purposes of education. 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 funds, privileges and immunities, shall be used for no other purpose than that of education.

SEC. 4. Trustees, quorum of, how and when elected; term of office; president, how elected; vacancies how filled, notice of elections when and how given. The corporate concerns of said academy shall be managed and conducted by a board of trustees, consisting of nine members, five of whom shall constitute a quorum for the transaction of business. They shall be elected by the stockholders on the second Monday of April annually, and shall hold their offices until their successors shall be duly elected. The election of trustees shall be by ballot, and each stockholder shall be entitled to one vote, which vote may be given in person or by proxy. Said trustees shall elect one of their number president of their board, and shall have power to fill vacancies in said board. If any election shall not be held on the day designated by this act, such election may be held on any other day: provided, a notice of the time and place of holding such election shall be signed by three of [98] the stockholders, and posted up in three public places in the township, at least twenty days before such election.

SEC. 5. Trustees to appoint agents and subordinate officers, teachers, etc.; make by-laws for government of. 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 fit and necessary for the good government of said academy, its officers, teachers, and pupils, and for the management of the property and affairs of said corporation: provided, that they shall not contravene the laws of the United States or of this territory.

SEC. 6. Persons named to be first board of trustees. The persons named in the first section of this act shall be trustees of said academy until the said second day of April next, and until their successors are elected under the provisions of this act.

SEC. 7. Deeds and other instruments how executed. All deeds and other instruments of conveyance shall be made by order of the trustees, sealed with the corporate seal, signed by the president, and be by him acknowledged in his official capacity.

SEC. 8. Time of taking effect. This act take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 79.

MANUFACTURING COMPANY.

AN ACT to incorporate the Toolesborough Manufacturing Company.

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

SECTION 1. Organization, name and style of, general powers of, limitation of capital. That William Shepherd, Daniel West, H. D. Smith, Ezra F. Dennison, Jonathan Parsons and William L. Toole, and such other persons as may associate themselves with them, be and they are hereby created a body politic and corporate, to be known by the name and style of the "Toolesborough Manufacturing Company;" and by that name shall have perpetual succession, may sue and be sued in all courts of law or equity, and shall be capable in law of purchasing, holding, selling, leasing and conveying, estate, real, personal or mixed, so far as may be necessary for the purposes herein named, and for all other purposes necessary to consummate the objects of this corporation; and shall have power to erect mills and buildings for manufacturing purposes: provided, the value of said corporation shall not exceed forty thousand dollars.

[99] **SEC. 2. Right to take water from Iowa river; place specified; right to cut race; not to interfere with rights of others.** That the said company shall have the power to take from the Iowa river sufficient water for their purposes at a point on said river nearly opposite Iowa town, in the county of Louisa, in said territory, and convey the same over or through any suitable ground by means of a canal, race or water way, of such capacity as may be deemed sufficient, to any point which may be selected by said company at or near Toolesborough, in said county: provided, that said company shall not enter upon any lands not owned by the said company for the purpose of making a canal, race, or water way, or for any other purpose, without the consent of the owner of said land.

SEC. 3. Trespass upon property of, how redressed; penalty for. That if any person shall in any wise destroy or injure any of the works belonging to said company, such person shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure any of the works of said company shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court.

SEC. 4. Capital stock divided into shares of \$100. each. That the capital stock of said company shall be divided into shares of one hundred dollars

each; and as many such shares may be created as the said company may direct, provided they do not in the aggregate exceed the sum of forty thousand dollars.

SEC. 5. First meeting of company, how called and organized; its powers and capacities. That any member of said company may, at any time within one year from the passage of this act, by giving at least thirty days previous notice, call a meeting of its members; and said company, when convened, shall call one of their members to preside, and may proceed to enact such by-laws, rules and regulations, for its government, and such arrangements for the management and conduct of its business, as a majority of them may deem right and proper, not inconsistent with the laws of the land.

SEC. 6. Duration of charter. That the charter hereby granted shall continue for the term of twenty years.

SEC. 7. Time of taking effect. That this act shall take effect from and after its passage.

Approved, 7th February, 1844.

CHAPTER 80.

ROAD.

AN ACT to locate a territorial road from the old boundary line, in Des Moines township, in Jefferson county, via Agency City, to the seat of justice of Mahaska county.

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

SECTION 1. Appointment of commissioners, commencement of road, route of. That John Spurlock, William B. Street [100] and E. Fish, be and are hereby appointed commissioners to locate and establish a territorial road, from a point on the old Indian boundary line, in the Des Moines township, in Jefferson county, where a territorial road from Fort Madison, in the county of Lee, passing through the counties of Van Buren and Jefferson counties, terminates on said boundary line, on the nearest and best route to Agency City, in the county of Wapello; thence to Dahlonga, in said county, and from thence to the county seat of Mahaska county.

SEC. 2. Commissioners where and when to meet. The said commissioners, or a majority of them, shall meet at the place of the commencement of said road, on the second Monday of the month of June next, or as soon thereafter as a majority of said commissioners may agree, and proceed to locate said road agreeably to the provisions of the laws of this territory, and make their returns to the counties through which said road passes, on or before the first day of October next.

SEC. 3. Commissioners, surveyor and others, how paid. That said commissioners, surveyor, and the hands employed in locating said road, shall receive for their services the compensation allowed by law, to be paid by the respective counties through which the said road passes, in proportion to the length of road in each county.

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

Approved, 7th February, 1844.

CHAPTER 81.

ROAD.

AN ACT to locate and establish a territorial road from Brighton, in Washington county, to the county seat of Mahaska county.

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

SECTION 1. Appointment of commissioners to locate road; to commence at Brighton, in Washington co., route of. That George Holliday, of Washington county, Charles E. Woodward, of Keokuk, and Richard Parker, of Mahaska county, be and they are hereby appointed commissioners to locate and establish a territorial road, commencing at Brighton, in Washington county; from thence the nearest and best route to Richland, in said county, and from thence the nearest and best route to the county seat of Mahaska county; thence to intersect and terminate on the territorial road leading from Fairfield, in Jefferson county, to the Indian Agency, at the Raccoon Fork of the Des Moines river.

SEC. 2. Commissioners, where and when to meet; how to proceed in discharge of duties. Said commissioners shall meet at the town of Brighton on the second Monday in June next, or as soon thereafter as a majority of them may agree, and then proceed to locate and establish said road [101] agreeable to an act entitled, "An act to provide for laying out and opening territorial roads," approved December the 29th, 1838.

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

Approved, 7th February, 1844.

CHAPTER 82.

ROAD.

AN ACT to locate and establish a territorial road from Iowaville, in Van Buren county, to Autumwa, in Wapello county.

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

SECTION 1. Appointment of commissioners; road to commence at Iowaville, in Van Buren, route of; commissioners where and when to meet. That James Hall, of Van Buren county, William Ingersoll, of Jefferson county, and Jacob Marshall, of Wapello county, be and they are hereby appointed commissioners to locate a territorial road from Iowaville, in Van Buren county, up the Des Moines river, to the town of Autumwa, in Wapello county, to intersect a territorial road leading from Fairfield, in Jefferson county, to Red Rock on the boundary line on the Des Moines river. Said commissioners shall meet at Iowaville on the first Monday in May next, or within three months thereafter, and proceed to locate and establish said road.

SEC. 2. Commissioners, surveyors and others, how paid. The said commissioners, surveyor, chain-carriers and marker, shall receive such compensa-

tion as the boards of county commissioners of Van Buren and Wapello counties may allow, in proportion to the distance said road runs through each county.

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

Approved, 7th February, 1844.

[102] CHAPTER 83.

MALCOLM MURRAY.

AN ACT for the relief of Malcolm Murray, late of the firm of Murray & Sanxay.

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

SECTION 1. Agent to pay Murray six per cent. on certificate, as interest. That the territorial agent be and he is hereby authorized to allow and pay to Malcolm Murray, late partner of the firm of Murray & Sanxay, interest at the rate of six per centum per annum, on a certificate of indebtedness issued by the said agent to the said firm of Murray & Sanxay on the 19th day of August, A. D. 1843, for the sum of one thousand three hundred and sixty-five dollars.

SEC. 2. Agent to renew certificate. The territorial agent is hereby further authorized and required, on the application of the holder of the said certificate, to renew the same, to bear interest at the rate above specified from the date of the said certificate of indebtedness until paid.

SEC. 3. Arrearages of interest to be paid. Be it further enacted, that the sum of one hundred and eighty dollars be allowed to Malcolm Murray, late partner of the firm of Murray & Sanxay, for arrearages of interest on scrip held by the said firm in 1842 and 1843; and the territorial agent is hereby authorized to pay the same in Iowa City lots: provided, however, that the money by this act allowed and appropriated shall be paid only from the territorial fund for the erection of public buildings at Iowa City, without any pledge of the general faith of the territory.

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

Approved, 7th February, 1844.

CHAPTER 84.

LEGALIZING ACT.

AN ACT to legalize the acts of James T. Harden, deputy recorder of Jefferson county.

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

SECTION 1. Acts of deputy valid. That all the records made by James T. Harden, as deputy recorder for Evan T. Butler, county recorder in [103] and for the county of Jefferson, from the 26th day of August, 1842, until the first day of April, 1843, be and the same are hereby made legal and valid, to all intents and purposes, as fully and effectually as if the same had been made by a county recorder legally elected and qualified for said county.

SEC. 2. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 7th February, 1844.

CHAPTER 85.

CHARTER OF MOUNT PLEASANT.

AN ACT to amend an act entitled "An act to amend an act entitled an act for the incorporation of the town of Mount Pleasant, in Henry county" approved 3d February, 1843; also, an act entitled "An act for the incorporation of the town of Mount Pleasant, in Henry county," approved January 25, 1842.

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

SECTION 1. Election for officers, when to be held; vacancy, how filled, notice how and when given. That hereafter the election of the officers of said corporation shall be held on the first Mondays in March of each year, except in cases of vacancy, in which case it shall be the duty of the president, recorder, or a majority of the councilmen, to call an election to fill such vacancy, by giving ten days notice thereof by posting up three written notices thereof, at three of the most public places in said corporation.

SEC. 2. Grocery and other license, how granted; proceeds how appropriated, limitation of amount. That the president and councilmen shall be authorized to grant or withhold, at their discretion, all licenses for the retailing of ardent spirits within the limits of said corporation, and to grant licenses and to regulate or prohibit all shows and public exhibitions, and to appropriate the proceeds of all such licenses for the benefit of said corporation: provided, that in no case shall the amount charged for said licenses exceed the amount established by the general law regulating licenses.

SEC. 3. Streets and alleys to be public highways, and one mile each way from court house to be one road district; supervisor how appointed, his powers and duties; not to interfere with other road districts. That the streets, lanes and alleys, of said town, including the several roads and highways for the distance of one mile from the court house, in said town, shall constitute one road district. The president and councilmen shall appoint one overseer of the same, who shall hold his office for one year. That said overseer shall supervise and direct the road labor of all persons residing within the limits of said corporation. That nothing in this section contained shall prohibit [104] other road districts from extending to the limits of said corporation, or other overseers from working all roads adjacent to said corporation.

SEC. 4. Repealing clause. That the tenth and eleventh sections of the act to which this is amendatory, approved January 25th, 1842, and all other parts of the acts to which this is amendatory which come in conflict with the provisions of this act, are hereby repealed.

SEC. 5. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 8th February, 1844.

CHAPTER 86.

WILLIAM PARVIN.

AN ACT for the relief of William Parvin, collector of Muscatine county.

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

SECTION 1. Commissioners to allow further time to make returns. That the board of county commissioners of Muscatine county be and they are hereby authorized to allow William Parvin, collector of said county of Mus-

catine, such time as they may deem reasonable for said collector to make a return of the tax list of said county placed in his hands for collection for the year 1843: provided, that said time shall not be extended beyond the first day of August, A. D. 1844.

SEC. 2. Commissioners may postpone tax sale. That said board of commissioners may, in their discretion, postpone the sales of any lands or town lots in said county, which under the existing laws of this territory, may be subject to sale for delinquent taxes accruing for the year 1843, to such times as they may deem proper: provided, such postponement does not extend beyond the first Monday in July, 1844.

SEC. 3. Collector not to be released from obligation of bond. That nothing herein contained shall be so construed as to release the collector or his securities from the obligation of the bond filed by him for the faithful performance of his duties as such collector.

SEC. 4. Collector may distrain. That said collector, provided said board of commissioners extend the time for collecting the taxes of said county, as herein allowed, shall have full power to collect, by distress or otherwise the amount of all unpaid taxes for the year 1843, up to the time allowed him by the said board of commissioners.

SEC. 5. Commissioners to fix the day of sale, and collector to give notice. The board of commissioners of said county shall fix a day for the sale of all lands and town lots on which the taxes for the year 1843 may remain due and unpaid; and the said collector shall give the [105] same notice for the sale thereof, and conduct the sale of the same in the same manner, that is now required by law, and the sales so made shall be as legal and valid as though the same had been held on the day provided by the existing laws.

SEC. 6. Time of taking effect. This act to be in force from and after its passage.

Approved, 8th February, 1844.

CHAPTER 87.

DELAWARE COUNTY.

AN ACT to organize the county of Delaware, and to provide for holding court in the same.

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

SECTION 1. Organization of; to be part of 3d judicial district; court to be held at Delhi; time of holding same. That the county of Delaware be and the same is hereby organized, and the inhabitants of said county are 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 be a part of the third judicial district, and the district court shall be held at Delhi, the county seat of said county, on the first Monday after the fourth Monday in September in each year.

SEC. 2. Buchanan and Blackhawk attached. That the counties of Buchanan and Blackhawk, be and they are hereby attached to the county of Delaware.

SEC. 3. Repealing clause. That all acts and parts of acts contravening the provisions of this act be and they are hereby repealed.

SEC. 4. Time of taking effect. That this act take effect and be in force from and after its passage.

Approved, 8th February, 1844.

CHAPTER 88.

REV. ISAAC SEARLES.

AN ACT for the relief of the Rev. Isaac Searles, minister of the gospel.

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

SECTION 1. **Released from liability.** That Rev. Isaac Searles, a minister of the gospel on the Cedar Rapids circuit, in the counties of Linn and Johnson, be and he is hereby released from all liability that he may have [106] incurred from the time of his appointment on said circuit up to the present time, by reason of his having celebrated the bonds of matrimony without having first obtained from the clerk of the district court a license authorizing him to solemnize marriages within this territory, and without having had the same recorded in other counties.

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

Approved, 8th February, 1844.

CHAPTER 89.

ROAD.

AN ACT to locate a territorial road from a certain point in Muscatine county therein named, to the rapids on Cedar river, in Linn county.

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

SECTION 1. **Commissioners, appointment of; commencement of road, route of.** That Robert Gower and Ebenezer A. Gray, of Cedar county, and Allen C. Sutliff, of Johnson county, be and they are hereby appointed commissioners to lay out and establish a territorial road, from the point on the territorial road leading from Bloomington to Iowa City west of Cedar river, and at or near where the old Indian trail leading from Cedarville, in Muscatine county, to Washington ferry, in Cedar county, crosses the road; thence running with said trail as near as the ground will admit to Jonathan Kingsberry's mill, in Cedar county; thence on the nearest and best ground for the public convenience to the Rapids on Cedar River, in Linn county.

SEC. 2. **Commissioners, when and where to meet; power to employ hands.** That the commissioners appointed as aforesaid shall meet at Washington ferry, in Cedar county, on the second Monday in June next, or as soon thereafter within one year from the passage of this act as they may deem most convenient, and proceed to locate said road, taking to their assistance necessary chainmen and markers; and the said Robert Gower is hereby authorized to discharge the duties of surveyor on said road.

SEC. 3. **Commissioners, how governed; the counties through which road runs not to pay any part of expense.** That said commissioners, in laying out said road, shall be governed by the general laws of this territory, except as herein otherwise provided: provided always, that no part of the expense of locating said road, shall be paid from the treasury of either county through which it passes.

Approved, 9th February, 1844.

[107] CHAPTER 90.

ROAD.

AN ACT to establish and locate a road from the lower end of John Scott's farm, at the lower end of Nassau Island, in Lee county, on the nearest and best route, to intersect the road leading from Farmington to Keokuk.

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

SECTION 1. Appointment of commissioners; road to commence at Nassau Island, in Lee county, route of. That John Philips, Phineas Hunt and A. Kerr, of the county of Lee, be and they are hereby appointed commissioners to locate and establish a road, commencing at the lower end of John Scott's farm, at the lower end of Nassau island, in Lee county, and running to the upper end of said island; thence across Nassau slough, on the nearest and best route, to the northwest corner of William Aldridge's field, to intersect the road leading from Keokuk to Farmington at or near the residence of Phineas Hunt, by way of Joseph Roberts'.

SEC. 2. Commissioners, where and when to meet. That said commissioners, or a majority of them, shall meet at the house of R. M. G. Patterson on or before the 10th day of March next, or as soon thereafter as convenient, and proceed to lay out and establish said road, according to the provisions of an act to establish territorial roads, approved December 29th, 1838.

SEC. 3. Commissioners, chain carriers and others, how paid. That the commissioners, chain carriers, surveyor, and other hands employed to locate said road, as herein prescribed, shall receive such compensation for their services as may be allowed by the board of county commissioners of Lee county.

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

Approved, 9th February, 1844.

CHAPTER 91.

ROAD.

AN ACT to lay out a territorial road from Bennett's mill, in Buchanan county, to or near William Myers', in Dubuque county.

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

[108] **SECTION 1. Road commencing at Bennett's mill, in Buchanan county; route of; declared a territorial road.** That the road as laid out by Robert W. Green, Joel Baily and O. A. Olmstead, commencing at Bennett's mill, in Buchanan county; thence via the county seat of Delaware county, to or near Olmstead's mill, in said county, be and the same is hereby declared a territorial road.

SEC. 2. Road commencing at Olmstead's mill, in Delaware county, route of; declared a territorial road. That the road now travelled from Olmstead's mill, in Delaware county, to Hogan's farm, in Dubuque county; thence to James McDowell's; thence to George W. Jordan's; thence to Elias McCants',

and thence in an easterly direction until said road intersects the county road north of William Myers', shall, to all intents and purposes, be deemed a territorial road.

SEC. 3. Appointment of commissioners; may change any part of road described in 2d section; within when and how to proceed. That Oliver Tunston, Philip B. Hogan and Elias McCants, be and they are hereby appointed commissioners, with full power and authority to change or re-locate any part of said road, as described in section second of this act, at any time within six months from the passage hereof: provided, however, that it shall be legal for either of said commissioners to act as surveyor, chain carrier or marker.

SEC. 4. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 92.

CONGREGATIONAL CHURCH.

AN ACT to incorporate the board of trustees of the Congregational Church and Society of Burlington.

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

SECTION 1. Organization of, name and style of; general powers, limitation of property. That Abner Leonard, William B. Ewing, Seth S. Ransom, James G. Edwards and Albert S. Shackford, their associates and successors, be and they are hereby created a body politic and corporate, by the name and style of "The Congregational Church and Society of Burlington," and by that name may have succession, and shall be able in law and equity to sue and be sued, and to hold estate, real, personal and mixed, to an amount not exceeding fifteen thousand dollars.

SEC. 2. First meeting, by whom called; notice of, how given. It shall be the duty of the above named trustees to call a meeting of said church and society as soon as practicable after the passage of this act, by giving at least ten days notice of such meeting by [109] public proclamation on two successive Sabbaths immediately previous to such meeting, in the congregation, while convened for public worship, stating the precise objects for which such meeting is called; and all future calls for meetings of business shall embrace the objects for which such meeting or meetings are called.

SEC. 3. May make by-laws for government of; may elect trustees; their term of office, powers and duties; restriction upon alienation of stock, general restriction as to spiritual matters. The church and society may, at their first meeting, or at the meeting to which they may adjourn, make, ordain and establish, such rules, regulations and by-laws, not inconsistent with the laws of the United States or this territory, for the erection, regulation, sale, disposal and control of the property and buildings belonging to the said church and society, as they may deem fit and proper, and elect five trustees to serve for one year, and until others be elected in a similar manner; which trustees shall have the control and management of the property of said church and society, to sell and convey pews and other property, subject to the ratification of the church and society: provided, that the provisions of this act shall not be construed so as to enable the church and society, nor their trustees, to alienate the

stock of any contributor in the property and buildings, in proportion to the amount of stock contributed: and provided also, that the provisions of this act be not construed to hinder the members of the said Congregational church of Burlington the election of their own spiritual officers, the worship of Almighty God, the exercise of church discipline, the instruction of Sabbath school, etc., etc., according to the practice of churches generally, in the use of said property and buildings, and according to the constitution, confession of faith, and covenant adopted by said church.

SEC. 4. Who competent to act at first meeting. The male church members, and the original contributors to the building of the church, shall be the only competent persons to act in forming rules and by-laws at the first meeting contemplated in the charter.

SEC. 5. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 93.

DAM.

AN ACT to authorize Hugh Boyle and Ralph Bissell to erect a dam across Skunk river.

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

SECTION 1. Dam, when to be constructed; lock, extent of; when to be constructed. That Hugh Boyle, of the county of Lee, [110] and Ralph Bissell, of the county of Henry, their heirs or assigns, are hereby authorized to construct a dam across Skunk river, in Henry county, in town 70 north, range six west, and at section No. twenty-five of said township, at the seat now owned by said Boyle and Bissell. Said dam shall contain a convenient lock, not less than one hundred and thirty-five feet in length and thirty-five feet wide: provided, that if said Boyle and Bissell shall construct a good and sufficient slope in said dam, that will admit the passage of flat boats, rafts and other water crafts, at all times with safety, when the river is in a good stage for safe navigation, they shall have four years from the first day of February, 1844, to construct said lock.

SEC. 2. Not to obstruct navigation; if obstructed amount of penalty. It shall be the duty of the persons hereby authorized to build said dam to keep said lock or slope in good repair, so that persons navigating said river may be passed without toll or unnecessary delay. Any person who shall be unnecessarily detained, shall be entitled to recover of said owners double the amount of damages they shall prove to have sustained by reason of such detention.

SEC. 3. Injury to, how redressed, amount of penalty. Any person who shall destroy, or in anywise injure, either said dam or lock, shall be deemed to have committed a trespass, and shall be liable accordingly; and any person or persons who shall wilfully or maliciously destroy or injure said lock or dam, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owner or owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 4. Not to interfere with rights of others. Nothing herein contained shall authorize the individuals named in this act, their heirs or assigns, to enter upon and flow the lands, or otherwise interfere with the rights and priv-

ileges of any person, without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity.

SEC. 5. Power of repeal reserved. The legislature of the territory (or state) may at any time alter or amend this act, so as to provide for the navigation of said river.

Approved, 12th February, 1844.

CHAPTER 94.

ROAD.

AN ACT to lay out and establish a territorial road, from Cedar Rapids, in Linn county, to the rapids on the Wabesipinicon river, in Buchanan county.

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

SECTION 1. Commissioners, appointment of; road to commence at Cedar Rapids, Linn co., route of. That John L. Shearer, Perry Oliphant and [111] A. L. Higgins, be and they are hereby appointed commissioners to lay out and establish a territorial road from Cedar Rapids, in Linn county, to Bartimus Megonegil's, and thence to the rapids on the Wabesipinicon river in Buchanan county.

SEC. 2. Commissioners, where and when to meet, and how to proceed. Said commissioners, or a majority of them, shall meet at the Cedar rapids, in Linn county, on the second Monday in April next, or on some subsequent day, and proceed to lay out and establish said road in accordance with the provisions of an act entitled "An act to provide for laying out and establishing territorial roads," approved December 29th, 1838.

SEC. 3. Commissioners, surveyor and others, compensation of. That the commissioners, surveyor and chain-carriers, shall receive compensation for their services as follows: commissioners two dollars per day; surveyor two dollars and fifty cents per day; chain-carriers one dollar and fifty cents per day, for each day they shall be necessarily employed in the discharge of their duties.

Approved, 12th February, 1844.

CHAPTER 95.

DEED.

AN ACT to authorize the administrators of John Jones, deceased, to make a title to certain real estate in Grandview, Louisa county.

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

SECTION 1. Deeds, by whom to be made; description of property; to be made to the trustees of the Grandview Seminary. That Thomas J. Jamison and Edward Jones, administrators of the estate of John Jones, deceased, of Grandview, Louisa county, are hereby authorized and empowered to make and execute good and sufficient deeds, in fee simple, for two lots of ground

in said town of Grandview, known and numbered on the town plat of said town as lots number one and two, in block number four, to the trustees of the "Grandview Seminary," and their successors in office; said lots having been donated by said John Jones to said seminary before his decease, without his making deeds therefor to said trustees.

Approved, 12th February, 1844.

[112] CHAPTER 96.

ROAD.

AN ACT to legalize the location of a territorial road from Davenport to Bellview.

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

SECTION 1. Road commencing at Davenport, in Scott co. route of; authorized by act of 27th Nov., 1840; appointment of commissioners declared as legal as if made by legislature; declared public highway. That the acts of the commissioners who located a territorial road from Davenport, in Scott county, via Parkhurst, Camanche, Lyons and Charleston, to Bellview, in Jackson county, which was authorized to be located by an act of the legislative assembly entitled "An act to locate a territorial road from Davenport to Bellview," approved November 27th, 1840, be and the same are hereby declared as legal and valid as if the said commissioners had been appointed by the legislative assembly; and that said road be and the same is hereby declared a public highway.

SEC. 2. Commissioners, surveyor and hands, how paid for services. That the said commissioners, and the surveyor and the laboring hands employed in locating said road, shall have such compensation, and be paid in the manner provided for in the said act authorizing the location of said road.

SEC. 3. Time of taking effect. This act to be in force from and after its passage.

Approved, 12th February, 1844.

CHAPTER 97.

EXPENSES OF LAYING OUT ROAD.

AN ACT to authorize the payment of the expenses of laying out a certain territorial road.

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

SECTION 1. Road located under act Feb. 1st, 1843, counties through which it runs to pay viewers, surveyor and others; compensation to be regulated by general law on the subject of territorial roads. That the county commissioners of the counties through which a certain territorial road passes, located by authority of an act entitled "An act to establish a certain territorial road," approved February 1st, 1843, are hereby authorized and required to pay the demands of the viewers, chain carriers and surveyor, who were [113] engaged in laying out and establishing said road, according to the provisions of the general law providing for laying out and establishing territorial roads.

Approved, 12th February, 1844.

CHAPTER 98.

TOWN OF FARMINGTON.

AN ACT to amend an act entitled "An act for the incorporation of the town of Farmington," etc., approved January 11th, 1841.

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

SECTION 1. Electors of Farmington to vote at annual election on the subject of licensing groceries; corporate power to license grocers to depend on result of such election. That the electors of the incorporated town of Farmington, at every annual election, shall deposit with the judges of said election a ballot for or against the licensing of groceries; and if a majority of votes be found in favor of licensing such groceries, then the incorporated authorities of said town shall grant licenses as is now required by law; but if a majority of votes should be found against the granting of licenses, then there shall be no license granted by the incorporated authorities of said town to any person to retail ardent spirits for one year from said election.

SEC. 2. Notice of election upon the subject of grocery license; how, by whom and when given. It shall be the duty of the recorder of said town, at the time he gives notice of the annual election as is required by the third section of the act to which this is amendatory, to specify in said notice that a poll will be opened at said election for the reception of votes for and against the licensing of groceries.

Approved, 12th February, 1844.

CHAPTER 99.

ROAD.

AN ACT to locate a territorial road from the southern line of Davis county to the northern line of Wapello county.

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

[114] **SECTION 1. Commissioners, appointment of; road where to commence; route of.** That Hugh George and John Kirkpatrick, of Wapello county, and Leoyd Nelson, of Davis county, be and they are hereby appointed commissioners to locate a territorial road, from the southern boundary of Davis county, to the northern boundary of Wapello county.

SEC. 2. Commissioners, where and when to meet, and how to proceed. Said commissioners shall meet at the county seat of Wapello county, as soon as the county seats of the aforesaid counties are established, or within one year thereafter, and proceed to locate said road according to law; and shall make the county seats in said counties points in said road; and shall have regard, as far as practicable, to a central line through said counties.

SEC. 3. Counties through which road runs not to pay any part of expense. Said commissioners, or any other persons engaged in viewing, surveying, marking or locating said road, shall not make any charge to the counties through which said road passes, for services rendered in locating said road.

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

Approved, 12th February, 1844.

CHAPTER 100.

WAPELLO COUNTY.

AN ACT to organize the county of Wapello.

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

SECTION 1. Organization of, rights of inhabitants, part of 1st judicial district. That the county of Wapello be and the same is hereby organized, from and after the first day of March next; and [115] the inhabitants of said county shall be entitled to all the 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 first judicial district of this territory.

SEC. 2. First election, by whom ordered, number of officers to be chosen, when election to be held, notice of where to be held, judges how appointed. That for the purpose of organizing said county it is hereby made the duty of the clerk of the district court of said county, and in case there should be no such clerk appointed and qualified, or for any cause said office should become vacant, on or before the tenth day of March next, then it shall be the duty of the sheriff of said county, to proceed immediately after the tenth day of March, to order a special election in said county, for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one county recorder, and such number of justices of the peace and constables as may be directed by the officer ordering said election, the officer having due regard to the convenience of the people; which special election shall be on the first Monday in the month of April next; and that the officer ordering said election shall appoint as many places of holding elections in said county as the convenience of the people may require, and shall appoint three judges of election for each place of holding election in said county, and issue certificates to said judges of their appointment; and the officer ordering said election shall give at least ten days notice of the time and place of holding such election, by at least three printed or written advertisements, which shall be posted up at three or more of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. Returns to whom made, certificates of election by whom granted; who to be clerk of board of county commissioners. That the officer ordering each of the elections aforesaid shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act; and in all cases not provided for by this act the officer ordering each of said elections shall discharge the duties of a clerk of the board of county commissioners, until there shall be a clerk of the board of county commissioners elected and qualified for said county, under the provisions of this act.

SEC. 4. Election, how conducted. Said election shall, in all cases not provided for by this act, be conducted according to the laws of this territory regulating general elections.

SEC. 5. Term of office. The officers elected under the provisions of this act shall hold their offices until the next general election, and until their successors are elected and qualified.

SEC. 6. Books and papers of officer ordering election, to whom and when returned. The officer ordering the election in said county shall return all

the books and papers which may come into his hands by virtue of this act to the clerk of the board of county commissioners of said county, forthwith, after said clerk shall be elected and qualified.

SEC. 7. Sheriff appointment of; his oath, bond, duties and fees. That James M. Peck be and he is hereby appointed to discharge the duties and functions of the office of sheriff of said county, who shall exercise the duties and functions of said office until the first Monday in the month of April next, and until there shall be a sheriff elected and qualified for said county; and the said James M. Peck [116] shall give bond and security, and shall take the same oath of office that is required to be taken by sheriffs, which bond shall be approved and the necessary oath of office administered by the clerk of the district court of said county; and in case there should be no clerk of the district court for said county on the first day of March next, then it shall be the duty of the clerk of the district court of Jefferson county to approve the bond and administer the oath required by this act. And the said sheriff shall be allowed the same fees for services rendered by him, under the provisions of this act, that are allowed by law for similar services performed by the sheriffs in similar cases.

SEC. 8. Clerk of district court, by whom appointed and when to qualify. That the clerk of the district court for said county of Wapello, may be appointed by the judge of said district, and qualified at any time after the passage of this act; but shall not enter upon the discharge of the duties of said office prior to the first day of March.

SEC. 9. Suits in the district court of Jefferson county not affected. That all actions at law in the district court for the county of Jefferson, commenced prior to the organization of said county of Wapello, where the parties or either of them reside in said county of Wapello, shall be prosecuted to final judgment, order or decree, as fully and effectually as if this act had not been passed.

SEC. 10. Justices of the peace, to whom to return books and papers; not to affect suits pending before justices. That it shall be the duty of all justices of the peace residing within said county, to return all books and papers in their hands appertaining 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 the hands of such justices of the peace, and unfinished, shall be completed or prosecuted to final judgment by the justices of the peace to whom such business or papers may have been returned as aforesaid.

SEC. 11. County assessors, their powers and duties. That the county assessors elected under the provisions of this act for said county shall assess the said county in the same manner, and be under the same obligations and liabilities, as is now or may hereafter be provided by law in relation to township assessors.

SEC. 12. Commissioners to locate county seat; when and where to meet. That Joseph B. Davis, of Washington county, John H. Randolph, of the county of Henry, and Solomon Jackson, of the county of Lee, be and they are hereby appointed commissioners to locate and establish the seat of justice of said county of Wapello. Said commissioners, or any two of them, shall meet at the house of George Wilson, Esq., near the old Indian agency, in said county, on the first Monday in May next, or at such other time within the month of May as a majority of said commissioners shall agree upon, in pursuance of their duties under this act.

SEC. 13. Their oath, contents of; by whom administered, when filed and recorded. Said commissioners shall first take and subscribe the following oath, to-wit: "We do solemnly swear (or affirm) that we (or either of us)

have no personal interest either directly or indirectly in the location of the seat of justice for Wapello county, and that we will faithfully and impartially examine the situation of said county, taking into consideration the future as well as the present population of said county; also, to pay strict regard to the geographical centre of said county, and locate the seat of justice as near the centre as an eligible situation can be obtained;" which oath shall be administered by the [117] clerk of the district court, or justice of the peace of said county of Wapello; and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to record the same.

SEC. 14. Duty of commissioners; to commit their decision to writing and sign it; where filed, recorded, and kept; the place there designated to be county seat. 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 shall have come to a determination, they shall commit to writing the place so selected, with a particular description thereof, signed by the said commissioners, and filed with the clerk of the board of county commissioners in which such seat of justice is located; 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. 15. Commissioners, compensation of; how paid. Said commissioners shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, which shall be paid by the county out of the first funds arising from the sales of town lots in said seat of justice.

SEC. 16. Kishkekosh and country west to be attached. That the county of Kishkekosh, and the territory west of said county, be and the same is hereby attached to the county of Wapello, for election, revenue and judicial purposes.

SEC. 17. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

CHAPTER 101.

DUBUQUE MINING COMPANY.

AN ACT to incorporate the Dubuque Mining Company.

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

SECTION 1. Organization of company; name, style and general powers of. That Timothy Fanning, George W. Cummins, William B. Smith, and their associates and successors, be and they are hereby created a body politic and corporate, under the [118] name of the "Dubuque Mining Company;" and by that name shall have perpetual succession, and shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered, in all courts of competent jurisdiction; may have and use a common seal, and be vested with all the powers and privileges necessary to the object of their incorporation, not contrary to law and the rights of other individuals.

SEC. 2. Right to hold and sell property; limitation of amount. That said company shall have power and be capable of holding, purchasing, improving, selling, leasing, renting and conveying estate, real, personal and mixed, for

the use of said incorporation: provided, that the real estate owned by said company shall not at any one time exceed thirty thousand dollars in value.

SEC. 3. Shares \$50 each. That the capital stock of said company shall be divided into shares of fifty dollars each.

SEC. 4. First meeting within one year; majority may adopt rules for government of; restriction; first election when and how conducted; election to take place annually—Directors elected, one of their number to be president; electors how to vote; other officers how appointed; property and concerns of how managed. That the members of said company shall meet at any time a majority of them may agree upon, within one year from the passage of this act, and when so convened may proceed to enact such rules, regulations and by-laws, for the government and conduct of said company, and adopt such method and arrangement for receiving subscriptions to the capital stock thereof, as a majority of them may deem right and proper: provided, they do not conflict with the laws of the United States, of this territory, or of the future state of Iowa; and shall at the same time, and annually thereafter, elect by ballot five directors, in electing which each share of the capital stock shall be entitled to one vote; and the person receiving the highest number of votes shall be declared duly elected, to hold the office for one year and till his successor be chosen. The directors shall choose one of their number president of the company, and appoint such other officers and agents as a majority of them may think necessary for the management of the business of said company; and by said directors the property, stock and concerns of said institution, shall be managed, subject to the regulations and instructions of a majority of the stockholders. They shall have full power and authority to put into operation and execute all the designs and instructions of the stockholders, and all contemplated in this charter.

SEC. 5. Conveyances, how executed, etc.; how acknowledged, effect of. That all conveyances of real estate shall be signed by the president of the company, and by him acknowledged in his official capacity, and the seal of the company shall be thereto affixed; which conveyance, so executed and acknowledged, shall be binding on the company, according to the tenor and meaning of the same.

SEC. 6. Stock personal property, how transferred; restriction of indebtedness on transfers. That the stock of said company shall be deemed personal property, and assignable and transferable on the books of the company; but no subscriber indebted to said incorporation shall be permitted to make a transfer of stock until such indebtedness be adjusted to the satisfaction of the directors.

SEC. 7. Power to sink shaft and erect machinery in Dubuque county. That said corporation be and is hereby authorized to sink a shaft or shafts, for the purpose of discovering lead ore, in the mining district of the county of Dubuque, and put thereon machinery sufficient to work the same.

SEC. 8. Company becoming insolvent stockholders to be personally liable. That if said incorporation should become insolvent, and [119] fail thereby to meet any obligation against them, the stockholders thereof shall be personally liable therefor.

SEC. 9. Repealing power reserved. That this act may be amended or repealed by any subsequent legislature of this territory or state of Iowa.

SEC. 10. Time of taking effect. That this act shall take effect and be in force from and after its passage

Approved, 13th February, 1844.

CHAPTER 102.

ROAD.

AN ACT to locate a territorial road from Iowa City to the seat of justice of Mahaska county.

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

SECTION 1. Commissioners, appointment of; road to commence at Iowa City, route of. That James Walters, Daniel McFarland and William Grimsley, be and they are hereby appointed commissioners to locate and establish a territorial road from Iowa City, thence to Wasson and Walters' mill, on English river, in Washington county; thence to the seat of justice of Keokuk county; thence to the seat of justice of Mahaska county.

SEC. 2. Commissioners, when and where to meet. Said commissioners, or a majority of them, shall meet at Iowa City on the second Monday in the month of June next, or such other time as a majority of them may agree within six months thereafter, for the discharge of their duties.

SEC. 3. Commissioners, surveyor and others, compensation of, and how paid. Said commissioners shall each be allowed the sum of two dollars per day for their services, and the chain-carriers and markers shall each receive the sum of one dollar and fifty cents per day for their services, and the surveyor the same fees as are prescribed in the act regulating costs and fees to county surveyors; which shall be paid in accordance with an act entitled "An act to provide for laying out and establishing territorial roads," approved December 29th, 1838.

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

Approved, 13th February, 1844.

[120] CHAPTER 103.

ROAD.

AN ACT to establish a territorial road from Deeds' mill, in Jefferson county, to Crippen's mill, in Washington county.

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

SECTION 1. Commissioners, appointment of; road to commence at Deeds' mill in Jefferson county; route of. That John Rupe and Harvey Benson, of Henry county, and Isaac Whiteman, of Washington county, be and they are hereby appointed commissioners to lay out and locate a territorial road from Deeds' mill, in Jefferson county, on the nearest and best route to the old trading house, on Crooked Creek, in Henry county; thence to Crippen's mill, in Washington county.

SEC. 2. Commissioners and others, how paid. Said commissioners shall take to their assistance a surveyor, two chainmen and a marker, and shall receive for their compensation two dollars per day to each of the commissioners, one dollar and fifty cents per day to each of the chainmen and marker; the surveyor to be allowed such fees as he is entitled to in the act regulating surveyor's fees.

SEC. 3. Commissioners, when and where to meet, and how to be governed. Said commissioners shall meet at Deeds' mill on the first Monday in May, or at some convenient time within sixty days thereafter, and proceed to locate said road as hereinbefore directed; and they shall be regulated and governed by the provisions of an act entitled "An act for laying out and establishing territorial roads," approved December the 29th, 1838.

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

Approved, 13th February, 1844.

[121] CHAPTER 104.

DAM.

AN ACT to allow John Godden, Samuel Clark, John Groom, Archibald McDonald and P. M. Janney, of Van Buren county, further time to construct a dam and lock across the river Des Moines, at Pittsburg, in the above named county.

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

SECTION 1. Two years additional time allowed to construct a dam. That John Godden, Samuel Clark, John Groom, Archibald McDonald and P. M. Janney, be and are hereby allowed two years additional time to complete a dam and lock, as above specified, and as required in the sixth section of an act entitled, "An act to authorize John Godden, his heirs or assigns, to build a dam across the river Des Moines."

SEC. 2. The 8th section so amended as to make persons incorporated tenants in common. That the eighth section of the above named act to which this act is amendatory, is hereby amended so as to constitute the said John Godden, Samuel Clark, John Groom, Archibald McDonald and P. M. Janney, tenants in common, and vest in the said tenants in common, their heirs and assigns, an equal undivided interest in said dam, and the privilege thereto appertaining.

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

Approved, 13th February, 1844.

CHAPTER 105.

ROAD.

AN ACT to lay out a Territorial road from Delhi, in Delaware county, to Cascade, in Dubuque county.

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

SECTION 1. Commissioners, appointment of; road to commence at Delhi; route of. That William H. Whiteside, Joel Bailey and Lucius Kilby, of Delaware county, Lyman Dillon and Arthur Thomas, of Dubuque county, be and they are hereby appointed commissioners to mark and lay out a territorial road, commencing at Delhi; thence the nearest and best way to Cascade, Dubuque county, having [122] in view the accommodation of the citizens on said route and the public in general.

SEC. 2. Commissioners, when and where to meet. The commissioners, or a majority of them, shall meet at Delhi on the first Monday of April next, or at any time within six months thereafter, and proceed to the discharge of their duties under this act.

SEC. 3. No part of the expense of laying out said road shall be paid by either of the counties through which the same shall pass.

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

Approved, 13th February, 1844.

CHAPTER 106.

ROAD.

AN ACT to legalize the location of a Territorial road from Bellview to Iowa City.

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

SECTION 1. Road from Bellview to Iowa City, established by Cowles and Kirkpatrick, under act of Jan. 13, 1841; their acts declared valid. That the acts of Anson Cowles, of Linn county, and James L. Kirkpatrick, of Jackson county, commissioners who located a territorial road from Bellview to Iowa City, authorized by an act of the legislative assembly entitled, "An act to lay out and establish a road from Bellview to Iowa City," approved January 13th, 1841, be and the same is hereby declared as legal and valid as if said James L. Kirkpatrick had been appointed by the legislative assembly; and that said road located by said Anson Cowles and James L. Kirkpatrick be and the same is hereby declared a public highway.

SEC. 2. Commissioners and others who located said road, how paid. That the commissioners, surveyor, and other hands employed in locating said road, shall have such compensation as was provided in the act authorizing the location of said road.

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

Approved, 13th February, 1844.

[123] CHAPTER 107.

TOWN OF SOLON.

AN ACT to vacate a part of the town of Solon, in Johnson county.

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

SECTION 1. A part of town vacated. That that part of the town of Solon which is located on the east half of the south-west quarter of section twenty-four, in township eighty-one north of range number six west of the fifth principal meridian, in Johnson county, be and the same is hereby vacated.

SEC. 2. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 13th February, 1844.

CHAPTER 108.

ALLOWANCE FOR DIETING PRISONERS.

AN ACT for the relief of George W. Cummins.

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

SECTION 1. Dieting prisoners, compensation for; by whom allowed and paid; limitation. That the county commissioners of Dubuque county are hereby authorized to allow George W. Cummins, for dieting prisoners heretofore and hereafter, such sum as they shall deem just and reasonable, not to exceed in value twenty-five cents a day in cash for each prisoner.

SEC. 2. Time of taking effect. This act shall take effect from its passage, and be in force until January next.

Approved, 13th February, 1844.

[124] CHAPTER 109.

IOWA CITY MANUFACTURING COMPANY.

AN ACT to incorporate the Iowa City Manufacturing Company.

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

SECTION 1. Name and style of incorporation; general powers conferred. That the persons now associated together in the county of Johnson, in this territory, and doing business under and by virtue of certain articles of association or agreement under the style and firm of the "Iowa City Manufacturing Company," and all other persons who shall hereafter become stockholders, agreeably to the provisions of this act, be and they are hereby created a body corporate and politic, by the name and style of "The Iowa City Manufacturing Company," and by that name may have perpetual succession, may sue and be sued, plead and be impleaded, answer and be answered unto, in all courts of law or equity; may purchase, hold and convey, real, personal and mixed estates, so far as may be necessary for carrying into effect the legitimate objects for which said company is incorporated, or securing the payment of debts which may be due to or from said company.

SEC. 2. May use common seal and make by-laws. Said company may have and use a common seal, which may be altered at pleasure, and make such by-laws (not inconsistent with the laws of the United States or of this territory) as may be necessary for the transaction of the business, and management of the affairs of said company.

SEC. 3. Capital stock personal property, \$200,000. The capital stock of said company shall not exceed two hundred thousand dollars, which shall be considered personal property, and shall be divided into shares of twenty-five dollars each.

SEC. 4. President and directors, how and when elected; how stockholders to vote in making by-laws; majority of votes to govern. The business of said company shall be conducted by five directors, who shall be elected by ballot from amongst the stockholders on the first Monday in the month of March next, and on the first Monday in the month of March annually thereafter—

one of which [125] said directors shall be chosen in like manner as president of said board of directors; and it is hereby made the duty of the present secretary of said company to give at least two weeks' notice, by publication in some newspaper published at Iowa City, of the time and place when and where the first election will be held by virtue of this act. In making the by-laws of said company, each stockholder holding from one to five shares shall be entitled to one vote for each share, and one vote for every two shares over five: provided, that no stockholder shall be entitled to more than ten votes; and any stockholder may vote at any election by a legally authorized proxy; and all stockholders who are minors, and under the age of twenty-one years, shall be represented at all elections, as well as in the transaction of other business, by their properly constituted guardian. In all elections held by virtue of this act, a majority of the votes given shall determine the election.

SEC. 5. Oath of directors; to appoint a secretary, his duty. The said directors, after having been duly elected, shall each, before entering upon the discharge of their duties, take and subscribe an oath, well and faithfully to discharge and execute all of the duties incumbent upon them as directors of said company, without partiality, favor or affection; and as soon as the directors shall have been thus qualified, it shall be their duty to choose from among the stockholders a suitable person to act as secretary of said company, whose duty it shall be carefully to preserve all books and papers of every kind and description appertaining to the business of said company, and also to keep a faithful record of all the proceedings of the said board of directors, together with all the books of account necessary to be kept in the transaction of the business of said company. The said secretary shall also receive and pay out all of the moneys and funds of said company: provided, however, that the secretary shall not in any case pay out any money or funds of the said company until the same shall have been specifically appropriated by the board of directors; and no money or other funds shall be paid out otherwise than upon a certificate signed by the president and countersigned by the secretary, showing the date at which the indebtedness accrued, and the amount due and payable thereon; and all such certificates, when duly paid by the secretary, shall be by him cancelled with some established and durable mark, and carefully preserved as a voucher for such payments.

SEC. 6. Directors to appoint agents and fix their compensation; secretary to make financial report every three months for publication. The said directors shall have power to employ all agents necessary for transacting the business of said company, who, together with the secretary, may be required to enter into bond with such security and in such penalty as the board of directors may deem necessary. The compensation of the said secretary, and all other agents doing business for and on behalf of said company, shall be fixed by the board of directors; and all such agents of the said company shall be at all times accountable to the board of directors for the manner in which they shall discharge their several duties; and it shall be the duty of the secretary to report to the board of directors, at the expiration of every three months, the condition and situation of the financial department of said company, which said report shall be published in some newspaper printed at Iowa City.

SEC. 7. Agents to take subscriptions; their appointment and duties. The board of directors may, at any time after they shall [126] have organized under this act, appoint such persons as they may deem proper, with full power and authority to receive subscriptions to the capital stock of said company; and each subscriber, at the time of subscribing, shall pay to the persons so appointed five dollars on each share of stock by him subscribed; and all moneys so received shall be paid to the secretary as soon thereafter as practicable, and his receipt taken therefor.

SEC. 8. Contracts and covenants, how made and executed by said company. All contracts, covenants and promises, made by and with said company, shall, on the part of said company, be made in the name of the president and directors of the Iowa City Manufacturing Company; and all instruments in writing, signed by the president and countersigned by the secretary, shall be sufficient to bind said company.

SEC. 9. Company to have power to cut a race to Iowa City; to lease or sell water privileges; to erect mills and machinery; restrictions as to the rights of others; to be subject to the law regulating mills and millers; to grind for toll. Said company shall have power to convey the water of the Iowa river over or through any suitable ground, by means of a canal of such capacity as shall be deemed sufficient, from and out of the dam in the Iowa river known as the Iowa City Manufacturing Company's dam, (near the residence of the late Walter Butler,) to or through Iowa City, for manufacturing purposes; and also shall have power to erect buildings and establish and carry on any branch of manufacturing at any point on the line of said canal; and to dispose of any water privilege or power, either by sale of any part or the whole of their interests therein, or by lease of the same, in the same manner as individuals could or might dispose of their private property: provided, that no lands shall be appropriated by said company as sites for permanent buildings or machinery, or for the purpose of constructing any canal or canals, without first obtaining the title thereto by contract or agreement with the owner thereof: and provided further, that all grist mills erected and carried on by said company shall be subject to and governed by the general laws of this territory relative to mills and millers: and provided further, that the said company shall at all times, when there is sufficiency of water, grind for customers for toll, according to the rates fixed by the law regulating mills and millers.

SEC. 10. Contracts heretofore made to be binding on corporation, and rights acquired by company to vest in corporation. All covenants, contracts, agreements, promises and undertakings, heretofore made by and with the directors and trustees of the Iowa City Manufacturing Company, shall hereafter be held good and valid by and against the president and directors of said company; and all real, personal and mixed estates, heretofore acquired and held in the name of the directors and trustees of the Iowa City Manufacturing Company, shall, by virtue of this act, vest in the corporation hereby created; and all subscriptions heretofore taken to the capital stock of the Iowa City Manufacturing Company, shall be held and governed by the same rules and regulations as though the same had been taken after the organization of said company, under and by virtue of this act: provided, however, that the president and board of directors may, at their discretion, at any time hereafter, declare all subscriptions heretofore taken to the capital stock of said company, upon which nothing shall have been paid, forfeited and of no effect.

SEC. 11. Conditions of forfeiture. The said company shall complete the said canal, together [127] with the necessary locks, or construct a suitable lock at the present dam, within five years from the taking effect of this act; and in default thereof, all the privileges herein granted shall be forfeited by said company: provided, that if the said company construct the said lock at the said dam within the time limited by this act, then and in that case they shall complete the said canal, together with the necessary locks, within ten years from the taking effect of this act; and in default thereof, the said company shall forfeit all privileges herein granted.

SEC. 12. Penalty for committing trespass upon the property of company. Any person who shall destroy, or in anywise injure said dam, or the said canal or lock, or any other works belonging to said company, shall be deemed

to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure said dam, lock or other works, belonging to said company, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the said company may have sustained, and be imprisoned, at the discretion of the court.

SEC. 13. Duration of term. The charter hereby granted shall continue for the term of forty years.

SEC. 14. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 110.

LYCEUM.

AN ACT to incorporate the Washington Lyceum of Jackson county.

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

SECTION 1. Organization of; name and style of company; general powers and limitation of capital; power to make by-laws for government of; restriction; number of officers, how and when appointed; term of office; quorum how constituted; deeds how made. That E. Ellsworth, Nathan Hixon, David J. Osborn, William P. Johnson, Arnold Smith, Samuel Durant, Allen Hinchman, George F. Gordon, and such other persons as from time to time shall become members of said corporation, shall be and are hereby constituted and declared to be a body politic and corporate, in fact, deed and name, by the name and style of the "Washington Lyceum;" and by that name they and their successors shall have succession, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, and in all manner [128] of actions, suits and complaints, matters and cases whatsoever; and that they and their successors shall have a common seal, and may change and alter the same at their pleasure; and they and their successors, by the same name, shall be persons in law capable to purchase, acquire and hold, by gift, grant or devise, and to them enjoy to their successors, any real estate in fee simple, or for a term of life or lives, or otherwise; and any goods, chattels, or any personal property, for the purposes of enabling them the better to carry into execution, encourage and promote, such measures as may tend to the advancement of science and literature, the promotion of education, the advancement of knowledge, and the development of worth in the sciences: provided, that the clear yearly value of such personal and real estate shall not exceed the sum of ten thousand dollars; and that they and their successors shall have full power and authority to give, grant, sell, lease or dispose of, said real and personal estate, or any part thereof, at their will and pleasure; and that they and their successors shall have power, from time to time, to make, constitute and establish, such by-laws, ordinances and regulations, as they shall judge proper for the election of their officers, the admission of new members, or fixing the time and place of the meetings of said corporation, and for regulating all its affairs generally: provided, such by-laws shall not be incompatible with the constitution and laws of the United States and the laws of this territory. And

for the better carrying on of the affairs of said corporation, there shall be a president, vice president, recording secretary, and such other officers as they may see fit, who shall hold their offices from the time of their appointment or election until the first Monday in March in each and every year, or until others shall have been chosen in their stead; and that E. Ellsworth shall act as president; N. Hixon, vice president; David J. Osborn, recording secretary; R. B. Wyckoff, corresponding secretary; Arnold Smith, treasurer, and Samuel Durant, librarian, until the first Monday of March next; and that said officers shall forever thereafter be chosen by the members of said corporation, in such manner and at such time and places as shall be directed by the by-laws of said corporation, to be made for that purpose; and that the president or vice president, and any four members of said corporation, shall constitute a quorum for the transaction of business; and all deeds or other instruments of conveyance shall be made by order of the lyceum, and signed and acknowledged by the president and recording secretary, and sealed with the common seal of the lyceum, in order to insure their validity.

SEC. 2. Certain articles of property exempt from taxation. That the books, scientific apparatus, minerals, fossils and plants, and such other specimens as said lyceum have or may hereafter collect and acquire for their cabinet, shall be exempt from county and territorial taxation.

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

Approved, 14th February, 1844.

[129] CHAPTER 111.

COLLECTION OF TAXES IN LOUISA COUNTY.

AN ACT to perfect the collection of taxes in Louisa county.

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

SECTION 1. Acts of sheriff valid. That the proceedings of the sheriff of Louisa county, in the collection of taxes on the tax duplicate for the year one thousand eight hundred and forty-three, be and are hereby declared legal and valid, so far as he has proceeded in the collection of the taxes on said duplicate.

SEC. 2. Sheriff to pay over in 20 days from passage of act. The said sheriff shall pay over to the county treasurer of Louisa county, within twenty days from the passage of this act, all money by him collected on said tax duplicate, after deducting his per centum for the collection of the same, and which he has not already paid, and take the treasurer's receipt for the same.

SEC. 3. To return tax duplicate to the clerk and take receipt. Said sheriff shall also forthwith, after paying over said money to the treasurer, return the tax duplicate to the clerk of the board of county commissioners, after specifying in said tax duplicate the property on which the taxes have been paid; and the clerk of the board of county commissioners, after calculating the amount of taxes remaining unpaid in said tax duplicate, shall give to the said sheriff his receipt for said tax duplicate, stating in said receipt the amount of taxes remaining unpaid on said tax duplicate.

SEC. 4. To settle with the board of commissioners. Said sheriff shall settle with the board of county commissioners of said county at the next regular session; and if the amount of the county treasurer's receipt, together with the balance due and uncollected on the tax duplicate, as specified in the receipt of the clerk of the board of county commissioners, will balance the charges on the books of the county commissioners, they shall give him a receipt for the amount of said tax duplicate; but if, on said settlement, there should be a balance due from said sheriff, the commissioners, if said sheriff should refuse to pay over the same, shall proceed to collect the said balance from said sheriff according to law.

SEC. 5. Clerk to direct duplicate to collector; collector's duty. The clerk of the board of county commissioners shall, immediately after receiving the tax duplicate from the sheriff, under the seal of said board, and in the name of the territory, direct the same to the county collector of said county, commanding him to collect the taxes unpaid in said duplicate; and said collector shall collect all the taxes remaining unpaid in said tax duplicate, agreeably to the provisions of "An act to provide for the assessing and collecting county and territorial revenue," approved on the 13th February, 1843: provided, that in collecting the said unpaid taxes, the said collector shall pay no regard to the time prescribed in the eighteenth section of the aforesaid act of the thirteenth of February, 1843, for demanding payment of taxes; but that the said collector shall proceed to collect the unpaid taxes charged in said duplicate, by first demanding, as soon as may be after the said duplicate shall come into his hands, payment of the persons therein charged, at their most usual place of residence, or in any other place where they may be found.

SEC. 6. Commissioners may give further time. The county commissioners of said county may give such further time to said collector for the collection of said taxes, as they may deem necessary: provided, such time shall not extend further than the first Monday of July next.

SEC. 7. Commissioners may appoint the day of sale. Said commissioners may appoint a day when said collector shall sell real estate for the payment of said taxes, and said collector shall proceed to advertise and sell said real estate in accordance with the act to provide for the assessing and collecting county and territorial revenue, approved on the 13th of February, 1843; and said sale of real estate, by such collector, shall be as legal and valid as if such sale had been made on the first Monday in January.

SEC. 8. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 112.

MOUNT PLEASANT LYCEUM.

AN ACT to incorporate the Mount Pleasant Lyceum.

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

SECTION 1. Organization of, name and style; general powers. That Norton Munger, John P. Grantham, Samuel Nelson, Nelson Lathrop, J. D. Payne, John Craig, J. C. Hall, James Wamsley, Alvin Saunders, and their associates and successors, are hereby created a body corporate, by the name and style of "The Mount Pleasant Lyceum," with perpetual succession, with power

to acquire and possess property, real, personal and mixed, and to manage and dispose of the same at pleasure; and such corporation shall have power to contract and be contracted with, to sue and be sued, to have and use a common seal, and to alter the same at pleasure.

SEC. 2. **Object of and how pursued.** The object of the above corporation shall be the establishment of a library and scientific apparatus, the cultivation of the arts and sciences, and the diffusion of useful knowledge; which object [131] shall be pursued by such means, and in such manner, as may from time to time be prescribed in the by-laws of the corporation, provided the same are not inconsistent with the laws of the land.

SEC. 3. **Number of officers; tenure of office.** The officers of the lyceum shall be a president, vice president, treasurer and secretary, with the powers and duties usually incident to those offices, together with such other officers and with such tenure of office as shall be prescribed in the by-laws.

SEC. 4. **Time and place of meeting.** Such corporators, or a majority of them, may meet and organize, by electing their officers, at such time and place as may suit their convenience, and may proceed to enact such by-laws as may be deemed expedient; and may change, repeal, alter or amend the same, in accordance with the by-laws, rules and regulations, of said corporation.

SEC. 5. **Quorum.** In all cases five of the corporators shall constitute a quorum to transact business, unless otherwise provided by the by-laws.

SEC. 6. **Deeds how made.** All deeds and other instruments of conveyance shall be sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity.

SEC. 7. **Time of taking effect.** This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 113.

FERRY.

AN ACT to amend an act entitled, "An act to establish a ferry across the Mississippi river, in this territory," approved January 18th, 1838.

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

SECTION 1. **John Wilson, authority of to keep swing boat, provided county commissioners are satisfied with its safety and sufficiency; result of examination to be entered on books of board of comm'rs.** That John Wilson, in lieu of a boat or boats to be propelled by horse or steam power, to be kept at the said ferry, as required by the proviso of the second section of the act to which this is amendatory, be and he is hereby authorized and permitted to keep a good and sufficient boat, to be propelled by the force of the current of said river, (by attaching one end of a line or cable to the said boat, and the other end thereof to Rock Island,) commonly called a swing ferry boat: provided, that upon the completion of said boat, the board of county commissioners of Scott county, upon examination of the operation thereof, shall be satisfied that the said swing ferry boat furnishes a sufficient and safe conveyance of passengers, horses, cattle, hogs and other property, across said Mississippi

river, without [132] unreasonable delay; the result of which examination said commissioners shall cause to be entered in the books of said board.

SEC. 2. Time of taking effect. This act to be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 114.

ROAD.

AN ACT declaring a certain road therein named a public highway, and the establishment and continuation of the same through the counties of Jackson, Clinton and Cedar.

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

SECTION 1. Road commencing at David G. Bates', route of; declared a territorial road; board of commissioners of Jackson county may re-locate part of. That the road as now traveled, from the ferry of David G. Bates, on the west bank of the Mississippi river, by the way of the towns of Bellview, Andrews, (the seat of justice of Jackson county,) and thence to Springfield post office, in said county, be and the same is hereby declared a territorial road: provided, that so much of said road as lies between Bellview and Andrew may hereafter be re-located by the board of commissioners of said county, if they think fit.

SEC. 2. Appointment of commissioners to locate territorial road, commencing at John E. Goodenow's, route of; commissioners how to proceed in discharge of duties; where and when to meet; counties through which road runs not to pay expense. That William Phillips, William H. Efner, of Jackson county, and A. Cowles, of Clinton county, be and they are hereby appointed commissioners to lay out and establish a territorial road, beginning at the house of John E. Goodenow, the Springfield post office; thence on the most eligible route to or as near as may be thought the most practicable, to cross the Wabesipinicon river, at or near the place where Thorn and Anderson are about erecting a mill on said stream, and thence on the most proper route to intersect the territorial road from Camanche to Tipton, in Cedar county, having due reference to the accomodation of the present and future inhabitants of the country through which said road passes, as well as the public generally. The said commissioners, or a majority of them, shall meet at Springfield on the first Monday of June eighteen hundred and forty-four, or at such other time during the year as they may agree upon, and then proceed to the discharge of their duties: provided, that nothing herein contained shall be so construed as to allow said commissioners any compensation to be drawn from the treasury of either of the above counties.

SEC. 3. Commissioners to take an oath, nature of. That each of said commissioners shall, before he enters [133] upon the duties required of him by the provisions of this act, take and subscribe, before some justice of the peace or other officer authorized to administer oaths, the following affidavit: "I do solemnly swear (or affirm, as the case may be,) that I will faithfully and impartially, without prejudice or favor, perform the duties of commissioner in strict accordance with the provisions of this act."

Approved, 14th February, 1844.

CHAPTER 115.

ROAD.

AN ACT to locate a Territorial road from Keosauqua, in Van Buren county, to the western line of Appanoose county.

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

SECTION 1. Commissioners, appointment of; road to commence at Keosauqua; route of. That Samuel Morton, St. Clair Griffin and John Arrowsmith, of Van Buren county, be and they are hereby appointed commissioners to locate a territorial road, from Keosauqua, in Van Buren county, to the county seat of Davis county; thence to the county seat of Appanoose county, or as near the centre of said county as practicable, if the county seat of said county is not located when said commissioners shall proceed to locate said road; thence to the western line of said county.

SEC. 2. Commissioners, when and where to meet. That the commissioners appointed as aforesaid shall meet at the house of Solomon Richardson, on the first Monday in June next, or at some convenient period within six months thereafter, and proceed to locate said road according to law, from said Solomon Richardson's to its termination as specified in the first section of this act.

SEC. 3. Part of road from Keosauqua via Ely's ford, to be adopted as part of; plat and survey of, where to be recorded. That so much of the county road leading from Keosauqua, via Ely's ford, on the Des Moines river, to the western line of Van Buren county, as lies between Keosauqua and said Richardson's, be recognized as a portion of said territorial road, without any further action on the part of said commissioners than to make out the plat and survey of said portion of said county road, as found on record in Van Buren county.

SEC. 4. Commissioners and others, how paid for services. Said commissioners and other persons necessarily employed in locating said road, shall be allowed such compensation for their services as the county commissioners of the counties through which the road shall pass may think just and right.

SEC. 5. Time of taking effect. This act to be in force from and after its passage.

Approved, 14th February, 1844.

[134] CHAPTER 116.

ROAD.

AN ACT to locate and establish a Territorial road, from Brighton, in Washington county, to intersect the road from Mount Pleasant to Washington, in Washington county.

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

SECTION 1. Appointment of commissioners to locate road; to commence at Brighton, in Washington county; route of. That Sexton Mount, of Jefferson county, and Joseph Walker, of the county of Henry, and John Garnet, of the county of Washington, be and they are hereby appointed commissioners to

locate and establish a territorial road, commencing at Brighton, in Washington county; thence on the nearest and best route on which a convenient ford can be found on Skunk river, to intersect the territorial road running from Mount Pleasant to Washington, in Washington county, at or near the house of Rufus M. Pickle, in Henry county.

SEC. 2. **Commissioners, how to be governed.** 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 the 29th, 1838.

SEC. 3. **Commissioners, where and when to meet.** Said commissioners shall meet at Brighton, on the second Monday of April next, or at some future time to be agreed on by them within sixty days thereafter, and proceed to locate said road as hereinbefore directed.

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

Approved, 14th February, 1844.

CHAPTER 117.

VACATION OF STREET.

AN ACT to authorize the county commissioners of the county of Henry to vacate a part of Webster street, in the town of Mount Pleasant, in said county.

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

SECTION 1. **Webster street, part of to be vacated by county commissioners; to enlarge burial ground.** That for the purpose of enlarging and improving the burying ground in the town of Mount Pleasant, the county [135] commissioners of the county of Henry are hereby authorized to vacate that portion of Webster street, in said town, lying between the public burying ground and block No. nine, in the commissioners first addition to Mount Pleasant.

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

Approved, 14th February, 1844.

CHAPTER 118.

TOWN OF FREDONIA.

AN ACT relative to the town plat of Fredonia, in Louisa county.

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

SECTION 1. **Alvin Clark required to have plat made out within 90 days.** That Alvin Clark, of the county of Louisa, in said territory, be and he is hereby authorized to cause a complete and legal plat of the town of Fredonia, in said county, to be made out according to the survey of the same by John Gilliland, Esqr. in the year 1840, and to have the same duly recorded within ninety days from the passage of this act.

SEC. 2. Deeds and mortgages made by Clark declared valid. That all deeds, mortgages, and other contracts in writing, in relation to any of the lots of said town of Fredonia, executed by the said Clark, are hereby declared to be as legal and valid, to all intents and purposes, as if a complete and legal plat of said town had been made out and duly recorded prior to the execution of any such deed, mortgage, or other contract in writing.

SEC. 3. Time of taking effect. This act to take effect from and after its passage.

Approved, 14th February, 1844.

CHAPTER 119.

ROAD.

AN ACT to revive an act entitled, "An act to review and establish a part of a territorial road leading from Fort Madison, in Lee county, to Iowaville, in Van Buren county," approved 13th February, 1843.

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

SECTION 1. Time given for location of extended. That the time given in the act aforesaid for [136] the relocation of said road, be and the same is hereby extended until the first Monday in August next.

SEC. 2. Appointment of commissioners to re-locate. That Benjamin Saylor and Joel Avery are hereby appointed to act as commissioners in re-locating said road, in the place of E. A. Boyer and John Saylor.

Approved, 14th February, 1844.

CHAPTER 120.

BAPTIST CHURCH.

AN ACT for an act donating to the Baptist church of Iowa City a certain lot of ground therein named.

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

SECTION 1. Church reserve in block 51 donated. That there be donated unto the Baptist church of Iowa City, the church reserve in block numbered fifty-one (51) in Iowa City, as designated on the plat of said town.

SEC. 2. Secretary required to make deed to trustees; effect of deed. That the secretary of this territory be and he is hereby directed, on application, to execute and deliver a deed for the above parcel of ground so donated, to George S. Hampton, Elijah Walker and Alonzo Dennison, trustees of the Baptist church of Iowa City, and their successors in office, conveying the said piece of ground to them for the use of the said Baptist church: provided, the said deed shall be executed in all respects and in the same manner, and shall have the same legal effect, as other deeds for lots in Iowa City to purchasers, as are now directed by law.

SEC. 3. Trustees authorized to sell and convey; proceeds of sale, how applied in the purchase of another lot. That the said trustees, or their successors in office, by the direction of the said Baptist church, are hereby

authorized, at any time after the passage of this act, to sell and dispose of all or a part of the said piece of ground so donated by this act to any person or persons, and to execute a deed or deeds to the purchaser or purchasers for the same; and the said trustees are hereby directed and required to invest the proceeds thereof in the purchase of a lot of ground in Iowa City, and the balance, if any, to be applied to the erection of a house of public worship for the use and benefit of the said Baptist church.

SEC. 4. Lot so purchased to be forever held for religious and literary purposes. The lot of ground so purchased shall be forever thereafter used for religious and literary purposes, agreeably to the forms and customs of said Baptist church.

SEC. 5. Time of taking effect. This act to be in force from and after the passage thereof.

Approved, 14th February, 1844.

[137] CHAPTER 121.

ROAD.

AN ACT to change a part of a territorial road running from Burlington to the mouth of the Des Moines river.

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

SECTION 1. Part of road running from Burlington to mouth of the Des Moines river located on section line. That all that part of a territorial road running from Burlington to the mouth of the Des Moines river, lying between James McMurry's and section twenty-three and fourteen, shall be considered and established on the section line.

SEC. 2. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 14th February, 1844.

CHAPTER 122.

DAVIS COUNTY.

AN ACT to organize the county of Davis and to provide for the location of the seat of justice thereof.

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

SECTION 1. County, organization of; part of the first judicial district. That the county of Davis be and the same is hereby organized, from and after the first day of March, 1844; 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 to, and that said county shall constitute a part of the first judicial district of this territory.

[138] **SEC. 2. Clerk to designate the precincts, give notice of elections, and appoint judges.** That the clerk of the district court of said county, shall, and in case there should be no such clerk appointed and qualified, or

for any cause said office should become vacant, on or before the tenth day of March, 1844, then it shall be the duty of the clerk of the board of commissioners of Van Buren county, to proceed to establish, temporarily, six election precincts in said county, for the purpose of holding the first election in said county as hereinafter provided; and also give notice for the holding such election on the first Monday of April, 1844, by posting up, or causing to be posted up, three written or printed notices of said election in each of the election precincts so established, at least ten days previous to holding said election; also to appoint three judges of said election for each precinct in said county, and issue certificates to said judges of their appointment.

SEC. 3. Number of officers and how qualified; returns to be made to the clerk; votes how canvassed. It shall be legal for the inhabitants of said county, at such special election, to elect the following officers, who shall hold their offices until the next general election thereafter, to wit: three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county recorder, one county surveyor, one county assessor, one sheriff, one coroner, and one sealer of weights and measures; also, for each election precinct, two justices of the peace, and two constables; which officers when so elected, will enter into the same bonds and be qualified in the same manner as is now required by law. That the returns of said election shall be made to the person ordering the same, within ten days after holding such election, in the same manner as is now provided for by law; and at the expiration of said time, or sooner, if the returns from all the precincts are received, he shall call to his assistance two justices of the peace from either of the counties of Davis or Van Buren, and proceed to canvass the votes given at said election, and grant certificates of election to the persons entitled thereto.

SEC. 4. Election, how conducted. Said election shall in all cases not provided for by this act be conducted according to the laws of this territory regulating general elections.

SEC. 5. Officer ordering election to return books and papers to clerk. That the officer ordering said election shall return all the books and papers which may come into his possession by virtue of this act, to the clerk of the board of commissioners of said county of Davis, as soon as practicable after such clerk shall have been elected and qualified.

SEC. 6. Clerk of district court of Davis county when appointed; when to enter upon duties. That the clerk of the district court for said county of Davis may be appointed and qualified at any time after the passage of this act, but shall not enter upon the discharge of his duties prior to the first day of March, 1844.

SEC. 7. Not to interfere with suits pending. That all actions at law or equity in the district court, for the county of Van Buren, commenced prior to the first day of March, 1844, where the parties, or either of them, reside in the county of Davis, shall be prosecuted to final judgment, order or decree, in said court as fully and effectually as if that [this] act had not been passed.

SEC. 8. County assessor, his duty. That the county assessor elected under the provisions of this act, for the county of Davis, shall assess said county in the same manner and be under the same obligations and liabilities, as is now [139] or may hereafter be provided by law, in relation to township assessors.

SEC. 9. Commissioners to locate county seat; how to proceed. That Charles H. Price, of Van Buren county, Thomas Wright, of Henry county, and John Brown, of Lee county, be and they are hereby appointed commissioners to

locate and establish the seat of justice of said county of Davis. Said commissioners, or any two of them, shall meet at the house of Noble C. Barron, in said county of Davis, on the first Monday of April, 1844, or on such other day during the said month of April as they or a majority of them may agree, and proceed 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, the same 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 said county of Davis, who shall record the same and forever keep it on file in his office; and the place so selected shall be the seat of justice of Davis county.

SEC. 10. **Oath of commissioners.** 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 Davis, and that we will faithfully and impartially locate the same according to the best interests of said county, taking into consideration the future as well as the present population of said county;" and the person so administering such oath shall certify and file the same in the office of the clerk of the board of county commissioners of said county of Davis, whose duty it shall be to record and keep the same on file in his office.

SEC. 11. **Davis county, boundaries of; a part of the act 17th February, 1843, repealed.** That said county of Davis shall be bounded as follows, to wit: beginning at the north-east corner of township seventy north, range twelve west; thence west on the township line dividing townships 70 and 71, to range sixteen west; thence south on said range line to the Missouri state line, thence east on said state line to the south-west corner of Van Buren county; thence north with the west line of said county of Van Buren, to the place of beginning; and that so much of the first section of an act entitled "An act to establish new counties and define their boundaries," etc., approved 17th February, 1843, as conflicts with this section, be and is hereby repealed.

SEC. 12. **Compensation to commissioners to be paid by Davis county.** That the commissioners to locate said seat of justice shall each receive the sum of two dollars per day while necessarily employed in the duties enjoined upon them by this act, to be paid by said county of Davis.

SEC. 13. **County of Appanoose attached to Davis.** That the county of Appanoose, and the territory west of said county, be and the same is hereby attached to the county of Davis, for election, revenue and judicial purposes.

SEC. 14. **Time of taking effect.** This act to be in force from and after its passage.

Approved, 15th February, 1844.

[140] CHAPTER 123.

WABESIPINICON BRIDGE COMPANY.

AN ACT to incorporate the Wabesipinicon Bridge Company.

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

SECTION 1. **Incorporation of; name, style, and general powers.** That Daniel M. Peet and Caleb C. Walworth, with their associates, successors and assigns, are hereby created a corporation, by the name of the "Wabesipini-

con Bridge Company," and by that name may sue and be sued, have and use a common seal; and shall be capable in law of purchasing, holding, selling, leasing and conveying estate, real or personal, and shall have power to do all other acts necessary to the consummation of the objects of this incorporation.

SEC. 2. Right to construct a bridge; where to be located. The said Daniel M. Peet and Caleb C. Walworth be and they are hereby authorized to construct a bridge across the Wabesipinicon river, at or near the place where the military road crosses said river, in Jones county.

SEC. 3. How bridge to be constructed. Said bridge shall be constructed of good materials, of sufficient height from the water, and of convenient width for the passage of teams, carriages and passengers.

SEC. 4. First meeting, how called; may enact by-laws, etc. That any member of said company may, at any time within one year from the passage of this act, by giving ten days notice, call a meeting of its members, and may proceed to enact such rules, by-laws and regulations for its government, and for the management and conduct of its business, as a majority of them may deem right and proper: provided, the same do not conflict with the laws of the United States and of this territory.

SEC. 5. Capital stock and shares. The capital stock of said company may be divided into shares of one hundred dollars each, and as many such shares may be created as the company may direct: provided, they do not, in the aggregate, exceed the sum of three thousand dollars. Each share shall be entitled to one vote in the government and direction of the affairs and business of said company.

SEC. 6. Subsequent meetings of company how called, notice of how given. Any two persons may, from time to time, call meetings of said company, by posting up notices of the time, place and purpose of said meetings, in two of the most public places in the township where [141] said bridge is to be erected, at least ten days before the time of said meeting.

SEC. 7. Rates of toll allowed to company. A toll is hereby granted and established for the benefit of said corporation, not to exceed the rates following, to wit: for each horse and rider, eighteen and three-quarter cents; for each sleigh, sled, cart, wagon, or other vehicle drawn by one beast, the sum of twenty-five cents; for each sleigh, sled, cart, wagon or other vehicle drawn by two beasts, the sum of thirty-seven and a half cents; for each additional beast of burden beyond two, in any sleigh, sled, cart, wagon or other vehicle, the sum of twelve and a half cents; for each foot passenger, the sum of six and a quarter cents; for droves of neat cattle, mules, horses and asses, the sum of six and a quarter cents each; for sheep and swine, two cents each: provided, said corporation may permit persons who may contribute to the building of said bridge to cross free of toll.

SEC. 8. Rates of toll to be exhibited at bridge to public view. At the place of collecting tolls, said corporation shall keep exposed to view a board or sign, upon which shall be plainly printed or marked the rates of toll afore-said; and said toll shall commence on the day when said bridge is first opened for passengers.

SEC. 9. Company to keep an account of cost of; when company fully reimbursed, bridge to become free. Said corporation shall keep, or cause to be kept, a correct account of all moneys expended, labor performed, and materials furnished, in the erection of said bridge; and the cost of such bridge, thus ascertained, shall be recorded in a book, in which book shall also be recorded a correct account of all tolls received by said company; and when said tolls shall amount to a sum sufficient to refund to said company an amount equal to the amount expended in erecting said bridge, together

with interest thereon, after deducting from such tolls so received one-half, as a compensation to said company for tending and keeping in repair said bridge, then said bridge shall become the property of the public, and shall forever remain a free bridge, and shall be open to the passage of all persons free of toll.

SEC. 10. Toll gatherer to take oath. Said corporation shall cause such person as they may employ as a toll gatherer, to take and subscribe an oath before some justice of the peace in the township where said bridge shall be situated, to keep a correct account of all moneys and tolls received by him, and to record the same in the proper book kept for that purpose.

SEC. 11. Injury to, how redressed; penalty for. That if any person shall wilfully or maliciously destroy or injure said bridge, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court, not less than six months nor more than ten years.

SEC. 12. To be completed in two years. Said bridge shall be completed within two years from the date of the passage of this act, and a failure of its completion shall be deemed a violation of this incorporation.

SEC. 13. Power of repeal reserved. Any future legislature may alter, amend, or repeal this act, in case the corporation shall abuse or misuse its privileges: provided, such alteration, amendment or repeal, shall not impair the title of said bridge, nor change the tolls by this act established.

Approved, 15th February, 1844.

[142] CHAPTER 124.

MADISON COUNTY.

AN ACT for the formation of the county of Madison.

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

SECTION 1. Boundaries and name of. That all that part of the county of Lee known as the Half Breed Tract, bounded as follows, to wit: Beginning in the middle of the main channel of the Mississippi river at the lower mouth of the Des Moines river; thence north along the middle of the main channel of the said Mississippi river to a point where the northern line now known as the boundary of the said Half Breed Tract intersects the Mississippi river below the town of Fort Madison; thence west along said line to where the same intersects the Des Moines river; thence to the middle of the main channel of the said river Des Moines; thence down the middle of the main channel of the river Des Moines, to the mouth thereof; thence east to the middle of the main channel of the Mississippi river, to the place of beginning, shall constitute a new county, to be called Madison.

SEC. 2. First election in, where and when held, by whom and how conducted, number of officers, how elected, term of office, powers and duties. There shall be an election held at the different places of voting for justices of the peace and constables in the limits of said county of Madison, the first Monday of August next. The election shall be conducted by the present judges of election in said county, who have been appointed by the county of Lee according to the law regulating general elections in this territory. The legal voters of the county of Madison shall elect all

county officers for the county, who shall hold and be qualified and commissioned as similar officers are in other counties of this territory. Said officers, so elected and qualified, shall hold their offices until the next general election, and shall have the same [143] jurisdiction, and discharge all the duties, in the limits of the county of Madison, that are required by law of similar officers in other counties of this territory.

SEC. 3. Returns of election, when and to whom made; where, when, and by whom opened. Within ten days after said election, the judges of election at the different places of voting shall return the poll books of said election to A. Kerr, Joseph A. Clarke and Johnson Meeks, three acting justices of the peace. The said justices shall meet in the town of Nashville within ten days after said election, and proceed to open said election returns, and to do and perform all the duties in relation to said returns that are required by law of the clerks of the board of county commissioners in relation to similar returns.

SEC. 4. On notice of organization judge to appoint clerk; district court, when and where held; to be part of first district. As soon as the county officers shall have been elected and qualified, the said county of Madison shall be considered as organized, and the clerk of the board of commissioners shall give notice to the judge of the first judicial district, who shall appoint a clerk of the court, and shall hold court at the town of Nashville at such time next fall as he may think proper, in the said county of Madison, and such other times as may suit his convenience, until the county seat of the said county of Madison shall be permanently located. The said county of Madison shall form a part of the first judicial district until otherwise ordered by law.

SEC. 5. Suits pending in Lee county not affected. Suits and indictments that have been commenced in the district court of the county of Lee by any of the citizens living in the limits of the county of Madison, before the organization thereof, shall not be affected by this act; but all suits so commenced shall be decided in the district court in the county where they were commenced.

SEC. 6. Justices residing in new county to retain their offices. All justices of the peace and constables elected in the county of Lee, who reside in the limits of the county of Madison, shall hold their offices, and have jurisdiction in said county of Madison, as though they had been originally elected in the said county.

SEC. 7. First election for county seat, where and when held, how conducted—if two places voted for, then a second election; where and when held, and how conducted; majority to determine county seat. After the organization of the county of Madison, it shall be the duty of the clerk of the board of county commissioners, within thirty days, to issue writs of election to the judges of election in the several townships in said county, to hold an election on the first Monday in April, 1845, to be conducted in all respects by the law regulating general elections, to locate the seat of justice of the county of Madison. The place receiving a majority of all the legal votes polled shall be the permanent seat of justice of the county of Madison; but if more than one place shall have been voted for, and no one place having received a majority of all the votes polled, the clerk aforesaid shall issue writs of election as in the first case for a second election, to be held on the first Monday in August, eighteen hundred and forty-five; but if no place or places shall be voted for but the two, the one having a majority of all the legal votes polled at the said second election shall be and remain the county seat of Madison county.

SEC. 8. First electoral district to be composed of Lee and Madison; representation in legislature and convention. The counties of Lee and Madison

shall form the first electoral district, and shall be entitled to two members of the council, and three members of the house of representatives, and also eight members of the convention to form a constitution and state government: provided, the people vote in favor of said convention, as provided by law.

[144] **SEC. 9. Election on the division of Lee county, when and where held, how conducted; returns when made, by whom opened and canvassed; effect of act to depend on result of election.** It shall be the duty of the judges of election in the different townships in the county of Lee, at the April election for the year 1844, to open a poll in each township for "division" or "no division," at which election all the qualified voters of Lee county may write on their ticket "division" or "no division;" and the judges of election shall make return of said tickets, together with the result of the votes in each township, sealed up, within five days after said election to the clerk of the board of county commissioners for Lee county; and said clerk shall proceed, on the 6th day after said election, in the presence of two justices of the peace for said county, to open and canvass said returns; and it shall be the duty of the clerk to carefully preserve the same. If it shall appear by such returns that a majority of the votes cast are in favor of division, then this act to be in full force and virtue; but if it shall appear by such returns that a majority of the votes cast are opposed to division, then this act to be void and of no effect.

SEC. 10. Failure of judges of election or clerk of board of commissioners to perform duties required, penalty for, how recovered and applied; disqualification of persons convicted. If any of the judges of election of the different townships of the county of Lee, or the clerk of the board of commissioners of said county, shall wilfully fail to perform any of the duties required of them by the provisions of the 9th section of this act, or shall knowingly receive the vote of any person not qualified as an elector by the laws regulating elections in this territory, he shall be deemed guilty of a misdemeanor, and liable to a fine not exceeding five hundred dollars, at the suit of any person feeling himself aggrieved, one half for the use of the person suing, and the balance for the use of the county; and the persons so convicted shall forever thereafter be disqualified from holding any office of honor, profit or trust, in this territory.

SEC. 11. At division election names of electors to be written on back of ticket; election, how contested. It shall be the duty of the judges of the different townships in Lee county to write on the back of each ticket presented for "division" or "no division," the name of the person voting said ticket; and the result of said election may be contested in the same manner that elections of county officers may be contested under the provisions of the law regulating general elections; and for that purpose those persons contesting said election shall have the use of all the tickets voted at said election.

SEC. 12. Court house at Madison not to be sold for 18 months. The court house at Fort Madison shall not be sold by the county commissioners of said county, nor by their authority, for the space of eighteen months from and after the date thereof.

Approved, 15th February, 1844.

[145] CHAPTER 125.

CLINTON ACADEMY AT DEWITT.

AN ACT to establish a seminary of learning at the town of Dewitt, Clinton county.

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

SECTION 1. Object of incorporation, name and style of. That there shall be established a seminary of learning at the town of Dewitt, in the county of Clinton, for the instruction of young persons of both sexes, in science and literature, to be called "The Clinton Academy at Dewitt;" and that George W. H. Turner, John Snow, James W. Kirtley, Joseph L. Turner, Thomas W. Clark, Jonathan Shinn, Spooner P. Burton, James D. Bourne, George W. Turner, Robert R. Bedford, Oliver Emerson, Alvin G. Harrison, David H. Brown, Alexander Work, Absalom Dennis, Wm. Horan, J. L. Bellows, John C. Turner, R. C. Bourne, and Loring Wheeler, and their associates and successors, are hereby declared a body politic and corporate, in law, by the name of "The Clinton Academy at Dewitt."

SEC. 2. Power to hold and sell property; to sue and be sued; to use common seal. And the corporation before named shall have perpetual succession, and to acquire, possess, and retain, and enjoy, property, real and 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, to 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 it at pleasure.

SEC. 3. Stock divided in shares of five dollars, and transferable on books; income not to exceed two thousand dollars. The stock of said academy shall consist of shares of five 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 two thousand dollars; and its funds, privileges and immunities, shall be for no other purpose than that of education.

SEC. 4. Number of trustees, and how and when elected; vacancies how filled. The corporation concerns of said academy shall be managed by a board of trustees, consisting of five members, three of whom shall constitute a quorum for the transaction of business. They shall be elected by the stockholders on the first Monday in March, annually, and shall hold their office for the term of one year, and until their successors are duly elected. Election of trustees shall be by ballot, [146] and each stockholder shall be entitled to one vote for every share owned by him to the amount of ten shares, and then one vote for every five shares over and above that amount. Any stockholder may vote in person or by proxy. Said trustees shall elect one of their number to be president of their board, and they shall have power to fill any vacancies in their own body. If any election shall not be made on the day designated in this act, such election may be held on any other day, provided notice of the time and place of holding such election, signed by three or more of the stockholders, and to be affixed to the door of the most public house in Dewitt, at least ten days before the election.

SEC. 5. Power to make by-laws; appoint officers and agents. The board of trustees shall have power to appoint subordinate officers and agents; to make, ordain and establish such by-laws and ordinances, rules and regulations, as they may deem necessary for the good government of said academy,

its officers, teacher and pupils; and for the management of property and officers of said corporation to the best advantage: provided, that they shall not contravene the laws of the United States or of this territory.

SEC. 6. Instruments of writing, how made. That all deeds and other instruments of writing shall be made by the order of the board of trustees, sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity.

SEC. 7. Repealing power reserved. Any future legislature may repeal, alter, or amend this act.

SEC. 8. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 126.

JUDGE OF PROBATE OF LINN COUNTY.

AN ACT to authorize the judge of probate of Linn county to make a record of the proceedings of said court.

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

SECTION 1. Isaac M. Preston to make record of all the proceedings of the probate court of Linn county. That Isaac M. Preston, the present judge of probate of Linn county, be and he is hereby authorized and required to make a record of all the proceedings of said court of probate in and for Linn county, from the organization of said county up to the present time, so far as it can be done from the papers now on file in said court of probate.

[147] **SEC. 2. To be submitted to the board of commissioners of Linn county for inspection; if approved to be valid.** That when said record shall be made it shall be submitted to the board of commissioners of said county for their approval, and when approved by them it shall have all the force and effect, and be as good and valid, as if said record had been regularly kept as required and provided for by law.

SEC. 3. Compensation for, by whom allowed and paid. That the board of commissioners of said county, when said record is so approved by them, shall allow and pay said judge of probate such compensation as they may deem fair and reasonable for such service.

SEC. 4. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 127.

WABESIPINICON MILL COMPANY.

AN ACT to incorporate the Wabesipinicon Mill Company.

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

SECTION 1. Organization of company; style and general powers of; limitation of capital. That George W. Thom and Joseph Anderson, and such other persons as may associate themselves with them, be and they are here-

by created a body politic and corporate, to be known by the name and style of "The Wabesipinicon Mill Company," and by that name shall have perpetual succession; may sue and be sued, in all courts of law or equity, and shall be capable in law of purchasing, holding, selling, leasing and conveying, estate, real, personal or mixed, so far as may be necessary for the purpose of carrying out the object of this incorporation: provided, the capital stock of said corporation shall not exceed the sum of fifty thousand dollars.

SEC. 2. To construct dam, place designated; erect mills, sluice to be 40 feet wide; be completed in 4 years. That the said George M. Thom and Joseph Anderson, their associates and successors, be and they are hereby authorized and empowered to construct a dam across the Wabesipinicon river, in Clinton county, on section seventeen in township eighty-two (82) north, of range No. one (1) east, of the fifth principal meridian, with the privilege of erecting mills for milling and manufacturing purposes; which dam shall contain a convenient sluiceway at least forty feet wide for the passage of all water crafts on said river. Said dam and sluice shall be completed within four years from the passage of this act, and [148] shall after completed, be kept in good repair for the passage of all water crafts without delay, and free of charge.

SEC. 3. Injury to how redressed, and penalty. That if any person shall in anywise destroy or injure said dam or sluice, or any property belonging to said company, he shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully and maliciously destroy or injure said dam or sluice, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined treble the amount of damages the owners may have sustained, and be imprisoned at the discretion of the court.

SEC. 4. Restrictions as to rights of others. That nothing in this act contained shall authorize said company to enter upon or flow the land of any person without the consent of such person.

SEC. 5. Shares of stock \$100 each. That the capital stock of said company shall be divided into shares of one hundred dollars each, and as many such shares may be created as the company may direct: provided, they do not, in the aggregate, exceed the sum of fifty thousand dollars.

SEC. 6. First meeting of company, how notice given, and how to proceed; restriction. That any member of said company may, at any time within one year from the passage of this act, by giving at least thirty days previous notice, call a meeting of its members; and said company, when convened, shall call one of their members to preside, and may proceed to enact such by-laws, rules and regulations for its government, and such arrangements for the management and conduct of its business, as a majority of them may deem right and proper: provided, the same do not conflict with the laws of the land.

SEC. 7. Repeal power reserved. Any future legislature may amend or repeal this act.

SEC. 8. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 128.

TOWN OF BELLVIEW.

AN ACT to authorize the president and trustees of the town of Bellview, in Jackson county, to license merchants and grocers.

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

SECTION 1. President and trustees of, authorized to grant license to pedlars; amount to be paid therefor. That any person hereafter wishing to obtain a license to sell any dry goods, wares or merchandise, of any description whatever, such person shall apply to the board of trustees of the said town of Bellview, who are authorized and empowered to grant a license to such applicant, by his paying the treasurer of said corporation such sum as said trustees think proper to charge, not less than five nor more than thirty dollars.

SEC. 2. Application for grocery license, to whom to be made; warrant of trustees; treasurer's receipt; term of license; bond of applicant to whom given, penalty of and conditions; required to keep an orderly house; penalty on failure, how recovered and applied. That any person wishing to obtain a license to keep a grocery shall first apply to the board of trustees of said town, who shall issue their warrant directing the person so applying to pay into the treasury of said corporation such sum as said trustees think proper to charge, not to exceed one hundred nor less than five dollars, as the case may be, in the discretion of the board, and obtain the treasurer's receipt for the same; and upon presentation of such receipt the board shall grant to such applicant a license to keep a grocery in said town for the term of one year, by the said applicant executing a sufficient bond to the said board in the penalty of two hundred dollars, with one or more sufficient securities, conditioned that he will keep an orderly house, and that he will not permit any unlawful gaming or riotous conduct in or about his house; and upon a violation of the requisitions herein contained the person so offending shall pay a fine not less than ten nor more than fifty dollars, for the use of the corporation, to be recovered in the name of the board of trustees in any court having jurisdiction within the limits of said county of Jackson, and moreover shall forfeit his license for one year thereafter.

SEC. 3. Penalty for selling liquor in less quantities than a gallon without license, amount of; how recovered and applied. That if any person hereafter shall sell or retail any spirituous or vinous liquors, in less quantity or quantities than one gallon, without first having obtained a license agreeable to this act, he shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars nor less than fifty dollars, for the use of the corporation, to be recovered by motion in any court of justice having cognizance thereof in said county of Jackson.

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

Approved, 15th February, 1844.

CHAPTER 129.

TOWN OF DAVENPORT.

AN ACT to amend an act entitled, "An act to incorporate the town of Davenport."

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

SECTION 1. **Warrant first process, nature of punishment, limitation of imprisonment.** That the first process for the recovery of fines for violations of any by-law or ordinance passed by the mayor [150] and aldermen of said town, may be a warrant returnable forthwith; and on conviction of any offender for any such violation, the punishment may be fine or imprisonment of such offender, at the discretion of the court or justice trying the same: provided, such imprisonment shall not exceed seventy-five days for any one offense.

SEC. 2. **Tax, how and by whom laid, how applied.** That the mayor and aldermen of said town are hereby authorized to lay a tax on all the lots situated on any street in said town, for the improvement of such street, or of the side walks thereof, upon the petition of the owners of two-thirds of the lots on such street.

Approved, 15th February, 1844.

CHAPTER 130

MOUNT PLEASANT COLLEGIATE INSTITUTE.

AN ACT to incorporate the Mount Pleasant Collegiate Institute.

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

SECTION 1. **Organization of; name and style; general powers.** That Palmer C. Tiffany, John P. Grantham, Nelson Lathrop, Samuel Nelson, Jonathan C. Hall, Ephraim Killpatrick, and their associates, are hereby declared a body corporate, by the name of the "Mount Pleasant Collegiate Institute," with power of perpetual succession, to sue and be sued, to implead and be impleaded, in any of the courts of this territory, and do all acts necessary to carry out the objects of their incorporation.

SEC. 2. **Object of incorporation.** That the objects and purposes of said incorporation shall be wholly confined to the acquiring of sufficient real estate, erecting suitable buildings, endowing professorships, establishing a library, and sustaining an institution of learning, designed and kept open for the education of all denominations of white citizens.

SEC. 3. **Specific powers; to make by-laws, elect officers, etc.; validity of, restriction.** That said incorporators, and their associates, shall have power to organize in such manner as they may see proper, appoint such officers as they may deem fit, and make such rules, by-laws and regulations, to govern themselves, and dispose of their property, as they may deem advisable; and after they shall have adopted such rules, by-laws and regulations, the same shall be valid and binding, and shall be received and enforced in the several courts of this territory: provided, no rules, by-laws or regulations, adopted by said incorporation, shall have any effect, except over the members of said [151] incorporation; and in no case shall they be made to inflict any penalty on any member thereof, or contravene the laws of this territory.

SEC. 4. Legal process, how served. Legal process may be served upon any officer of said incorporation, and in case there are no officers, then upon any member thereof.

SEC. 5. Institution, where to be situated. That said institution shall be situated within five miles of the town of Mount Pleasant, in Henry county.

SEC. 6. Power to authorize any member to sell or convey real estate of incorporation; effect of such conveyance. That said incorporators and their associates may make rules by which any one or more of their number can sell and convey, or mortgage, any real estate, of which said incorporation may become possessed; and all conveyances so made, shall be valid in law and equity.

SEC. 7. Power to receive conveyance of the real estate and effects of the Mount Pleasant Collegiate Institute. The present association, known as the "Mount Pleasant Collegiate Institute," are hereby authorized to transfer to the said incorporation, such real and personal property as has been vested in them for the purposes of establishing said institution of learning; and said property shall, when so transferred, be wholly vested in said incorporation.

SEC. 8. Repeal power reserved. Any future legislature may repeal, alter, or amend this charter.

SEC. 9. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 131.

ROAD.

AN ACT to locate and establish a territorial road from Wilson's mills, in Henry county, to Glasgow, in Jefferson county.

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

SECTION 1. Commissioners, appointment of; road to commence at Wilson's mill, in Henry county. That Samuel D. Woodworth and Henry Hackett, of Henry county, and Daniel Seares, of Jefferson county, be and they are hereby appointed commissioners, to view, mark, locate and establish, a territorial road, from Wilson's mills in Henry county, to Glasgow, in Jefferson county.

SEC. 2. Commissioners, when and where to meet; power to employ surveyor and other hands; route of road. Said commissioners, or a majority of them, shall meet at Wilson's mills on the third Monday in March next, or within three months thereafter, and take to their assistance one surveyor and two [152] chain carriers, and one marker, and proceed to locate and establish said road on the nearest and best route to Watson's mills, on Big Cedar, from thence the nearest and best route to Glasgow, in Jefferson county, and there to intersect and terminate on the road leading from Fort Madison to Fairfield, in said county.

SEC. 3. Commissioners and others, how paid. Said commissioners, chain carriers and marker, shall receive the compensation allowed by law; and the said Woodworth shall perform the duties of surveyor, and shall receive a compensation for his services as such (and not as commissioner.) to be audited and paid by each of said counties in proportion to the length of the road in each county.

SEC. 4. Commissioners, how governed. Said commissioners, surveyor, chain carriers and marker, shall be governed in all respects by the provisions of an act entitled "An act for laying out and establishing territorial roads in this territory," approved December the twenty-ninth, one thousand eight hundred and thirty-eight.

SEC. 5. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 132.

FORT MADISON.

AN ACT to amend the several acts incorporating the town of Fort Madison.

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

SECTION 1. Mayor and aldermen hereafter not to receive pay for services. That after the expiration of the term for which the present mayor and aldermen of the town of Fort Madison were elected shall have expired, said officers thereafter elected, shall not receive any remuneration from said town for their services, nor shall they have the power to make appropriations for the benefit of any or either of said officers.

SEC. 2. Not to lay a greater tax than \$1000 in any one year. That said mayor and aldermen shall not in any one year levy a tax, after deducting the expense of collecting the same, of more than one thousand dollars, unless a majority of the legal voters of said town shall, at the annual election for officers of said town, vote in favor of levying and collecting a greater amount of taxes.

SEC. 3. May levy enough the present year to pay debts. Nothing in this act shall be so construed as to prevent the said mayor and aldermen from levying and collecting for the present year a sufficient amount of revenue to pay the existing debts of said town.

SEC. 4. Time of taking effect and repealing clause. This act to take effect and be in force from and after its [153] passage; and all acts and parts of acts which contravene the provisions of this act are hereby repealed.

Approved, 15th February, 1844.

CHAPTER 133.

ROAD.

AN ACT to lay out and establish a territorial road from Rome, in Jones county, to the rapids on the Wabesipinicon river, in Buchanan county.

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

SECTION 1. Commissioners, appointment of; road to commence at Rome, in Jones county. That Joshua Shearman, Benjamin Chaplin and Joseph H. Merritt, of Jones county, be and they are hereby appointed commissioners to lay out and establish a territorial road, from Rome, in Jones county, to the rapids of the Wabesipinicon river, in Buchanan county.

SEC. 2. Commissioners, when and where to meet; route of road. Said commissioners, or a majority of them, shall meet at Rome on the first Monday in April, or some subsequent day, and proceed to lay out and establish said road, from Rome, in Jones county, to Shearman's ford, on the Wabesipinicon river; thence to the nearest and best route to or near Walworth's mills; and thence to the rapids on the Wabesipinicon river in Buchanan county.

SEC. 3 Commissioners how to be governed. Said commissioners shall in all respects be governed by the general law providing for laying out and establishing territorial roads.

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

Approved, 15th February, 1844.

[154] CHAPTER 134.

ROAD.

AN ACT to locate a territorial road from Musquito creek, in Muscatine county, to Hector Sterrett's, in Cedar county.

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

SECTION 1. Commissioners appointment of; road, commencement of; route; commissioners, when and where to meet. That Matthew White and Charles Henderson, of Muscatine county, and Walter Freeman, of Cedar county, be and they are hereby appointed commissioners, to locate and mark a territorial road, commencing where the territorial road from Bloomington to Marion crosses Musquito creek, in Muscatine county; thence by Moscow, in said county, to intersect said road near Hector Sterrett's, in Cedar county. Said commissioners, or a majority of them, shall meet at Musquito creek, in said county of Muscatine, on the first Monday of March next, or as soon thereafter as convenient, and proceed to locate and mark said road as before described.

SEC. 2. Time of taking effect. This act to take effect from and after its passage.

Approved, 15th February, 1844.

CHAPTER 135.

GEORGE ANDREWS.

AN ACT for the relief of George Andrews.

Whereas it appears to the satisfaction of the legislative assembly of the territory of Iowa, that George Andrews, of Iowa City, did on the fourth day of May, one thousand eight hundred and forty-two, at the public sale of lots in said city, purchase lots No. six, seven, and eight, and that said Andrews was induced to believe, from a map in the office of the territorial agent, that the mineral spring adjacent to said lots was public property, and that in consequence of this impression said Andrews gave ninety dollars more than the appraised value of said lots, and more than

said lots will actually sell for to any person when it is known that said spring is private property; which is the fact: therefore,

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

SECTION 1. Territorial agent to make deed to, for certain lots; additional amount to be paid therefor. That the territorial agent is hereby authorized [155] to take from the list of forfeited lots, lots Nos. six, seven, and eight, in block No. four, and make to George Andrews a deed of said lots, on the payment, within six months, by said Andrews, of a sum sufficient, together with his former payments on said lots, to amount to the original appraised value of said lots.

SEC. 2. Time of taking effect. That this act take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 136.

SEMINARY OF LEARNING.

AN ACT to amend an act entitled "An act to establish a seminary of learning in Louisa county."

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

SECTION 1. Charter amended so as to make shares \$5 instead of \$10; each stockholder to have one vote only. That the act entitled "An act to establish a seminary of learning at Grandview, in Louisa county," approved 24th January, 1843, be so amended as to make the stock consist of shares of five dollars instead of ten, as is provided in the 3d section of the act to which this is amendatory; and also that each share holder shall be entitled to one vote only, instead of one vote for each share, as is provided for in the 4th section of the act to which this is amendatory.

SEC. 2. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 137.

LEGALIZING ACT.

AN ACT to legalize the act of John Peterson, an acting justice of the peace.

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

SECTION 1. Appointment and acts of John Peterson, as justice of the peace, declared valid. That the appointment of John Peterson to the office of justice of the peace in and for the county of Jackson, by the board of county commissioners of said county, be and the same is here-[156]-by made valid; and that all acts had and done by the said John Peterson as justice

of the peace, by reason of said appointment, be and the same are hereby legalized, to all intents and purposes, as if he had been elected and duly qualified as provided for by law providing for the election of justices of the peace.

SEC. 2. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

CHAPTER 138.

INCORPORATION OF IOWA CITY.

AN ACT to revive a certain act herein named.

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

SECTION 1. Charter revived. That an act entitled "An act to incorporate Iowa City," approved January 15th, 1841, be and the same is hereby revived and declared to be in full force and effect.

SEC. 2. First election to determine acceptance of, when held. The first election to determine whether or not said act of incorporation shall be adopted shall be held on the second Monday of March next.

SEC. 3. If accepted first election of officers to take place on 1st Monday of April thereafter. If a majority of the voters shall determine to adopt said act of incorporation, the election of officers under the same shall be held on the first Monday in April thereafter.

SEC. 4. Time of taking effect. This act shall take effect and be in force from and after its passage.

Approved, 15th February, 1844.

[157] CHAPTER 139.

ROAD.

AN ACT to lay out a territorial road from J. H. Jenkins', in Linn county, in a direction to the city of Dubuque.

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

SECTION 1. Commissioners, appointment of; road to commence at J. H. Jenkins', Linn county; route of. That H. W. Gray, of Linn county, Leroy Jackson, John Keeler, and O. A. Olmstead, of Delaware county, be and they are hereby appointed commissioners to mark and lay out a territorial road, commencing at J. H. Jenkins', in Linn county; thence the nearest and best way to or near Henry A. Carter's, in Delaware county; thence to intersect the territorial road leading from Delhi to Dubuque, at some proper point.

SEC. 2. Commissioners, when and where to meet. Said commissioners, or a majority of them, shall meet at J. H. Jenkins', in Linn county, on the first Monday in April next, or at some convenient time thereafter, and proceed to the discharge of their duties under this act.

SEC. 3. No part of expense to be paid by counties through which road runs. No part of the expense of laying out said road shall be paid by either of the counties through which the same shall pass.

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

Approved, 15th February, 1844.

CHAPTER 140.

ROAD.

AN ACT to legalize a road from Denson's Ferry in Cedar county, to the southern boundary of said county.

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

SECTION 1. Road laid out by Preston J. Friend and others declared public highway. That the road laid out by Preston J. Friend, Washington A. Rigby and William H. Bolton, as viewers, and Thomas, as surveyor, from Denson's ferry, in Cedar county, to the southern boundary of said county, be and the same is hereby declared a public highway.

[158] **SEC. 2. Commissioners of Cedar county to record the plat of the same; to be deemed a county road.** That the commissioners of said Cedar county be and they are hereby required to file and record the survey of said road, according to the provisions of the act regulating the laying out and recording county roads; and the same shall hereafter be considered a county road, in all respects, as though the same had been accepted and recorded by the commissioners of said county.

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

Approved, 15th February, 1844.

CHAPTER 141.

IOWA CITY PLAT.

AN ACT declaring the streets and alleys on the plat of Iowa City public highways, and for other purposes.

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

SECTION 1. Streets and alleys declared highways. That all the streets and alleys on the Iowa City plat, and additions thereto, are hereby declared public highways.

SEC. 2. Commissioners to lay off city plat into road districts, and appoint supervisors. It shall be and is hereby made the duty of the county commissioners to lay off the said city plat, and all additions thereto, into a suitable number of road districts, and to appoint supervisors for the same, whose duty it shall be to open and keep in repair all the streets in their respective districts which are now established by law as public highways, and such others as the public convenience may require to be opened.

SEC. 3. Repealing clause, and time of taking effect. All laws contravening the provisions of this are hereby repealed. This act to take effect from and after its passage.

Approved, 15th February, 1844.

[159] CHAPTER 142.

GEORGE H. JENNISON.

AN ACT for the relief of George H. Jennison, of the county of Jefferson, and to legalize his acts as Justice of the Peace.

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

SECTION 1. His acts declared valid. That the official acts of George H. Jennison, as acting justice of the peace in and for the county of Jefferson, in said territory be and the same are hereby legalized and made valid, to all intents and purposes, as fully as if the said Jennison had been a resident within the purview and meaning of the statute regulating and prescribing the qualifications of justices of the peace.

SEC. 2. Time of taking effect. This act to take effect from and after its passage.

Approved, 15th February, 1844.

CHAPTER 143.

ROAD.

AN ACT to re-locate a part of the territorial road running from Fort Madison to Iowaville, on the Des Moines river.

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

SECTION 1. Appointment of commissioners, duty of; to review part of road leading from Fort Madison to Iowaville; commissioners, where and when to meet. That George Wolf, William G. Pitman and H. H. Ritchey, are hereby appointed commissioners to re-locate so much of the territorial road running from Fort Madison to Iowaville, on the Des Moines river, as lies between Lewis Pitman's and Alexander Stewart's. Said commissioners shall meet at the house of Lewis Pitman on the first Monday of March next, or as soon thereafter as convenient, and proceed to re-locate so much of said road as above described.

SEC. 2. Time of taking effect. This act to take effect from and after its passage.

Approved, 15th February, 1844.

[160] CHAPTER 144.

TOWN OF HARTFORD.

AN ACT to change the name of the town of Hartford, in Van Buren county.

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

SECTION 1. Name changed to Fleming. That the name of the town of Hartford, in Van Buren county, be and the same is hereby changed to Fleming.

SEC. 2. Time of taking effect. This act to take effect and be in force from and after its passage.

Approved, 15th February, 1844.

JOINT RESOLUTIONS

NO. 1.

JOINT RESOLUTIONS in testimony of respect to the late Lewis F. Linn, of Missouri.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That each member of the respective houses be requested to wear crepe on the left arm for the space of thirty days, as a testimony of respect to the memory of the Hon. Lewis F. Linn, late senator in congress from the state of Missouri.

Resolved, that we respectfully tender to the bereaved and afflicted family of the distinguished statesman the assurance of our sympathy and condolence; and that a copy of these resolutions be forwarded to the widow of the deceased, by the speaker of the house of representatives, and the president of the council.

Approved, 3rd January, 1844.

NO. 2.

JOINT RESOLUTION authorizing the auditor of public accounts to audit the account of the warden of the penitentiary.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the auditor of the territory be, and he is, hereby, authorized and directed to audit the sum of one thousand three hundred and eighty-seven dollars and twenty-two cents, it being the sum expended on the penitentiary by Edwin Guthrie, warden of the Iowa penitentiary; provided, said warden produce satisfactory vouchers to the auditor of the correctness of his claim.

Approved, 17th January, 1844.

[162] NO. 3.

A JOINT RESOLUTION asking congress for an appropriation to defray the expenses of a treaty with the Pottowatomic Indians; also, asking the removal of the Missouri, Sac and Fox, and Iowa Indians.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That our delegate in congress be requested to use his exertions to procure an appropriation to defray the expenses of a treaty with the Pottowatomic Indians for the purchase of all their lands east of the Missouri river; also, to urge the necessity of taking immediately the necessary steps for the re-

moval of the Missouri, Sac and Fox, and Iowa Indians, from that portion of country lying east of the Missouri river, south of the country now occupied by the Sioux Indians, and north of the state of Missouri.

Resolved, that the governor be requested to forward a copy of the above resolution to our delegate in congress.

Approved, 29th January, 1844.

NO. 4.

JOINT RESOLUTION providing for the payment of Doolittle and Munson, for certain seals.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That Messrs. Doolittle and Munson be allowed the sum of forty dollars, for engraving three seals for Delaware county, and one for Clinton county; and that the auditor of public accounts be hereby authorized and required to issue his warrant, in favor of said Doolittle and Munson to the territorial treasurer, for the above sum of forty dollars.

Approved, 29th January, 1844.

NO. 5.

JOINT RESOLUTION authorizing the Auditor to audit certain warrants.

Resolved by the Council and House of Representatives of the Territory of Iowa:

That the auditor of the territory be and he is hereby authorized and required to audit all warrants issued by the late superintendent of the penitentiary, up to the fourth of July, eighteen hundred and forty-three; provided, the said superintendent produce satisfactory vouchers for the same.

Approved, 29th January, 1844.

[163] NO. 6.

A JOINT RESOLUTION asking congress for the establishment of a post route from Nauvoo to Montrose.

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 have a mail route established across the Mississippi river, from the city of Nauvoo, in the state of Illinois, to Montrose, in the county of Lee, and territory of Iowa; also, to have a post office established at the town of Nashville, in said county.

Resolved, that his excellency the governor be requested to forward copies of this resolution to the Hon. A. C. Dodge, our delegate in congress, and to the post master general.

Approved, 5th February, 1844.

NO. 7.

PREAMBLE AND RESOLUTIONS on the subject of procuring from congress a compensation to the citizens of the United States, residing in Iowa, for their services and expenses in defending the southern border of the territory.

Whereas, in the fall and winter of 1839, an unjust claim was made by the governor of Missouri to a portion of the territory of the United States lying within the limits of Iowa:

And whereas, the marshal of Iowa, acting under the authority of the United States, and in pursuance of advice by the governor and district attorney of Iowa, and governed by a high sense of duty to the government of the United States, called for an armed posse to preserve the peace, and to resist the unlawful exercise of authority by the officers and citizens of an adjoining state, within the well known limits of Iowa:

And whereas, an armed posse, to the number of several hundred of the citizens of the United States, residing within the territory of Iowa, being prompted to obey a high sense of patriotic duty, and of their allegiance to the government of the United States, and in obedience to a call of the marshal of Iowa, marched in an inclement season, surmounting many difficulties, and at much personal inconvenience, to a distant border:

And whereas, an account of this service, and of some of those expenses, were taken in the summer of 1840, by Lieut. Ruggles, an officer of the United States, and by authority of the government thereof:

And whereas, the congress of the United States have hitherto made no appropriation for the payment of said services and expenses: therefore,

[164] *Resolved by the Council and House of Representatives of the Territory of Iowa.*

That the Hon. A. C. Dodge, our delegate in congress for the territory, be respectfully requested earnestly to press upon the consideration of congress the justice of the claims of the citizens of the United States residing in this territory, for said services and expenses; and to ask an appropriation in money from the treasury, for the payment thereof, with interest.

Resolved, that the Hon. Augustus C. Dodge, be respectfully requested to urge upon the consideration of congress, an appropriation of money from the treasury, to pay the then marshal of Iowa his just account for his services and expenses in preserving the peace, and protecting the southern border of Iowa in the fall and winter of 1839.

Resolved, that his excellency, the governor of Iowa, be respectfully requested to address a copy of this preamble and these resolutions to our delegate in congress.

Approved, 6th February, 1844.

NO. 8.

JOINT RESOLUTION for the establishment of certain Post Routes.

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 requested to use his best exertions to obtain the establishment of the following weekly mail routes in this territory, to wit: from Washington, in Washington county, to Keokuk court house; thence to Mahaska court house; also, from Brighton, in Washington county, to Richland, in Keokuk county; thence

to Mahaska court house: also, from Fox post office, in Van Buren county; thence to Davis court house; thence to the centre of Appanoose county; also, from Fairfield, in Jefferson county; thence to Agency City; thence to Autumwa; thence to Eddyville, in Wapello county; thence through the six mile prairie, in Mahaska county: also, from Fairfield, in Jefferson county, to Mahaska court house; from Bloomington, in Muscatine county, via Moscow, in said county; thence to Tipton, Cedar county; thence to Franklin, in Linn county; thence to Marion, in said Linn county.

Resolved, that his excellency, the governor, is hereby respectfully requested to forward a copy of these resolutions to the Hon. A. C. Dodge, our delegate in congress.

Approved, 7th February, 1844.

[165] NO. 9.

JOINT RESOLUTIONS relative to Mail Routes.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That our delegate in congress be requested to use his best exertions to cause the mail to be carried once a week, as provided for by act of congress, on mail route No. 4228, leading from Dixon, in the state of Illinois, via Sterling, Union Grove, Fulton City, Lyons, Independent Grove, and Washington Ferry, to Iowa City, in Iowa territory; and that he will use his exertions to cause the mail to be transported on said route via Dewitt, the county seat of Clinton county, instead of via Independent Grove.

Resolved, that he be requested to use his exertions to procure an alteration of mail route No. 4506, so that the mail may pass Dewitt, Clinton county; thence to Davenport, via Kirtley's ferry, instead of passing Point Pleasant.

Resolved, that the governor be requested to forward one copy of these resolutions to the post master general, and one to our delegate in congress.

Approved, 13th February, 1844.

NO. 10.

JOINT RESOLUTION for the relief of F. M. Irish.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the sum of two hundred dollars be and the same is hereby allowed, out of any money in the hands of the secretary of the territory not otherwise appropriated, to F. M. Irish, for services rendered and losses sustained in April last, in the transportation of specie from Dubuque to Burlington, under the employment of O. H. W. Stull, late secretary of the territory: provided, that the said sum of two hundred dollars shall in no event be regarded as a debt due either from the territory or state of Iowa.

Approved, 14th February, 1844.

NO. 11.

JOINT RESOLUTION authorizing Iowa City Fire Company No. 1, to occupy room in basement of Capitol.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the territorial agent, or such person as may have charge [166] of the state house in Iowa City, be and is hereby authorized to let the Iowa City fire company No. 1, have the use of one of the rooms in the basement story of said state house, rent free, until otherwise ordered by the legislature.

Approved, 15th February, 1844.

NO. 12.

JOINT RESOLUTION relative to the distribution of the Laws of the present session.

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 Des Moines, Van Buren, Dubuque, Henry and Jefferson, each, one hundred and fifty copies; to the counties of Washington, Louisa, Johnson, Scott, Muscatine, Jackson and Linn, each, one hundred copies; to the county of Cedar, eighty copies; to the counties of Clinton, Jones, Clayton, Delaware, Buchanan, Fayette, Davis, Wapello, Mahaska and Keokuk, each, seventy-five copies, to be deposited with the clerks of the board of county commissioners of each county herein named.

Resolved, that in the distribution of said laws, the clerks of the several boards of county commissioners shall be governed by the act relative to the distribution of laws, approved 16th February, A. D. 1843.

Approved, 15th February, 1844.

NO. 13.

JOINT RESOLUTION relative to certain mail routes.

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 influence to establish a mail route from Dubuque to Iowa City, via Cascade, Fairview, Springville, Marion, Franklin, and Solon, to Iowa City; and to have the mail now carried on route No. 4505 carried on the same once a week in two or four horse coaches; and extend route No. 4228, from Fulton City, Illinois, to Tipton, through to Iowa City, a distance of twenty-five miles.

That his excellency, the governor of the territory be requested to forward a copy of this memorial to our delegate in congress.

Approved, 15th February, 1844.

[167] NO. 14.

PREAMBLE AND RESOLUTIONS relative to the university lands of Iowa territory.

Whereas, the congress of the United States, by an act approved July 20th, 1840, granted to the territory of Iowa two entire townships of land for a university:

And whereas, said lands were, under the provisions of the act aforesaid, to be selected under the authority of the secretary of the treasury;

And whereas, the said secretary did appoint, under the provisions of said act, William W. Dodge, of Scott county, territory of Iowa, who, proceeding under the authority of said appointment, selected only one section of land, a return of which was made to the land office at Dubuque, and then left the said territory:

And whereas, it is deemed highly important to the interests of the territory that the residue of said lands should be selected as early as practicable: therefore,

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the Hon. Augustus C. Dodge, our delegate in congress, be requested to present the foregoing facts relative to the aforesaid university lands, to the secretary of the treasury, and request him to appoint two suitable persons residing within said territory, to select said lands at as early a day as practicable.

Resolved, that we recommend L. Brown, of Dubuque county, and Uriah Biggs, of Van Buren county, Iowa territory, as suitable persons to act as sub-agents in the selection of said lands.

Resolved, that our delegate in congress be requested to use his influence to have a law passed, to allow the secretary of the treasury to select the following tract of government land for the benefit of the said university to-wit: the south-west quarter of section 25; east half and south-west quarter of the south-east quarter, of section 26; north half of section 35; and the north-west quarter of section 36, all in township 72, north of range 13 west, of the fifth principal meridian, and in the cession made to the United States by the treaty made the 11th day of October, 1842, by the Sac and Fox Indians, within which tract of 640 acres the "Pattern Farm," near the old agency, cultivated for the benefit of the Indians, is included.

Resolved, that his excellency the governor of Iowa, be respectfully requested to address a copy of this preamble and these resolutions to our delegate in congress.

Approved, 15h February, 1844.

[168] NO. 15.

JOINT RESOLUTION authorizing the secretary of the territory to contract for the printing of the laws of the present session.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory be and he is hereby authorized to contract with Hughes and Williams, James Clarke, John B. Russell, William Crum,

R. W. Albright, or any other editor in this territory, for the printing of twenty-five hundred copies of the laws of the present session, for which he is authorized to pay the prices established by law.

Approved, 15th February, 1844.

NO. 16.

JOINT RESOLUTION relative to the re-publication of a certain act.

Whereas, in the publication of an act entitled "An act for the prevention of certain immoral practices," approved February 10th, 1843, there appears in the first section of said publication, as compared with the enrolled bill in the office of the secretary of the territory, the following error, to wit: in the clause "he or they shall be fined in any sum not exceeding five years," the word "years" is erroneously printed instead of the word "dollars:" therefore,

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the said secretary of the territory be and he is hereby requested to cause the said act to be correctly published.

Approved, 15th February, 1844.

NO. 17.

JOINT RESOLUTION to provide for the payments of the reports of the supreme court, furnished under the resolution of the last session of the legislature.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory be, and he is hereby authorized and directed, to pay to William J. A. Bradford four hundred dollars, out of the appropriation for the current year, or out of any moneys that may be in his hands, for furnishing and printing the reports of the decisions of the supreme court for the year 1840, under the resolution of February, 1843.

Approved, 16th February, 1844.

[169] NO. 18.

JOINT RESOLUTIONS relative to the indexing, printing and distributing the laws and journals.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory be and he is hereby allowed five hundred dollars, for superintending, indexing and distributing, the laws of the present session of the legislature, out of any money in his hands not otherwise appropriated: provided, always, that he actually copy and perform the duties required of him in the foregoing resolution.

Resolved, further, that the secretary of the council, and chief clerk of the house of representatives, be and they are hereby allowed the sum of three hundred dollars, each, for indexing, superintending the printing, and distributing the journals of the present session of their respective houses.

Approved, 16th February, 1844.

NO. 19.

JOINT RESOLUTION requesting our delegate in congress to use his influence to obtain an appropriation to defray the expenses of an extra session.

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 requested to use his influence to obtain an appropriation of five thousand dollars, to defray the expenses of an extra session of the legislative assembly of this territory, to be begun and holden on the sixteenth day of June, A. D. 1844, for the purpose of making an apportionment of members of the council and house of representatives among the several counties of this territory; giving to each section of the territory an equal representation, as near as may be, according to the ratio of population, Indians excepted.

Resolved, that his excellency the governor be and he is hereby requested to forward a copy of the above resolution to the Hon. A. C. Dodge, our delegate in congress.

Approved, 16th February, 1844.

[170] NO. 20.

JOINT RESOLUTION providing for the payment of the binding of the laws of 1842-3.

Resolved, by the Council and House of Representatives of the Territory of Iowa,

That the secretary of the territory is hereby authorized to pay, out of any money in his hands not otherwise appropriated, to James McIntosh, for binding twenty-five hundred copies of the revised statutes of 1842-'43, the sum of fifteen hundred and sixty-two dollars and fifty cents: provided, that Hughes and Williams, the printers of the laws, shall hereafter bring no charge against this territory or future state of Iowa, for said binding.

Approved, 16th February, 1844.

INDEX

A

	Chapter.	Section.	Page.	Reprint Page.
ADJUTANT GENERAL—				
to file abstracts of able bodied men.....	31	2	55	382
salary of	"	4	55	383
ADMINISTRATORS—				
of John Jones, deceased, to make deeds to trustees of Grandview seminary.....	95	1	111	428
GEORGE ANDREWS—				
act for relief of.....	135		154	463
territorial agent to make a deed to for certain lots in Iowa City, upon conditions.	"	1	154-5	464
APPEALS—				
in chancery, allowed	6	20	8	344
certain rules prescribed applicable to appeals in chancery	"	21	8	344
appellant shall assign errors, and when; effect of default	"	22	8	344
if appellant die before error assigned, death to be suggested, and by whom.....	"	24	8	344
appellant to open and close argument.....	"	28	8	345
records of, to be examined by supreme court upon d'smissal of, court may award damages; limitation of	"	31	9	345
upon determination of, court may award process to carry judgment into effect..	"	33	9	345
when reversed, and judgment carried into effect prior to reversal, defendant may recover from plaintiff	"	34	9	345
	"	36	9	345
APPROPRIATION ACT—				
pay and mileage of members of Council....	41	1	61	387
" of officers of Council.....	"	2	61	387
" and mileage of members and officers of House of Representatives.....	"	3	61	387
" extra to president of Council.....	"	4	61	387
" extra to president pro tem. of Council..	"	5	61	387
" extra to speaker of House of Representatives	"	6	61	387
postage for House of Representatives.....	"	7	61	387
postage for Council	"	8	61	387
Hughes & Williams, for printing for House of Representatives	"	9	61	387
Hughes & Williams, for printing for Council	"	10	61	387
William Crum for printing for Council....	"	11	61	387
William Crum for printing for House of Representatives	"	12	61	387
Jones & Powell for articles furnished Secretary for use of legislature.....	"	13	61	387
Bridgman Brothers for articles furnished legislative assembly	"	14	61	388
William Sheets for articles furnished legislative assembly	"	15	61	388
James G. Edwards for newspapers.....	"	16	61	388

	Chapter.	Section.	Page.	Reprint Page.
APPROPRIATION ACT—Continued				
James Clarke for newspapers.....	"	17	61	388
Alfred Sanders for newspapers.....	"	18	61	388
Shepard & Mitchell for newspapers.....	"	19	61	388
R. W. Albright for newspapers.....	"	20	62	388
Houghton & Wharton for newspapers.....	"	21	62	388
Wilson & Keesecker for newspapers.....	"	22	62	388
John B. Russell, for newspapers.....	"	23	62	388
William L. Gilbert for administering oaths to members of House of Representatives	"	24	62	388
John G. McDonald sergeant-at-arms pro tem	"	25	62	388
John Lorton, messenger pro tem.....	"	26	62	388
Peter Conboy fireman.....	"	27	62	388
S. E. McArthur for wood.....	"	28	62	388
extra to S. C. Trowbridge for postage.....	"	29	62	388
N. H. White for paste for House of Repre- sentatives.....	"	30	62	388
Secretary of Territory for expenses to and from St. Louis for specie.....	"	31	62	388
B. F. Wallace and Joseph T. Fales for super- intending printing of journals etc....	"	32	62	389
S. J. Burr for superintending printing, in- dexing, and distributing laws.....	"	33	62	389
ASSESSOR—				
when and how elected, and for what term..	21	1	28	359
his bond to whom given, for what sum, and by whom preserved.....	"	2	28	359
when bond to be filed or office vacated....	"	3	28	360
if office becomes vacant, how filled.....	"	4	28	360
person appointed how qualified; his term..	"	5	28	360
who may bring suit on bond for misconduct in office.....	"	6	28	360
compensation of, and how paid.....	"	7	28	360
penalty for not serving, how collected; proviso.....	"	8	28	360
blank forms for, by whom prepared and by what time; form.....	"	18	30-31	362
return of, particulars of.....	"	19	32	363
when to commence assessing; property how valued.....	"	20	32	363
how to describe real estate.....	"	21	32	363
not to state names of non-residents unless known to.....	"	22	32	363
may require return of property under oath. how to proceed when persons refuse to fur- nish list of property.....	"	23	32	363
empowered to administer oath; false swear- ing perjury.....	"	24	32	363
to assess property omitted by previous as- sessors for time being.....	"	25	32	363
when to file original assessment list....	"	26	32	363
to give notice, and where; object of notice. if assessor err in name, not to prevent the collection of taxes provided person can be identified.....	"	27	32	363
to take the census in their respective dis- tricts, returns of, to whom and when made, how certified, certificate of, where and when to be filed.....	"	28	32	363
penalty for neglecting or refusing to take census, amount of.....	26	1	48	377
to return to clerk of county commissioners names of all able bodied men.....	"	3	48	377
of Keokuk and Mahaska counties, their duties, etc.....	31	2	54	382
of Waukegan county, his duties, obligations and liabilities.....	68	11	87	409
	100	11	116	432

	Chapter.	Section.	Page.	Reprint Page.
ASSESSOR—Continued				
of Davis county; his duties, obligations and liabilities	122	8	138-9	450
LEGISLATIVE ASSEMBLY—				
extra session of, where and when to meet and for what purpose; proviso.....	26	4	48-9	377
not to create any debt in consequence of extra session	26	7	49	378
organization of	37		58	385
the first and sixth sections of an act providing for annual organization of, approved January 6th, 1840, repealed..	"	1	58	385
both branches of, where to organize and how	"	2	58	385
DISTRICT ATTORNEY—				
may sue out writs of error.....	6	6	6	343
to prosecute suit against Burlington Mechanics' Institute if complaint filed....	54	6	72	397
ATTACHMENT—				
writs of for contempt not to be affected by passage of law abolishing imprisonment for debt	20	2	26	359
not limited to townships.....	22	3	40	371
when defendant cannot be summoned, and property is attached, plaintiff required to set up notices; when and how proven	"	8	41	371
AUDITOR OF PUBLIC ACCOUNTS—				
copies of delinquent territorial tax list to be deposited with; to give county treasurer a certificate of amount of.....	29	5	52	381
prohibited from purchasing territorial obligations for less than face of same.....	"	6	53	381
SAMUEL B. AYERS—				
appointment of as justice of the peace in Lee county, made valid.....	56	1	74	398
AARON STREET, ADMINISTRATOR—				
as administrator to make deeds in certain cases; not to make deed when right to property disputed	50	1	69	394
B				
BONDS—				
of collector, to whom given.....	1	1	1	339
of constables in counties organized into townships, to whom payable, penal sum of, conditions of, by whom filed.....	3	1	2	340
of constables in counties not organized into townships, to whom payable, and where to be filed	3	2	2	340
who may sue upon, for misconduct in office	"	3	2	340
of constables and justices, given to township trustees, legal and valid.....	11	1	18	353
of assessor, number of securities, sum of, to whom payable, conditions of, where deposited, by whom preserved.....	21	2	28	359
when assessor to give bond.....	"	3	28	360
to be given by person appointed to fill vacancy in office of assessor.....	"	5	28	360
of assessor may be sued on, and by whom..	"	6	28	360
of a deceased treasurer's successor, with whom filed, to whom payable, by whom approved, penal sum of, conditions of, effect of	"	45	34-5	365

	Chapter.	Section.	Page.	Reprint Page.
BDNDS—Continued				
not to be vitiated on account of misrecital, misnomer or mistake; construction of	"	46	35	366
BAPTIST CHURCH OF IOWA CITY—				
donation of certain piece of ground in Iowa City to	120	1	136	448
secretary of territory to make deed and to whom, effect of	"	2	136	448
trustees of authorized to sell and convey ground donated; proceeds of sale how to be applied	"	3	136	448
lot purchased to be forever held for religious and literary purposes	"	4	136	449
C				
CENSUS AND EXTRA SESSION—				
assessors to take the census in their re- spective districts, returns of to whom and when made, how certified; certifi- cate of where and when to be filed....	26	1	48	377
county commissioners' clerks to transmit certified copies of returns to secretary at Iowa City, and when.....	"	2	48	377
penalty upon clerk or assessor for refusing or neglecting to perform duties re- quired by this act; amount of.....	"	3	48	377
special session of legislature where and when to meet, and for what purpose; proviso	"	4	48-9	377
notice of next general election, by whom made out and when; to whom given and form of	"	5	49	377
sheriffs to post up notices, and when.....	"	6	49	377
territory or future state not to pay any ex- penses of extra session.....	26	7	49	378
repealing clause	"	8	49	378
CHANCERY—				
suits in how commenced against non-resi- dents, notice of how given and by whom; effect of	27	1	49-50	378
where notice to be published.....	"	2	50	378
when plea or demurrer of defendant over- ruled may answer over.....	"	3	50	378
how absent defendant may verify his an- swer, and before whom.....	"	4	50	378
proceedings in default of complainant or his solicitor	"	5	50	379
decree to operate as a lien upon real estate, where to be recorded.....	"	6	50	379
for disobedience of injunction attachment may issue; proceedings thereon.....	"	7	50	379
repealing clause	"	8	50	379
CLERK OF SUPREME COURT—				
to issue blank writs of error, to whom, how signed and filled up.....	6	45	10	346
to renew executions when not sufficient time under original execution to sell.....	23	3	43-4	373
CLERKS OF DISTRICT COURT—				
to file bond of treasurer.....	21	45	34	365
to file certificate and report of treasurer...	"	56	36-7	367
to record and place same at the head of com- mon law docket; form.....	"	57	37	367
to issue order for sale if no defense; form..	"	58	38	368

	Chapter.	Section.	Page.	Reprint Page.
CLERKS OF DISTRICT COURT—Continued				
to make out copy of treasurer's report, together with order of the court.....	"	60	38-9	368
to renew executions, when not time sufficient under original execution to sell..	23	3	43	373
to deliver to sheriff summons for jurors....	24	4	46	375
to make out notice of suit in chancery against non-residents, what to contain..	27	1	49-50	378
to issue writs of error coram nobis and when, when returnable	28	1	51	379
to appoint person to serve process in case of vacancy, absence, or disability in office of coroner	35	1	57	384
Of Keokuk and Mahaska counties—				
to order new elections, and when.....	68	1	86	408
to approve bond and administer oath to sheriffs of	"	7	87	409
how appointed in, when to enter upon discharge of duties	"	8	87	409
to administer oath to commissioners to locate county seat of.....	68	14	88	410
Of Wapello county—				
to order new election, and when.....	100	2	115	431
to approve bond, and administer oath to sheriff of	"	7	116	432
how appointed, when to enter upon discharge of duties.....	"	8	116	432
to administer oath to commissioners to locate seat of justice of.....	"	13	116-17	432
Of Davis county—				
to order new election, and when.....	122	2	138	449
may be appointed and when, when to enter upon discharge of duties.....	"	6	138	450
CLERK OF COUNTY COMMISSIONERS—				
bonds of constables in counties organized into townships to be filed with.....	3	2	2	340
when to make out abstract of votes given for and against a convention, how to be endorsed, and where to be transmitted	9	3	14	349
to open returns, and how to certify election of delegates; in case of a tie vote to order new election; when to be held and how conducted	9	6	15	350
to transmit returns of votes for and against a constitution to secretary.....	9	8	15	350
duty of to give notice, to whom and when	9	11	15	351
to file bond of assessor in certain cases....	21	2	28	359
to prepare blank forms for assessor, when to be ready for delivery, compensation for form of	"	18	30	362
original assessment list to be filed in office of, when and by whom.....	"	27	32	363
to approve of treasurer's bond.....	"	45	34	365
in case of vacancy in office of justice of the peace to order new election how to be held and conducted	22	13	42	372
to apportion number of jurors in the several townships, when and to whom to be given, notice to whom and how given	24	2	45	374
when and how to draw number of jurors, list of to be delivered, and to whom, summons by whom issued and served..	24	4	45-6	375
to grant license to pedlars in vacation, particulars of, and for what length of time	25	1	46-7	376
to receive application for license, what to contain	"	2	47	376

	Chapter.	Section.	Page.	Reprint Page.
CLERK OF COUNTY COMMISSIONERS—Continued				
to prosecute for any violations of act li- censing pedlars	"	5	47	376
to transmit certified copies of assessor's re- turn, to whom, where and when.....	26	2	48	377
penalty for neglecting or refusing to perform duties required under act for taking census, etc., amount of.....	"	3	48	377
to make out notice of general election for extra session, and when and to whom to be given, form of.....	"	5	49	377
to carry out territorial tax on tax list in sep- arate column, to transmit to auditor ag- gregate value of taxable property, and when	29	2	52	380
to receive delinquent territorial tax list....	"	4	52	381
to certify one copy of same for county treasurer	"	5	52	381
to make out and return abstracts of able bodied men to adjutant general.....	31	2	55	382
to order new election for sheriff, if vacancy occur	33	3	56	384
who to discharge duties of in Keokuk and Mahaska counties, and how long.....	68	3	87	408
of Louisa county to give sheriff receipt for tax duplicate	111	3	129	442
of Louisa county, to direct tax duplicate to collector	111	5	129	443
of Madison county, to give notice to judge of organization of	124	4	143	454
of Madison county, to give notice of election for county seat of, when and how....	"	7	143	454
penalty of, for violation of ninth section of this act	"	10	143	455
CLERK OF TOWNSHIPS—				
bond of constables in counties organized into townships to be filed with.....	3	1	2	340
COLLECTOR—				
to be appointed, and by whom; when va- cancy occurs, his acts as legal and obligatory as if elected and qualified..	1	1	1	339
who to be collector of revenue.....	21	32	33	364
of Des Moines county, who to be, from when and for what time, duties and compen- sation of	"	69	39	369
of Scott and Cedar counties to credit per- sons on tax list of 1844 for taxes paid in 1843, upon satisfactory evidence....	"	70	39	370
of Van Buren county to have further time to return tax list of 1843.....	55	1	73	397
of Van Buren not to be released from obligation of bond	"	3	73	398
of Van Buren, may distrain for taxes.....	"	4	73	398
of Van Buren to give notice of sale, sale and effect of	"	5	73-4	398
of Louisa county to collect unpaid taxes of 1843, how governed in collection.....	111	5	129-30	443
of Louisa county to give notice of sale of property for taxes, effect of sale.....	"	7	130	443
COMMISSIONERS—				
to locate county seat of Keokuk, appointment of, where and when to meet.....	68	12	88	410
oath of, by whom administered.....	"	14	88	410
duties of when met and qualified, to file certificate of location, and with whom..	"	15	88	410

	Chapter.	Section.	Page.	Reprint Page.
COMMISSIONERS—Continued				
compensation of, how paid.....	"	16	88	410
appointment of, to locate county seat of Mahaska, where and when to meet....	"	13	88	410
oath of, by whom administered.....	"	14	88	410
duties of, when met and qualified, to file certificate of location, and with whom..	"	15	88	410
compensation of, how paid.....	"	16	88	410
appointment of, to locate county seat of Wapello, where and when to meet.....	100	12	116	432
oath of, by whom administered.....	"	13	116-17	432
duties of, when met and qualified, to file certificate of location, and with whom.	"	14	117	433
compensation of, and how paid.....	"	15	117	433
appointment of, to locate county seat of Davis, where and when to meet, duties of, when met and qualified, to file certificate of location, and with whom....	122	9	139	450
oath of by whom administered.....	"	10	139	451
compensation of, and how paid.....	"	12	139	451
COUNTY COMMISSIONERS—				
to appoint collector when vacancy occurs, his acts as legal and obligatory as if elected and qualified	1	1	1	339
bond of constables in counties not organized into townships, to be executed to acceptance of, and made payable to county treasurer	3	2	2	340
required to offer reward for killing wolves..	8	1	12	348
to order amount of certificate of killing to be paid out of county treasury.....	8	3	12	348
to audit and allow all demands arising from support or relief of poor, in counties where such support or relief was furnished	12	1	19	354
to levy road tax, when and amount of.....	19	1	25	358
to accept bond of assessor, in counties not organized, where to deposit same.....	21	2	28	359
when and how to fill vacancy in office of assessor	"	4	28	360
to be satisfied as to time assessor has been employed	"	7	28	360
persons feeling aggrieved by assessment, where to apply for abatement of, and when	"	28	32	363
to hold annual meeting, and when, to levy taxes, limitation of	"	29	33	363
to take testimony in relation to grievances of assessment	"	31	33	364
to make out tax list and warrant, to whom to be delivered, and when.....	"	32	33	364
to appoint collector and when.....	"	44	34	365
to accept bond of, and nature of same.....	"	45	34	365
of Scott and Cedar counties authorized to levy additional county tax.....	21	70	39	370
to grant license to pedlars when in session, particulars of, and for what length of time	25	1	46-7	376
how action to be brought for violation of act granting license to pedlars.....	25	4	47	376
of Van Buren county, authorized to allow collector further time to return tax list may postpone sale of lands, limitation.....	55	1	73	397
to fix day for tax sale.....	"	2	73	398
of Scott county, required to divide said county into three districts, same to be numbered and how	60	1	77	401

	Chapter.	Section.	Page.	Reprint Page.
COUNTY COMMISSIONERS—Continued				
not to authorize any person to keep a ferry between the mouth of Nassau slough and lower end of Nassau island of Henry county authorized to vacate a part of Webster street, in Mount Pleasant..	76	1	95	415
	117	1	134-5	447
CONSTABLES—				
to give bond, when and to whom given, se- curity, penal sum of, conditions of, and where filed	3	1	2.	340
in new counties where townships not organ- ized, bond to be given to the boards of county commissioners, when so given to whom payable, and by whom filed	3	2	2	340
misconduct in office, remedy for, how ob- tained	3	3	2	340
repealing clause	3	4	3	340
may serve attachment in any township or precinct within county	22	3	41	371
jurisdiction of, co-extensive with that of justice; number of in Bloomington, Burlington, Fort Madison, and Linn townships	"	9	41	371
duty of, to pay over moneys, to whom and when, penalty for failure, by whom col- lected	"	10	41-2	372
upon failure to pay over, who may com- plain, to whom and nature of judg- ment, vacancy how filled.....	"	11	42	372
to select property, how governed.....	23	1	42	373
how to proceed in selecting property.....	"	2	42	373
to retain levy, and require bond for re- delivery of property if not sold at ex- piration of first six months, same at ex- piration of second six months, duty of officer to dispose of said property at ex- piration of second six months.....	23	3	43	373
CONVENTION—				
first election to take place, when and where..	9	1	13	348
electors to be interrogated, answer, duty of clerks	"	2	13	349
returns, how and by whom made out, to whom forwarded and within what time; clerks of boards of commissioners on receipt of returns to make abstract, to whom transmit, within what time, how opened, counted, and result declared..	9	3	13-14	349
election for delegates, when held, notice of, when and how given	"	4	14	349
number of delegates, apportionment, qualifi- cation of	"	5	14	349
returns by whom certified, to whom sent, by whom opened, result of election for dele- gates how declared, in case of tie new election, when to be held, and how con- ducted	"	6	15	350
delegates, where and when to meet.....	"	7	15	350
publication of constitution, to be submitted for adoption at the next April election, qualification of electors, how election to be conducted, returns made, and re- sult declared	"	8	15	350
electors to vote in the county where they re- side, for delegates, but may vote in any				

	Chapter.	Section.	Page.	Reprint Page.
CONVENTION—Continued				
county for or against constitution.....	"	9	15	350
elections to be governed by general law.....	"	10	15	351
this act to be published immediately after approval, notice of first election, when by whom, and how given	"	11	15	351
secretary to procure room for convention, furniture, etc.	"	12	16	351
compensation of delegates	"	13	16	351
CONVEYANCES—				
how deed to be made by person without the territory, to convey property within... evidence in relation to instruments conveying or affecting real estate, what to be competent	30	1	53	381
identity of subscribing witness, proof of... when certificate of proof to be granted....	"	2	54	382
repealing clause	"	3	54	382
	"	4	54	382
	"	5	54	382
CORONERS—				
to make deeds for lands sold under execution law now in force.....	32	3	55-56	383
in case of vacancy, absence, or disability in office of, who authorized to appoint....	35	1	57	384
COSTS AND FEES—				
repeal of 17th section of act concerning costs and fees	40	1	60	386
DELAWARE COUNTY—				
organization of, privileges of inhabitants of, to be part of 3d judicial district, where and when courts to be held.....	87	1	105	423
Buchanan and Blackhawk counties attached to	"	2	105	423
repealing clause	"	3	105	423
NEW COUNTIES—				
Iowa attached to Johnson.....	4	1	3	341
repealing clause	4	2	3	341
Of Keokuk and Mahaska—	68		85	408
organization of from what time, rights of citizens of, to constitute part of second judicial district	"	1	86	408
who to order first election and when; number of officers to be elected in; election when to be held, duty of officer ordering elections	"	2	86	408
to whom returns to be made, who to grant certificates of election, who to discharge duties of clerk of board of commissioners and how long	"	3	86	408
election how to be conducted	"	4	86-87	409
persons elected, term of office of.....	"	5	87	409
officer ordering elections to return all books and papers, to whom and when.....	"	6	87	409
appointment of sheriffs in, term of office of, how qualified	"	7	87	409
clerks of district court of, how appointed and qualified, when to enter upon discharge of duties	"	8	87	409
organization of, not to affect actions pending in district court of Washington county	"	9	87	409
justices to return books and papers, and to whom; not to interfere with unfinished business	"	10	87	409

	Chapter.	Section.	Page.	Reprint Page.
NEW COUNTIES—Continued				
assessors, duties of	"	11	87	409
appointment of commissioners to locate county seat of Keokuk, where and when to meet	68	12	88	410
appointment of commissioners to locate county seat of Mahaska, where and when to meet	"	13	88	410
oath of commissioners, by whom adminis- tered, how certified where to be filed, and by whom recorded	"	14	88	410
duty of commissioners when met and quali- fied, certificate of location with whom filed, by whom recorded and preserved..	68	15	88	410
compensation of commissioners, how paid..	"	16	88	410
territory attached to Mahaska and for what purposes	"	17	88	410
county of Poweshiek and territory west of attached to Mahaska and for what purposes	"	18	88	410
Of Wapello—	100		114	431
organization of from what time, rights of inhabitants of, to be a part of 1st ju- dicial district	"	1	114-15	431
first election in by whom and when to be ordered, number of officers to be elected, election when to be held, places of hold- ing elections, and judges of elections by whom appointed; notice of elections by whom and how given	"	2	115	431
returns of elections to whom made, who to grant certificates and perform duties of clerk of board of commissioners.....	"	3	115	431
election how to be conducted.....	"	4	115	431
term of office	"	5	115	431
officer ordering elections to return all books and papers, to whom and when.	"	6	115	431
sheriff appointment of, term of office of, how qualified, fees of	"	7	115-16	432
clerk of district court of, how appointed and qualified, when to enter upon discharge of duties	"	8	116	432
organization of, not to affect actions pending in district court of Jefferson county...	"	9	116	432
justices to return books and papers, and to whom; not to interfere with unfinished business	"	10	116	432
assessor of; duties, obligations and liabilities of	"	11	116	432
appointment of commissioners to locate seat of justice of; where and when to meet..	"	12	116	432
commissioners, oath of by whom adminis- tered, how certified, where to be filed, and by whom recorded	"	13	116-17	432
commissioners, duty of when met and quali- fied, certificate of location with whom filed, by whom recorded and preserved.	100	14	117	433
compensation of commissioners, amount of and how paid	"	15	117	433
county of Kishkekosh and territory west at- tached to, and for what purposes.....	"	16	117	433
Of Davis—	122		137	449
organization of, to constitute a part of first judicial district	"	1	137	449
first election by whom and when ordered, notice of election how and when given, judges of elections by whom appointed	"	2	138	449

	Chapter.	Section.	Reprint Page.	Page.
NEW COUNTIES—Continued				
number of officers to be elected and how qualified, returns of elections to whom and when made; who to canvass votes and grant certificates of election.....	"	3	138	450
election how conducted	"	4	138	450
officer ordering election to return books and papers, and to whom	"	5	138	450
clerk of district court may be appointed and qualified, and when; when to enter upon discharge of duties	"	6	138	450
organization of not to affect actions pending in district court of Van Buren county..	"	7	138	450
assessor of, his duties, obligations and liabilities	"	8	138-9	450
appointment of commissioners to locate seat of justice of, where and when to meet, how to proceed in discharge of duties; certificate of location to be filed and with whom, by whom to be recorded and preserved	"	9	139	450
commissioners to take oath, by whom administered and certified, certificate where filed	"	10	139	451
boundaries of, repeal of part of first section of act approved 17th Feb. 1843.....	"	11	139	451
compensation of commissioners, amount of and how paid	"	12	139	451
county of Appanoose and territory west attached to, and for what purpose.....	"	13	139	451
Of Madison—	124		142	453
boundaries and name of	"	1	142	453
first election in where and when he'd, by whom and how conducted, number of officers to be elected and how qualified, term of office, powers and duties of officers	124	2	142-3	453
returns of election when and to whom made, by whom, where and when opened....	"	3	143	454
when county considered as organized, notice to be given to judge, and by whom; judge to appoint clerk of district court, where and when court to be held; to constitute part of first judicial district.	"	4	143	454
Organization of not to affect actions pending in district court of Lee county.....	"	5	143	454
organization of not to affect justices previously elected	"	6	143	454
election for county seat of where and when held, how conducted, notice of by whom, when and how given; if election not final, a second election to be held and when; majority to determine.....	"	7	143	454
Lee and Madison to form first electoral district; their representation in the Legislature and Convention.....	"	8	143	454
election in Lee on division or no division, where and when held, how conducted returns when and to whom made, by whom canvassed; effect of this act to depend upon result of election.....	"	9	144	455
penalty for violation of ninth section of this act, or for receiving illegal votes, how recovered and applied; disqualification of person convicted.....	"	10	144	455

	Chapter.	Section.	Page.	Reprint Page.
NEW COUNTIES—Continued				
at election for division voters name to be written on ticket; how election to be contested	"	11	144	455
court house at Fort Madison, sale of forbidden for eighteen months.....	"	12	144	455
SCOTT COUNTY—				
to be divided into commissioners districts; by whom, when and how numbered...	60	1	77	401
commissioner to be elected at first election, where to reside; how subsequent elections to be conducted.....	"	2	77-8	401
SUPREME COURT—				
supreme court, appellate jurisdiction of, extent of jurisdiction.....	6	1	6	342
supervision of inferior tribunals, power to issue writs	6	2	6	342
writs of error how to issue, to whom directed said writs when to be sued out.....	6	3	6	342
persons laboring under any disability, when to sue out same	6	4	6	343
district attorneys may sue out same, in name of United States.....	6	5	6	343
survivor in joint judgment may sue out same	6	6	6	343
when two or more entitled to writ who to sue out; affidavit of 90 days notice, to whom given; refusal to join.....	"	7	6	343
when co-plaintiff may join by payment of cost	"	8	7	343
if co-plaintiff does not join effect of.....	"	9	7	343
notice of writ to adverse party, when given to whom, and effect of not giving notice	"	10	7	343
may be sued out by or against heirs, executors, etc.	"	11	7	343
tives, default of representatives, effect writ be sued out against representa-	"	12	7	343
when party to judgment dies before such of	"	13	7	343
representative to be joined with survivor..	"	14	7	343
writs of error, by whom, when and how returned; how and when signed, penalty on failure of.....	"	15	7	343
supersedeas, recognizance, nature of; to whom and by whom given.....	"	16	7	344
effect of recognizance.....	"	17	7	344
no execution to issue after entering into such recognizance	"	18	8	344
when execution issued how to obtain supersedeas, effect of, so obtained.....	"	19	8	344
appeals in chancery.....	"	20	8	344
decree how stayed, rules to apply in chancery cases	"	21	8	344
practice in supreme court; errors, by whom and when assigned; default, effect of..	"	22	8	344
joinders when filed.....	"	23	8	344
when one of either party dies before assignment of error, death suggested, and trial to proceed.....	"	24	8	344
if one of either party dies after assignment proceeding not to abate.....	"	25	8	344
when no survivor, legal representative may be made a party by scire facias.....	6	26	8	344
brief furnished court, contents of, written argument	"	27	8	345

	Chapter.	Section.	Page.	Reprint Page.
SUPREME COURT—Continued				
argument, who to open and close.....	"	28	8	345
limitation of exceptions.....	"	29	9	345
defect of form not to vitiate; when amendable in court below; how amended in supreme court	"	30	9	345
new trial, reversal or affirmance of judgment below, nature of judgment.....	"	31	9	345
special verdict or agreed cases, may be remanded for new finding.....	"	32	9	345
damages how and when awarded, limitation of	"	33	9	345
process to carry decision into effect.....	"	34	9	345
criminal cases, proceedings in.....	"	35	9	345
remedy when judgment reversed after being carried into effect; nature of action....	"	36	9	345
supreme court when and where held.....	"	37	9	346
failure of judges to meet, entry of by clerk; adjournment	"	38	9	346
if one judge appears how adjournment opinion of court to be reduced to writing, made	"	39	10	346
quorum, two judges.....	"	40	10	346
failure to hold court not to abate proceedings and delivered to clerk.....	"	41	10	346
dis dissent from opinion of majority, how delivered	"	42	10	346
opinion of court when and where filed.....	"	43	10	346
dut'ies of clerk; blank writs to whom sent..	"	44	10	346
docket how made up, precedence of U. S. cases	"	45	10	346
record what to contain, compensation to clerk for keeping of.....	"	46	10	346
no paper to be taken from office of, except by member of court.....	"	47	10	346
no paper to be kept out of court more than three days	"	48	10	346
time of taking effect; repealing clause; repeal not to affect pending proceedings..	"	49	10	346
	"	50	10	347
DISTRICT COURTS—				
First Judicial District, composed of Des Moines, Henry, Jefferson, Wapello, Davis, Van Buren and Lee counties, when courts to be held in the several counties	10	1	16-17	351
Second Judicial District, composed of Johnson, Linn, Cedar, Washington, Louisa, Muscatine, Mahaska, and Keokuk counties, when courts to be held in the several counties	"	1	17	352
Third Judicial District, composed of Scott, Clinton, Jones, Delaware, Jackson, Clayton and Dubuque counties, when courts to be held therein.....	"	1	17	352
change in time of holding courts, not to interfere with any proceedings now pending	"	2	17	352
repealing clause	"	3	17	352
may issue attachment for disobedience of injunction, and when.....	27	7	50	379
GEORGE W. CUMMINS—				
act for relief of.....	108		123	438
county commissioners of Dubuque county to allow reasonable sum for dieting persons, limitation	"	1	123	438

	Chapter.	Section.	Page.	Reprint Page.
D				
DAMS—				
proprietors of mill dams allowed to build them higher; not to interfere with the rights of others, nor to obstruct navigation of river; to be liable for any damage occasioned	17	1	23-4	357
application to build dams higher, to whom made, by whom granted, under what restrictions	"	2	24	357
"Plymouth company" to erect dam, where to be located; to obtain consent of the owners of the land on each side the river, to have a lock, and to be subject to foregoing restrictions.....	"	3	24	357
across Muscatine slough.....	69		89	411
organization of company, name, style, powers and object of.....	"	1	89	411
may make by-laws and provide for election of officers	"	2	89	411
company authorized to construct and where, dimensions of	"	3	89	411
across Skunk river, in Henry county.....	93		109	427
who authorized to construct and where; to contain lock, dimensions of; proviso as to time to complete lock.....	93	1	109-10	427
not to obstruct navigation; to pass free of toll; penalty for detention.....	"	2	110	427
penalty for injury sustained by owners of..	"	3	110	427
not to interfere with rights of others, and to remove nuisances	"	4	110	427
repealing power reserved.....	"	5	110	428
across the Des Mo'nes river, further time allowed John Godden and others to complete	104	1	121	436
the 8th section of act to which this is amendatory, so amended as to constitute certain persons tenants in common	"	2	121	436
DECREES—				
if a decree rendered against two or more persons, and one die, survivor may have writ of error.....	6	7	7	343
in chancery may be appealed from.....	"	20	8	344
how stayed	"	21	8	344
not to be vitiated for defect of form; amendable in court below, how amended in supreme court	"	30	9	345
upon affirmance of court may award damages; limitation of.....	"	33	9	345
decree carried into effect by process awarded from court.....	"	34	9	345
records of to be kept by clerk.....	"	47	10	346
in chancery to operate as a lien upon real estate, where to be recorded.....	27	6	50	379
DEEDS—				
deeds and other instruments of writing acknowledged out of county declared val'd	13	1	19	353
of sheriffs prima facia evidence of judgment and execution, and regularity of sa'e...	23	9	44	374
sheriffs required to make, for land sold under execution law, provided there has been no redemption	32	1	55	383
sheriffs to make, upon presentation of certificate	"	2	55	383

	Chapter.	Section.	Page.	Reprint Page.
DEEDS—Continued				
sheriffs and coroners required to make, for land sold under execution law now in force	"	3	55-6	383
administrators of John Jones, deceased, to make to trustees of Grandview seminary	95	1	111	428
SHERIFFS' DEEDS—				
sheriffs required to make deeds for lands sold under execution law, provided there has been no redemption.....	32	1	55	383
sheriffs to make deeds upon presentation of certificate	"	2	55	383
sheriffs and coroners required to make deeds for lands sold under execution law now in force	"	3	55-6	383
DEMURRER—				
of a defendant, when overruled, shall be allowed to answer over.....	27	3	50	378
JOHN A. DRAKE—				
appointment of as justice of the peace in Lee county, made valid.....	56	1	74	398
E				
GENERAL ELECTIONS—				
election to be held on first Monday of August, annually; change of the expiration of the term of certain offices.....	2	1	1.2	339
repealing clause	"	2	2	339
ELECTION DISTRICTS—				
the counties of Johnson and Muscatine to form the seventh electoral district, and be entitled to one member of the council	14	1	20	354
EXECUTIONS—				
not to issue after entering into recognizance when issued before recognizance entered into may be superseded.....	6	18	8	344
how issued and served, limited to township; if defendant has not property within township may issue to any township in county	"	19	8	344
when issued duty of officer to levy same, and upon what property.....	22	4	41	371
officer how to proceed in levying.....	23	1	43	373
to be renewed when not sufficient time remaining to sell.....	"	2	43	373
when levied shall be a lien on property levied on, sufficient to satisfy same.....	"	3	43	373
certain acts applicable to, of justices, as well as of district and supreme court.....	"	4	44	373
not to be levied upon burying grounds containing four acres.....	23	5	44	373
	"	7	44	374
F				
LAWFUL FENCES—				
what to be deemed a lawful fence; how high and how built.....	16	1	21	355
division fence, by whom built and repaired..	"	2	21	355
amount to be paid for privilege of joining fence to that of another; if fence removed by owner who to rebuild.....	"	3	22	355

	Chapter.	Section.	Page.	Reprint Page.
LAWFUL FENCES—Continued				
disagreement as to fence on division line, by whom determined; effect of such de- cision	"	4	22	355
intended removal of division fence, what notice required, penalty for want of no- tice; if occupied as enclosure penalty for refus'g to build his or her share of division fence, how assessed and collected upon trespass of any animal viewers to exam- ine fence	"	5	22	355
if fence not lawful viewers to give no dam- ages; if lawful assess the damages and fees; and certify the same; certificate to whom given, amount how and when col- lected	"	6	22	356
amount of fine for second trespass of same animals; consequences of continued tres- pass, remedy, amount of judgment, effect of	"	7	22	356
owner of any animal breaking lawful fence to be liable for all damage done by others thereby admitted, how assessed and recovered	"	8	22-3	356
viewers, compensation of how paid, penalty for refusing to act, amount of, how col- lected and applied	16	10	23	356
when no viewers elected justices may ap- point	"	11	23	357
repealing clause	"	12	23	357
FENCE VIEWERS—				
to determine what part of division fence each party to make; if any disagreement as to same decision how given; effect of..	16	4	22	355
to repair to place where injury done, and examine fence	16	6	22	356
if fence not lawful no damages recoverable; if lawful to assess damages; assessment including fees to viewers to be delivered to person sustaining damages	"	7	22	356
compensation of penalty for failing or re- fusing to serve	"	10	23	356
if none elected, who to be appointed and by whom	"	11	23	357
FERRIES—				
Ferry at Montrose, who authorized to establish and keep, dura- tion of term of, place of landing, when to be put in operation, duties of those authorized to establish, not to interfere with rights of others	46		66	392
flat boats to be kept and for what purpose...	"	1	66	392
rates of toll and manner of keeping regulated by law	"	2	66	392
At city of Dubuque, part of act authorizing repealed, time ex- tended for compliance with requisitions of	48	3	66	392
At lower end of Burlington, who authorized to establish and keep, place of landing, duration of term of, regu- lations and restrictions, not to interfere with rights of others	52		67	393
right of purchase at appraisal reserved to city of Burlington; appraisers how selected	"	1	70	393
	"	2	70	395

	Chapter.	Section.	Page.	Reprint Page.
FERRIES—Continued				
upon failure of Andersons to select city may select all	"	3	71	396
when to go into operation.....	"	4	71	396
At Keokuk,	61		78	402
who authorized to establish and keep, place of landing, duration of term of, regulations and restrictions.....	"	1	78	402
boat to be procured and within what time, flat boats to be kept until steamboat procured	"	2	78	402
repealing power reserved.....	"	3	78	402
At Fort Madison,	75		94	414
who authorized to keep, limits of, duration of term of, regulations and restrictions of	"	1	94	414
kind of boat to be kept, with a sufficient number of hands.....	75	2	94	415
not to interfere with rights of other persons	"	3	94	415
repealing power reserved.....	"	4	94	415
At the mouth Nassau Slough,	76		95	415
amendment of certain act, prohibition as to court or board of commissioners.....	"	1	95	415
repealing power reserved.....	"	2	95	415
At lower end of Rock Island,	113		131	444
John Wilson authorized to keep swing ferry; if county commissioners of Scott county are satisfied with the safety and sufficiency thereof, result of examination of to be entered on books of county commissioners	"	1	131-2	444
TOWN OF FREDONIA—				
Alvin Clark, of Louisa county, to cause legal plat of to be made out according to survey of John Gilliland; same to be recorded and when.....	118	1	135	447
all deeds and mortgages made by said Clark declared legal and valid	"	2	135	448
G—H				
HALF BREED LAND COMPANY—				
the sixteenth section of act of incorporation repealed, not allowed any banking privileges	64	1	80	404
RACHAEL HAMILTON, Administratrix—				
as administratrix authorized to sell and convey real estate.....	51	1	69	394
to execute a deed to convey a'l the rights of the heirs of James Hamilton, deceased, to said property.....	"	2	69	395
proceeds of sale to be accounted for to judge of probate, and when.....	"	3	69	395
JAMES T. HARDIN—				
appointment of, as deputy recorder of Jefferson county, made valid.....	84	1	102-3	421
TOWN OF HARTFORD—				
name of, changed to Fleming.....	144	1	160	468
I				
IMMORAL PRACTICES—				
fine for engaging in common labor, etc., on sabbath	43	1	63	389

	Chapter.	Section.	Page.	Reprint Page.
IMMORAL PRACTICES—Continued				
fine for selling liquor on sabbath, except to be used as medicine.....	"	2	63	389
fine for swearing within hearing of religious assemblies	"	3	63	390
finer how collected, and to what applied, limitation of suits, etc.....	"	4	63-4	390
IMPRISONMENT FOR DEBT—				
imprisonment for abolished.....	20	1	26	359
not to affect proceedings in case of contempt	"	2	26	359
repealing clause	"	3	26	359
INCORPORATIONS—				
Aspen Grove Cemetery Association—				
organization of, name and style of; general powers of, limitation of real estate, object of incorporation.....	44	1	64	390
first meeting when held, acceptance of charter when and how determined.....	"	2	64	390
description of land to be filed with recorder of Des Moines county and when, property of association exempt from taxation and all judicial process	"	3	64-5	391
property of association held for burial purposes, plat of to be filed for record, grants of burial lots how to be construed	"	4	65	391
Burlington Mechanics' Institute—				
organization of, name and style of, general powers of	54	1	72	396
object of	"	2	72	397
certain property of exempt from taxation and execution	"	3	72	397
to be governed, and how; power to alter or amend by-laws, etc.	"	4	72	397
how to proceed against corporators for violation of charter, if charter violated court to decree same forfeited.....	"	5	72	397
if complaint filed against by whom to be prosecuted, how expenses paid.....	"	6	72-3	397
Burlington University—				
where to be located, name and style of.....	58	1	75	399
powers vested in a board of regents, number of, president to be chairman of, who to compose first board.....	58	2	75	399
general powers of board, how to be used and exercised, quorum	"	3	75-6	399
may have a common seal, general powers of corporation	"	4	76	400
property and funds of, how and for what purpose applied	"	5	76	400
who to fix time and place for first meeting, to give notice to whom.....	"	6	76	400
Henry County Common School Association—				
organization of, name and style of; may hold and sell property, limitation of; objects of association, in whom titles of lands may be vested, and by whom conveyed	59	1	76-7	400
general powers of, proviso	"	2	77	401
Mechanics' Mutual Aid Association of Iowa City—				
part of school reserve in Iowa City donated to	62	1	79	402
who to make deed, how deed to be executed, for what purpose property to be used; proviso in deed	"	2	79	402

	Chapter.	Section.	Page.	Reprint Page.
NCORPORATIONS—Continued				
Farmington Academy and High School—				
where to be established, name and style of,				
general powers of	63	1	79-80	403
object of incorporation	"	2	80	403
trustees of; quorum, their powers and duties	"	3	80	403
stock, how divided, names of shareholders to				
be entered on books of, amount of				
each share	"	4	80	403
certain property of corporation exempt				
from taxation	"	5	80	403
repealing power reserved	"	6	80	403
Dubuque, Clayton, Delaware and Jackson Mu- tual Fire Insurance Company—				
organization of, name and style of, object				
of, in what cases to be liable, powers of	67	1	82-3	405
first meeting of commissioners, when and				
where to be held, for what purpose,				
who deemed to be members of, and				
how long	"	2	83	405
annual meetings of to be held where and				
when, notice of to be given by whom				
and how, board of directors to be				
chosen, number of and term of office,				
vacancies how filled, quorum, special				
meetings how called	67	3	83	406
persons becoming members to deposit				
promissory note, same how to be paid	"	4	83	406
each member liable for proportion of loss				
sustained by, property insured pledged				
to, lien on same and how long.....	"	5	83-4	406
in case of loss or damage, notice thereof to				
be given in writing, by whom, to whom				
and when; damages how ascertained				
and recovered, proceedings in district				
court, judgment of, effect of, when				
execution to issue against.....	"	6	84	406
directors to ascertain proportion of loss to				
be paid by each member, upon failure				
of members to pay, how same to be				
collected, application of, when collected	"	7	84	407
term of insurance of; policy, when deemed				
to be legal and binding on, when				
policy void	"	8	85	407
when loss sustained upon leased lands, di- rectors may retain amount of premium note until time of insurance shall ex- pire; when assured may demand such part of retained sum not expended....	67	9	85	407
double insurance void, unless such double insurance subsist with consent of di- rectors of; policy, how endorsed and signed	"	10	85	407
repealing power reserved	"	11	85	408
Iowa Botanic Medical Society—				
organization of, name and style of, powers				
of, may hold and sell real and personal				
estate, limitation and object of.....	70	1	90	411
general powers of; proviso	"	2	90	412
when to take effect	"	3	90	412
act may be amended or repealed.....	"	4	90	412
Grandview Literary and Philosophical Society of Louisa County—				
organization of, duration of term of, name, style and powers of, limitation of cap- ital, and may have a common seal....	77	1	95-6	415

	Chapter.	Section.	Page.	Reprint Page.
INCORPORATIONS—Continued				
number of officers, how elected, and term of office	"	2	96	415
executive committee may levy a tax, limitation of and for what purpose; may tax members to defray expenses.....	77	3	96	416
annual meetings to be held for election of officers of, and when; special meetings prescribed in by-laws	"	4	96	416
may enact by-laws for government of, may assess and collect fines; limitation, and application of	"	5	96	416
executive committee to prescribe mode of taxation, superintend generally, make annual financial report, and perform duties prescribed by the by-laws.....	"	6	96	416
fines and taxes how collected.....	"	7	96	416
act may be amended, altered or repealed, title to property not to be affected thereby	"	8	96	416
Jefferson Academy—				
where to be established; object, name and style of, organization of	78	1	97	417
general powers of	"	2	97	417
stock of how divided into shares; deemed personal property and transferable, restricted to purposes of education.....	"	3	97	417
to be managed by a board of trustees, number of, quorum, how and when elected, term of office, president, how elected, vacancies how filled, notice of elections how and when given	"	4	97-8	417
trustees of, to appoint subordinate officers and agents for government of.....	"	5	98	417
who to be first board of trustees of, and for what length of time	"	6	98	417
deeds and other instruments how executed and acknowledged	"	7	98	418
Toolesborough Manufacturing Company—				
organization, name and style of, general powers of, limitation of capital.....	79	1	98	418
power of to take water from Iowa river, point specified, power of to cut canal or race; not to enter upon lands not owned by unless by consent	"	2	99	418
for injury to works of, penalty for.....	"	3	99	418
capital stock of how divided, limitation of stock	"	4	99	418
first meeting of how called and organized, power to make by-laws and regulations for government of	"	5	99	419
duration of charter	79	6	99	419
Mount Pleasant—				
Act of incorporation of amended.....	85		103	422
election for officers of when held, vacancy in office of how filled, notice how given...	"	1	103	422
discretionary powers of president and councilmen to grant certain licenses, restrictions of when granted	"	2	103	422
streets and alleys of to be public highways; road district how far to extend from court house; supervisor how appointed, his powers and duties, not to interfere with other road districts	"	3	103-4	422
repealing clause	"	4	104	422

	Chapter.	Section.	Page.	Reprint Page.
INCORPORATIONS—Continued				
Congregational Church and Society of Burlington—				
organization, name and style of, powers of, limitation of property	92	1	108	426
first meeting by whom called, notice of how given, objects of meeting to be stated	"	2	108-9	426
general powers of, stock of contributors not to be alienated, members of, not restricted as to spiritual matters.....	"	3	109	426
who competent to act at first meeting....	"	4	109	426
Town of Farmington—				
Act of incorporation amended	98		113	430
vote to be taken at annual elections upon the subject of licensing grocers, the issuing of grocery license to depend on result of said election	"	1	113	430
recorder to give notice of election, particulars of notice	"	2	113	430
Dubuque Mining Company—				
organization, name and style of, and general powers	101	1	117-18	433
power of, to purchase and dispose of property, limitation of property	"	2	118	433
stock of, to be divided into shares, amount of each share	"	3	118	434
members of when to meet; may adopt rules for government of; restriction, directors, number of and how to be elected, term of office; president to be chosen from directors, directors to appoint officers for management of business of, property and concerns of how managed, powers of directors	101	4	118	434
conveyances how executed and acknowledged, effect of	"	5	118	434
stock of, deemed personal property, same transferable, restriction of transfers ..	"	6	118	434
corporation authorized to sink shaft and erect machinery	"	7	118	434
insolvency of to create personal liability....	"	8	118-19	434
repealing power reserved	"	9	119	434
Iowa City Manufacturing Company—				
organization, name and style of, general powers of	109	1	124	438
may have and use a common seal, and make by-laws; restrictions	"	2	124	438
limitation of capital stock; stock deemed personal property, and divided into shares of \$25 each	"	3	124	438
business of to be conducted by directors; number of, how and when to be elected; president how chosen, how notice of first election to be given, and by whom, election in making of by-laws how conducted, majority of vote to govern....	"	4	124-5	438
directors to take oath, to choose from stockholders a secretary, his duties	"	5	125	439
directors to employ agents; agents and secretary to give bond, compensation of fixed by board of directors, accountability of agents, secretary to make financial report quarterly, same to be published	"	6	125	439

	Chapter.	Section.	Page.	Reprint Page.
INCORPORATIONS—Continued				
directors to appoint agents to take subscriptions to, amount to be paid on each share at time of subscribing.....	"	7	125-6	439
contracts and covenants how made and executed, instruments how to be signed to be binding on	"	8	126	440
power of, to convey water from Iowa river by canal to or near Iowa City, purposes of; to erect mills and machinery, to lease or sell water privileges, not to enter upon lands of others without consent; grist mills erected by how governed, when compelled to grind for toll contracts heretofore made to be binding on corporation, and rights acquired by to vest in corporation, d'scretion of directors as to forfeiture of stock.....	"	9	126	440
conditions of forfeiture of privileges.....	109	10	126	440
penalty for injury to works of.....	"	11	126-7	440
duration of term of charter	"	12	127	440
	"	13	127	441
Washington Lyceum of Jackson County—				
organization, name and style of, general powers of, limitation of yearly value of property; may dispose of real and personal estate, may make by-laws for government of; restrictions, number of officers how and when appointed, term of office, who to be officers until first Monday of March, number of members to constitute quorum, deeds how made and acknowledged	110	1	127-8	441
certain articles of property of exempt from taxation	"	2	128	442
Mount Pleasant Lyceum—				
organization, name and style of, and general powers of	112	1	130	443
object of, how pursued	"	2	130-1	444
officers of, number of and tenure of office...	"	3	131	444
corporators to elect officers, when and where meet, and may make by-laws for regulation of	"	4	131	444
number of corporators to form quorum....	"	5	131	444
deeds of, how made and acknowledged....	"	6	131	444
Wabesipinicon Bridge Company—				
incorporation, name and general powers of..	123	1	140	451
who authorized to construct bridge, and where	"	2	140	452
how constructed	"	3	140	452
first meeting how called; may enact by-laws for management of; restriction.....	"	4	140	452
capital stock divided and how; limitation of capital, each share entitled to one vote	"	5	140	452
subsequent meetings of how called, notice how given	"	6	140-1	452
rates of toll	"	7	141	452
rates of toll made public, when to commence an account of cost of to be kept by, when fully reimbursed bridge to become free	"	8	141	452
receiver of tolls to take oath.....	123	9	141	452
penalty for injury of.....	"	10	141	453
when to be completed, a failure thereof deemed a violation of incorporation...	"	11	141	453
act may be repealed for abuse of privileges;	"	12	141	453
proviso	"	13	141	453

	Chapter.	Section.	Page.	Reprint Page.
INCORPORATIONS—Continued				
Clinton Academy at Dewitt—				
object of incorporation of, name of.....	125	1	145	456
general powers of	"	2	145	456
stock of divided into shares, deemed personal property and transferable, limitation of annual income	"	3	145	456
concerns of to be managed by board of trustees, number of, quorum, how and when elected, term of office, vacancies how filled, special elections how ordered	"	4	145-6	456
trustees may appoint officers and agents for government of and management of property; proviso	"	5	146	456
deeds how made and executed	"	6	146	457
repealing power reserved	"	7	146	457
Wabesipinicon Mill Company—				
organization, name and style and general powers of, limitation of capital.....	127	1	147	457
empowered to construct dam, place designated, may erect mills, etc.; dam to contain sluice, dimensions of, when to be completed, and to be kept in repair....	"	2	147-8	458
penalty for injury to dam or sluice.....	"	3	148	458
not to enter upon or flow lands of others without consent	"	4	148	458
stock of how divided, limitation of.....	"	5	148	458
first meeting of, how called, when convened may make by-laws for government of, restrictions	"	6	148	458
repealing power reserved	"	7	148	458
Town of Bellview—				
board of trustees authorized to issue license; amount to be paid therefor.....	128		148	459
application for grocery license to whom made, amount to be paid for license, how obtained, duration of license, applicant to give bond, penalty and conditions of, penalty for violation how recovered, violation to work a forfeiture of license	"	1	148-9	459
penalty for selling liquors in less quantities than one gallon, without license, how recovered and applied	"	2	149	459
	128	3	149	459
Town of Davenport—				
first process for recovery of fines for violation of ordinance to be warrant, punishment for violation to be imprisonment, limitation of	129		149	460
tax to be laid for improvement of streets upon petition of owners of property...	"	1	149-50	460
	"	2	150	460
Mount Pleasant Collegiate Institute—				
organization, name, style and general powers of	130		150	460
object of incorporation	"	1	150	460
specific powers of; may appoint officers and make by-laws for government of, validity of, restrictions	"	2	150	460
legal process upon whom served.....	"	3	150-1	460
institution where situate	"	4	151	461
may authorize one or more members of to sell and convey real estate, effect of such conveyance	"	5	151	461
property of Mount Pleasant Collegiate Institute to be transferred to incorporation	"	6	151	461
repealing power reserved	"	7	151	461
	"	8	151	461

INCORPORATIONS--Continued	Chapter.	Section.	Page.	Reprint Page.
Town of Fort Madison--	132		152	462
mayor and aldermen of hereafter not to receive pay for services	"	1	152	462
limitation of tax to be levied, unless majority of voters of decide differently...	"	2	152	462
sufficient revenue may be levied for present year to pay existing debts.....	"	3	152	462
time of taking effect, and repealing clause..	"	4	152-3	462
Grandview Seminary in Louisa County--	136		155	464
charter of amended; price of shares reduced, each stockholder to have only one vote	"	1	155	464
Iowa City--	138		156	465
act of incorporation of revived.....	"	1	156	465
election to determine acceptance of, when to be held	"	2	156	465
if act of incorporation adopted, when election for officers to be held.....	"	3	156	465
streets and alleys of declared public highways	141	1	158	466
county commissioners to lay off city into road districts, and appoint supervisors..	141	2	158	466
repealing clause	"	3	158	467

J

GEORGE H. JENNISON--				
act for relief of	142		159	467
official acts of as justice of the peace in and for the county of Jefferson, legalized and made valid	"	1	159	467

JUDGES--

of supreme court, failure to meet, entry of to be made by clerk; adjournment....	6	38	9	346
if one Judge appears how adjournment made	"	39	10	346
two judges to form quorum.....	"	40	10	346
vacancy in the office of judge not to abate proceedings	"	41	10	346
of the supreme court in all cases submitted to them, to reduce their opinions to writing and deliver same to clerk.....	"	42	10	346
any judge dissenting from decision of majority to reduce reasons for to writing, and deliver same to court.....	"	43	10	346
of elections, to interrogate electors relative to Convention, answer	9	2	13	349
to make out returns, to whom to be forwarded, and within what time.....	"	3	13-14	349
to certify returns of votes for delegates; to whom sent	"	6	15	350
to certify returns of votes for and against a convention, to whom sent	"	8	15	350
of district courts, may abate nuisances....	18	1	25	358
to give act in charge to grand jurors.....	"	2	25	358
of district courts may issue attachment for disobedience of injunction, and when..	27	7	50	379
of probate of Linn county.....	126		146	457
required to make a record of all proceedings in probate court, from organization of county	"	1	146	457
record to be submitted to board of county commissioners	"	2	147	457
county commissioners to pay reasonable compensation for record	"	3	147	457

	Chapter.	Section.	Page.	Reprint Page.
NEW JUDICIAL DISTRICT—				
district created, if Congress pass a law granting additional judge; counties to compose fourth judicial district	42	1	62-3	389
GRAND AND PETIT JURORS—				
jurors, number and qualifications of, to be annually selected	24	1	45	374
apportionment of in each township or precinct, when and by whom made, to whom given, who to give notice, when and how given	"	2	45	374
judges of election to select number apportioned to their respective townships, and when; to return a list of same, with return of election, and to whom.....	"	3	45	375
jurors, when, how and by whom drawn; number of, list of to be delivered to clerk of district court: summons by whom issued and served	"	4	45-6	375
not to serve two terms in succession; how panels for succeeding term to be drawn; proviso	"	5	46	375
repealing clause, not to affect any selection of jurors heretofore made	"	6	46	375
JUSTICES AND CONSTABLES—				
acts of justices and constab'les, who may have given bonds to township trustees and were qualified before township clerks as legal and val'd as though given to the boards of county commissioners, and were qualified before the several clerks of the district court.....	11	1	18	353
JUSTICES OF THE PEACE—				
Van Buren township, in Van Buren county, to be allowed three justices, two of whom how to be located; Salem township, in Henry county, to have one additional justice; where to reside.....	15	1	20	354
how said justices are to be elected.....	"	2	20	354
repealing clause, acting justices not to be affected	"	3	21	355
limitation of civil actions to townships where defendant resides; when no justice in such township, then justice of adjoining township to have jurisdiction	22	1	40	370
where suit may be instituted against defendants living in different townships.....	22	2	40	370
process by attachment not limited to townships	"	3	40-1	371
executions how issued and served, limited to township when sufficient property can be found, if property not sufficient may then be levied in any township in county	"	4	41	371
upon return of warrant before justice, defendant may deny facts and allegations stated in the affidavit; issue how tried, effect of issue found for defendant....	"	5	41	371
jurisdiction of constables as conservators of the peace co-extensive with that of justices	"	6	41	371
if in suit of trespass, defendant justify by plea of title and enter into recognizance, how justice to proceed; case how removed to district court	"	7	41	371

	Chapter.	Section.	Page.	Reprint Page.
JUSTICES OF THE PEACE—Continued				
when defendants in suits of attachment cannot be summoned, property to be attached; how plaintiff to give notice; notice how proven	"	8	41	371
Bloomington township to have three justices, Burlington and Fort Madison two each, Linn township in Cedar county an additional one, where to reside.....	"	9	41	371
duties of justices and constables to pay over money on account of fines, etc., to whom and when to be paid, penalty for failure, how collected	"	10	41-2	372
if justice or constable fail to pay over who may complain; nature of complaint, where complaint to be filed, citation to appear and show cause why office should not be forfeited, effect of judgment, new election to fill vacancy.....	"	11	42	372
who may complain upon failure of justice to pay over money collected, nature of complaint	"	12	42	372
vacancy in office of justice of the peace how filled, by whom new election ordered, notice how given, how election to be held and conducted, repealing clause...	"	13	42	372
specific repeal of certain sections of previous law	"	14	42	372
this act not to interfere with suits now pending	"	15	42	372
to renew executions, when not time sufficient under original execution to sell.....	23	3	43	373
K—L—M				
MILITIA—				
repealing clause	31	1	54	382
assessors to return names of persons subject to militia duty and to whom; who to make out abstracts, and where to be returned	"	2	54-5	382
this act not to interfere with commander-in-chief	"	3	55	383
salary of adjutant general	"	4	55	383
certain counties to form fourth division of..	34	1	56-7	384
fourth division of divided into brigades; certain counties to form first and second brigades	"	2	57	384
MALCOLM MURRAY—				
territorial agent to pay to; interest on certificate issued by agent, date and amount of certificate	83	1	102	421
agent to renew certificate to bear interest and from when	"	2	102	421
amount of arrearages of interest to be paid to; restrictions	"	3	102	421
N—O—P				
ISAAC PARSONS, CORONER—				
official acts of as coroner and justice of the peace legal and valid; exempt from the effect of 10th section of act providing for the election of justices, etc., approved Feb. 9th, 1843; proviso.....	47	1	67	392

	Chapter.	Section.	Page.	Reprint Page.
WILLIAM PARVIN—				
county commissioners of Muscatine county to allow further time to return tax list of 1843; limitation of time	86	1	104	422
commissioners may postpone tax sale of 1843; limitation of extension	"	2	104	423
collector not to be released from obligation of bond	86	3	104	423
collector may distrain for taxes of 1843....	"	4	104	423
commissioners to fix day of sale; collector to give notice, sales legal and valid.....	"	5	104-5	423
W. B. PECK AND A. M. PECK—				
name of William B. Peck changed to William F. Telford; change not to affect rights or liabilities	53	1	71	396
name of Ann M. Peck changed to Ann M. Telford	"	2	71	396
PEDLARS—				
by whom licensed, particulars of license, for what time, compensation to clerk for issuing, by whom paid	25	1	46-7	375
application for license, how made, what to contain	"	2	47	376
amount to be paid for license, receipt for same, by whom given and where filed..	"	3	47	376
penalty for peddling without license, how recovered, fine how applied, refusal to exhibit license when demanded, effect of, exemption in favor of home manufacturers	"	4	47	376
violations of this act, by whom prosecuted..	"	5	47	376
JOHN PETERSON—				
act legalizing the appointment and acts of..	137		155	464
appointment and acts of, as justice of the peace in and for the county of Jackson, declared valid	"	1	155-6	464
TOWN PLATS—				
county commissioners empowered to vacate town plats, vested rights not to be interfered with, certified copy of order of vacation to be recorded, where and when	38	1	59	386
PLEAS —				
or other process not made void in consequence of change in time of holding courts	10	2	17	352
when plea of defendant overruled allowed to answer over	27	3	50	378
POOR—				
expenses of poor to be paid out of county treasury; county commissioners to audit and allow all demands arising from such support or relief	12	1	18-19	353
PUBLIC PRINTING—				
the 6th section of act of February 2d, 1843, repealed	39	1	59	386
Q—R				
RECORDER—				
of town of Farmington, to give notice upon the subject of grocery license when giving notice of annual election	98	2	113	480

	Chapter.	Section.	Page.	Reprint Page.
RELIGIOUS SOCIETIES—				
how to become organized, may designate name, general powers when so organized	5	1	4	341
duty of society wishing to organize; how to proceed, abstract of organization what to contain, by whom signed, when recorded, duty of recorder	5	2	4	341
may elect officers, make by-laws and regulations for government of, effect of such regulations	"	3	4	341
process how served on, length of time before return	"	4	4	342
repealing clauses, saving clause.....	"	5	5	342
corporations hereafter created by charter to have benefit of this act	"	6	5	342
REPEALING LAW—				
repealing certain acts	36	1	57-8	385
not to interfere with rights that have accrued or proceedings now pending.....	"	2	58	385
RESOLUTIONS—				
in testimony of respect to the late Lewis F. Linn			161	469
authorizing auditor to audit account of warden of penitentiary			161	469
asking congress for an appropriation to defray expenses of a treaty with, and removal of certain Indians			162	469
providing payment for seals for certain counties			162	470
authorizing auditor to audit certain warrants			162	470
asking Congress for establishment of a mail route from Nauvoo, Ill., to Montrose...			163	470
asking from Congress compensation for services rendered in Missouri war.....			163	471
for establishment of certain post routes...			164	471
relative to mail routes Nos. 4228 and 4506..			165	472
for relief of F. M. Irish.....			165	472
authorizing fire company in Iowa City to occupy room in basement of capitol.....			165	473
relative to the distribution of laws of present session			166	473
relative to certain mail routes			166	473
relative to University lands of Iowa.....			167	474
authorizing secretary to have laws printed.			168	474
authorizing the re-publication of a certain act			168	475
providing for payment of reports of Supreme Court			168	475
relative to printing and distributing laws and journals of the present session.....			169	475
asking an appropriation to defray expenses of extra session			169	476
providing payment for binding laws of 1842-3			170	476
REVENUE—				
assessor how and when elected, and for what term	21	1	28	359
his bond to whom given, for what sum, by whom preserved	"	2	28	359
to be filed in ten days or office vacated	"	3	28	360
if office vacated, how filled	"	4	28	360
person appointed, how to qualify; his term..	"	5	28	360
suit against by whom instituted	"	6	28	360
compensation of to be paid by county.....	"	7	28	360
penalty for not serving, how collected.....	"	8	28	360
poll tax, amount of, who to pay.....	"	9	29	360

	Chapter.	Section.	Page.	Reprint Page.
REVENUE—Continued				
what property subject to taxation, and what exempt	"	10	29	360
real estate where and to whom to be taxed..	"	11	29	361
all personal property to be assessed to owner in township where he resides on 1st day of May	"	12	29	361
exceptions to 12th section	"	13	29-30	361
assessment of mortgaged personal property governed by possession	"	14	30	361
property when assessed to heirs or devisees, who liable for tax	"	15	30	361
partners how and when taxed	"	16	30	361
money and stocks how taxed	"	17	30	362
assessment roll, by whom prepared, to whom delivered and when	"	18	30	362
form of	"	18	31	362
particulars of assessor's return	"	19	32	363
assessors when to commence, property how valued	21	20	32	363
real estate how described	"	21	32	363
non-residents, names of need not be stated..	"	22	82	363
oath may be required in return of property to assessor	"	23	32	363
person refusing to furnish list of property, how assessor to proceed, penalty for refusal	"	24	32	363
assessor to administer oath; false swearing perjury	"	25	32	363
property previously unassessed to be assessed for time omitted	"	26	32	363
assessment list, when and where to be filed.	"	27	32	363
notice of filing same, persons desiring an abatement, where and when to appear..	"	28	32	363
commissioners when to meet; to levy county and territorial tax, amount of	"	29	33	363
persons aggrieved by assessment where to present their grievances	"	30	33	364
commissioners may take testimony and make abatement	"	31	33	364
list of taxes with warrant, by whom made out, to whom and when delivered for collection	"	32	33	364
county treasurer to be collector	"	33	33	364
notice of time and place of collection, by whom, how and when given	"	34	33	364
mistake of name in assessor's list not to prevent collection of taxes	"	35	33	364
treasurer when resisted may require assistance; penalty for refusing, how to be recovered	"	36	33	364
persons refusing to pay tax before 1st day of January, treasurer may distrain, exception	"	37	34	364
in case of distress how treasurer to proceed, notice when to sell, etc.	"	38	34	365
may adjourn the sale, notice of	"	39	34	365
if property sell for more than taxes and charges, overplus to be paid to owner..	"	40	34	365
when person removes from county before payment of taxes how treasurer to proceed	"	41	34	365
when person removes, dies, or (if a woman) marries before payment of taxes, how treasurer to proceed, and may have process of garnishment	"	42	34	365
property of tenant not subject to distress for taxes for land he occupies	21	43	34	365

	Chapter.	Section.	Page.	Reprint Page.
REVENUE—Continued				
if treasurer dies, or becomes incompetent to complete collection, commissioners to appoint collector; administrators or executors of deceased to deliver list to commissioners	"	44	34	365
new treasurer to give bond, to whom payable, amount of, conditions and effect of; proviso	"	45	34-5	365
no misrecital or mistake to vitiate, construction of	"	46	35	366
distress to be levied where person taxed has personal property	"	47	35	366
treasurer to return money and tax list, to whom and when	"	48	35	366
to whom and when to make annual statement of condition of county treasury.....	"	49	35	366
to make and file in his office a list of delinquent lands and property, and when..	"	50	35	366
his compensation	"	51	35	366
taxes upon lands and property due and unpaid, to draw interest, rate of.....	"	52	35	366
taxes on delinquent list receivable within two years	"	53	35	366
how treasurer to proceed when taxes remain unpaid for two years	"	54	35	366
form	"	"	36	366
treasurer to publish list of delinquent land, with notice of intended application for judgment to sell; notice of sale, when and where, effect of	"	55	36	367
copy of advertisement with certificate of due publication, to be filed with clerk of district court, together with report.....	"	56	36-7	367
certificate and report of treasurer, by whom filed and recorded, how kept, clerk to place same at head of common law docket; form	"	57	37	367
duty of court, manner of proceeding; if no defense judgment rendered against said lands, clerk to issue order for sale of, form	"	58	37	368
form to be pursued	"	59	37	368
when clerk to make copy of treasurer's report, to constitute process upon which treasurer to sell after notice, when treasurer to make return	"	60	37-8	368
any person may pay taxes and charges before sale	21	61	38	368
figures may be used by clerk, and for what sale when and where held, how conducted..	"	62	38	369
how much of tracts of land to be sold; when whole tracts not sold how to be divided; in case no person will take tract for tax to be struck off to the county.....	"	63	38	369
treasurer to make deeds; how proved.....	"	64	38	369
deeds and sales made by treasurer to be legal and valid	"	65	38	369
funds receivable for taxes.....	"	66	38-9	369
territorial tax, when to be paid.....	"	67	39	369
William C. Cameron to be collector of Des Moines county, from when and for what term; his duties and compensation....	"	68	39	369
commissioners of Scott and Cedar counties authorized to levy additional tax; limitation of, persons who paid tax in 1843 credited for 1844, upon production of evidence to collector	"	69	39	369
repealing clause; proviso	"	70	39	370
	"	71	39	370

	Chapter.	Section.	Page.	Reprint Page.
PUBLIC ROADS, ETC.—				
obstruction of roads, streams, etc.: establish- ment of offensive trades, pollution of streams, etc., prohibited; penalty for; nuisance, how abated	18	1	24-5	358
this act to be part of criminal law of the ter- ritory; duty of judges	"	2	25	358
ROADS—				
territorial, from Farmington to Autumwa,	45		65	391
commissioners, appointment of; where to commence, location of	"	1	65	391
commissioners where and when to meet....	"	2	65	391
commissioners how to proceed, how paid....	"	3	65-6	391
from lower end of Burlington to David B. An- derson's mill	49		68	398
commissioners, names of, and direction road.	"	1	68	393
where and when to meet, duty of.....	"	2	68	393
compensation of all persons employed.....	"	3	68	394
territorial from Wapello to Augusta—				
commissioners appointment of, where to com- mence, direction of	57	1	74-5	399
commissioners where and when to meet, duty of; counties of Louisa and Des Moines not to pay any part of expenses.....	57	2	75	399
territorial, from Fairfield to Indian Agency—	65		81	404
appointment of commissioners, duty of, where to commence, direction of	"	1	81	404
where and when commissioners to meet, and how to proceed	"	2	81	404
territorial from Mount Pleasant to Lake Prairie—	71		91	412
appointment of commissioners, duty of, where to commence, direction of.....	"	1	91	412
where and when commissioners to meet, who to take to their assistance, oath of....	"	2	91	412
what act commissioners governed by in lo- cating, how paid	"	3	91	412
territorial from Iowaville to Missouri line, where Mormon trace crosses—	72		92	413
appointment of commissioners, where to commence, direction of	"	1	92	413
where and when commissioners to meet, duty of	"	2	92	413
compensation of commissioners and others employed, and how paid	"	3	92	413
territorial from Davenport to Iowa City—	73		92	413
appointment of commissioners, where to com- mence, direction of	"	1	92-3	413
where and when commissioners to meet, who to assist, oath of, commissioners how governed, how commissioners and as- sistants paid	"	2	93	413
amount of compensation to commissioners and others	"	3	93	414
territorial from old boundary line in Jefferson county, to county seat of Mahaska county	80		99	419
appointment of commissioners, commence- ment of, direction of	"	1	99-100	419
where and when commissioners to meet, where and when to make returns.....	"	2	100	419
commissioners and others how paid	"	3	100	419
territorial, from Brighton, to county seat of Mahaska county—	81		100	420
appointment of commissioners to locate, where to commence, direction of.....	"	1	100	420
commissioners where and when to meet, how to proceed in discharge of duties.....	"	2	100-1	420

	Chapter.	Section.	Page.	Reprint Page.
ROADS—Continued				
territorial, from Iowaville, to Autumwa—	82		101	420
appointment of commissioners to locate, where to commence, direction of, where and when to meet	82	1	101	420
commissioners and others how paid	"	2	101	420
territorial, from a certain point in Muscatine county, to the rapids on Cedar river in Linn county—	89		106	424
appointment of commissioners to locate, commencement and direction of	"	1	106	424
where and when commissioners to meet, to employ hands, who to discharge the duties of surveyor	"	2	106	424
commissioners how to be governed in lay- ing out, counties through which road passes not to pay any part of expense . .	"	3	106	424
from lower end of Nassau Island, in Lee coun- ty, to intersect road leading from Farm- ington to Keokuk—	90		107	425
appointment of commissioners, where to commence, direction and termination of commissioners when and where to meet, how to be governed in laying out	"	1	107	425
compensation of commissioners and others . .	"	2	107	425
territorial, from Bennett's mill to William Myers'—	"	3	107	425
commencing at Bennett's mill, direction and termination of, declared a territorial road	91		107	425
now traveled, commencing at Olmstead's mill, direction and termination of, de- clared a territorial road	"	1	108	425
appointment of commissioners to relocate road described in section second, limita- tion of time, privilege of commissioners	"	2	108	425
territorial, from Cedar Rapids, in Linn county, to rapids on Wabesipinicon, in Buchanan county—	91	3	108	426
appointment of commissioners to locate, where to commence, termination of . . .	94		110	428
commissioners where and when to meet, how to be governed in locating	"	1	110-11	428
compensation of commissioners and others .	"	2	111	428
legalizing location of from Davenport to Bell- view—	"	3	111	428
location of by commissioners under act of Nov. 27th, 1840, declared valid; de- clared a public highway	96		112	429
commissioners and others, how paid	"	1	112	429
authorizing the payment of expenses for laying out a certain territorial road	96	2	112	429
located under act of Feb. 1st, 1843, expenses of location of to be paid by the coun- ties through which the same passes . .	97		112	429
territorial, from southern line of Davis county to northern line of Wapello county—	"	1	112-13	429
appointment of commissioners, commence- ment and termination of	99		113	430
commissioners where and when to meet, how to proceed	"	1	114	430
counties through which said road passes not to pay any part of expense	"	2	114	430
territorial, from Iowa City to seat of justice of Mahaska county—	"	3	114	430
appointment of commissioners to locate; commencement, direction, and termina- tion of	102		119	435
	"	1	119	435

	Chapter.	Section.	Page.	Reprint Page.
ROADS—Continued				
commissioners where and when to meet...	"	2	119	435
compensation of commissioners and others employed, how paid	"	3	119	435
territorial, from Deeds' mill, in Jefferson county, to Crippen's mill, in Washington county—	103		120	435
appointment of commissioners to locate; commencement, direction, and termination of	"	1	120	435
commissioners to take to their assistance surveyor, chainmen and marker; compensation of	"	2	120	435
commissioners where and when to meet, to be governed by provisions of act of Dec. 29th, 1838	"	3	120	436
territorial, from Delhi, in Delaware county, to Cascade, in Dubuque county—	105		121	436
appointment of commissioners to locate; commencement and direction of	"	1	121-22	436
commissioners where and when to meet....	"	2	122	437
counties through which same passes not to pay any part of expense.....	"	3	122	437
territorial, location of legalized from Bellview to Iowa City—	106		122	437
from Bellview to Iowa City located by Cowles & Kirkpatrick under act of Jan. 13th, 1841; their acts declared legal and valid, and road declared a public highway	106	1	122	437
compensation of commissioners and others employed	106	2	122	437
declaring a certain road therein named a public highway, and continuation of the same through the counties of Jackson, Clinton and Cedar—	114		132	445
commencement and direction of; declared a territorial road; county commissioners of Jackson county may re-locate part of	"	1	132	445
appointment of commissioners to locate territorial road; commencement, direction and termination of; duty of commissioners, where and when to meet; counties through which road passes not to pay commissioners	"	2	132	445
oath of commissioners, by whom administered	"	3	132-33	445
territorial, from Keosauqua to western line of Appanoose county—	115		133	446
appointment of commissioners to locate; commencement and direction of	"	1	133	446
commissioners where and when to meet, where to commence locating	"	2	133	446
part of, from Keosauqua to western line of Van Buren county, to be adopted as a portion of, plat and survey of, where to be found	"	3	133	446
commissioners and others employed, how paid for services	"	4	133	446
territorial, from Brighton, in Washington county, to intersect the road from Mount Pleasant to Washington—	116		134	446
appointment of commissioners to locate; commencement, direction and termination of	"	1	134	446
commissioners, how governed in discharge of duties	"	2	134	447
commissioners where and when to meet...	"	3	134	447

	Chapter.	Section.	Page.	Reprint Page.
ROADS—Continued				
territorial, from Fort Madison, in Lee county, to Iowaville, in Van Buren county, a part of to be reviewed—	119		135	448
time given for re-location of extended.....	"	1	135-6	448
appointment of commissioners to re-locate..	"	2	136	448
territorial, from Burlington to the mouth of the Des Moines river; a part thereof changed all that part of, lying between James McMur- ray's and section twenty-three and four- teen changed on section line.....	121		137	449
territorial, from Wilson's mill, in Henry county, to Glasgow, in Jefferson county—	121	1	137	449
appointment of commissioners to locate; commencement and termination of	131		151	461
commissioners where and when to meet, to employ assistants; direction of.....	"	1	151	461
compensation of commissioners and others employed, how paid	"	2	151-2	461
commissioners and others, how governed...	"	3	152	461
territorial from Rome, in Jones county, to the rapids, on the Wabesipinicon river, in Buchanan county—	"	4	152	462
appointment of commissioners to locate, com- mencement and termination of	133		153	462
commissioners where to meet, direction of..	"	1	153	462
commissioners how to be governed.....	"	2	153	463
territorial, from Musquito creek, in Muscatine county, to Hector Sterrett's, in Cedar county	"	3	153	463
appointment of commissioners to locate, commencement, direction and termina- tion of, commissioners where and when to meet	134		154	463
territorial, from J. H. Jenkins, in Linn county, in a direction to the city of Dubuque..	"	1	154	463
appointment of commissioners to locate, commencement, direction and termina- tion of	"	2	154	463
counties through which road passes not to pay any part of expenses	"	1	154	463
from Denson's ferry, in Cedar county, to the southern boundary of said county legal- ized	"	3	157	466
road laid out by certain commissioners de- clared a public highway	139		157	465
commissioners of Cedar county to record plat of; to be deemed a county road...	"	1	157	465
streets and alleys of Iowa City declared public highways, and for other purposes	"	2	157	465
streets and alleys of, declared public high- ways	"	3	157	466
county commissioners to lay off city into road districts, and appoint supervisors	"	1	157	466
repealing clause	"	2	158	466
to re-locate a part of the territorial road run- ning from Fort Madison to Iowaville, on the Des Mines river	"	3	158	467
appointment of commissioners to re-locate and what part of; commissioners where and when to meet	140		157	466
streets and alleys of Iowa City declared public highways, and for other purposes	"	1	157	466
streets and alleys of, declared public high- ways	"	2	158	466
county commissioners to lay off city into road districts, and appoint supervisors	"	1	158	466
repealing clause	"	2	158	466
to re-locate a part of the territorial road run- ning from Fort Madison to Iowaville, on the Des Mines river	"	3	158	467
appointment of commissioners to re-locate and what part of; commissioners where and when to meet	141		158	466
streets and alleys of, declared public high- ways	"	1	158	466
county commissioners to lay off city into road districts, and appoint supervisors	"	2	158	466
repealing clause	"	3	158	467
to re-locate a part of the territorial road run- ning from Fort Madison to Iowaville, on the Des Mines river	142		159	467
appointment of commissioners to re-locate and what part of; commissioners where and when to meet	"	1	159	467
S				
REV. ISAAC SEARLES—				
released from liability for marrying without license	88	1	105-6	424

	Chapter.	Section.	Page.	Reprint Page.
SECRETARY OF TERRITORY—				
when and in whose presence to examine and count returns for and against a convention; where said returns to be filed....	9	3	14	349
to open and count returns of votes for and against a constitution	"	8	15	350
duty of, to have act published, and when....	"	11	15	351
to procure and provide room, etc., for convention	"	12	16	351
to make deed to Mechanics' Mutual Aid Association	62	2	79	402
SHEEP—				
no ram to run at large between last day of June and first day of November; if found at large may be taken up; owner may reclaim within two weeks upon payment of one dollar, if he refuses to pay ram to be forfeited to the person taking up same	7	1	11	347
if owner of ram is unknown, person taking up same to give notice; particulars of advertisement; compensation for taking up in case ram is claimed within 15 days. if not claimed within such time additional compensation; if not claimed within three months to be forfeited to the person taking up same	"	2	11	347
SHERIFFS—				
to select property, how governed, required to take personal property before real estate	23	1	43	373
how to proceed in selecting personal property	"	2	43	373
how to proceed when property offered for sale at expiration of six months from time first offered, and plaintiff refuses to take same	23	3	43	373
to summons grand and petit jurors.....	24	4	46	375
to post up notices of general election for extra session, and when.....	26	6	49	377
required to make deeds for lands sold under execution law, if not redeemed.....	32	1	55	383
to make deed upon presentation of certificate required to make deeds for lands sold under execution law now in force	"	2	55	383
time of election of	33	1	56	383
limitation of terms	"	2	56	384
if vacancy occur, how filled	"	3	56	384
repealing clause	"	4	56	384
appointment of in counties of Keokuk and Mahaska	68	7	87	409
appointment of in county of Wapello.....	100	7	115	432
of Louisa county as collector of taxes for 1843, acts of declared legal and valid	111	1	129	442
to pay over money collected, to whom and when, on tax duplicate of 1843.....	"	2	129	442
to return tax duplicate and to whom....	"	3	129	442
to settle with board of county commissioners of Louisa county.....	"	4	129	443
TOWN OF SOLON—				
vacation of a part of.....	107	1	123	437
THOMAS SUMMERLIN—				
to have further time to return tax list of 1843; limitation	55	1	73	397

	Chapter.	Section.	Page.	Reprint Page.
THOMAS SUMMERLIN—Continued				
county commissioners may postpone sale of lands for delinquent taxes for year 1843; limitation	"	2	73	398
not to be released from obligation of bond.. if time extended collector may distrain for taxes of 1843; limitation.....	"	3	73	398
county commissioners to fix day for tax sale, collector to give notice, sale and effect of	"	4	73	398
	"	5	73-4	398
CHAUNCEY SWAN—				
territorial agent to refund money to with interest, and what for.....	66	1	81	404
T				
ROAD TAX—				
by whom and when levied, amount of, how to be applied, may be worked out on roads, at what rate per day.....	19	1	25	358
repealing clause	"	2	25	359
TAXES—				
road tax, by whom and when levied, amount of, how to be applied; may be worked out, at what rate per day.....	19	1	25	358
poll tax, limitation of; who required to pay who exempt from 7th clause of.....	21	9	29	360
property subject to taxation, what exempt..	"	10	29	360
real estate where to be assessed and to whom personal property to be assessed to owner; where and when	"	10	29	360
	"	11	29	361
exceptions to preceding section.....	"	12	29	361
mortgaged personal property taxed to possessor	"	13	29-30	361
who liable for tax on undivided real estate.	"	14	30	361
partners in trade severally and jointly liable for taxes, and where taxable.....	"	15	30	361
money and stocks how taxable.....	"	16	30	361
property subject to taxation how valued...	"	17	30	362
county and territorial tax, amount of....	"	20	32	363
who to collect taxes.....	"	29	33	363
mistake of name in assessor's list not to prevent collection of taxes.....	"	32	33	364
when tax to be paid, or property subject to distress	"	35	33	364
if distress be made, duty of collector in selling property	"	37	34	364
if property sell for more than tax and charges, surplus paid to owner.....	"	38	34	365
to be collected by distress, and when.....	"	40	34	365
to be collected by garnishee, and when....	"	41	34	365
to be distressed for, where person has property subject to distress	"	42	34	365
list to be returned, to whom and when....	"	47	35	366
list of unpaid, when to be filed and where..	"	48	35	366
unpaid, what interest to draw.....	"	50	35	366
remaining unpaid for two years, how collected	"	52	35	366
what to constitute process for collection of delinquent taxes	"	54	35	366
may be paid before sale.....	21	60	38	368
sale how conducted	"	61	38	368
territorial, county and township, what shall be received for	"	63	38	369
territorial, where to be transmitted and when collector who to be for Des Moines county, from what time and for what term....	"	67	39	369
	"	68	39	369
	"	69	39	369

	Chapter.	Section.	Page.	Reprint Page.
TAXES—Continued				
additional to be levied by commissioners of Scott and Cedar counties, for what purpose, limitation of, persons to be credited upon conditions	"	70	39	370
territorial, amount of to be levied.....	29	1	52	380
amount of to be carried out in separate column on list, and by whom; amount of, to be transmitted to Auditor, by whom and when	"	2	52	380
who to collect, compensation for.....	"	3	52	380
collection of in Louisa county.....	111		129	442
proceedings of sheriff of, in collection of taxes for 1843, declared legal and valid	"	1	129	442
sheriff of Louisa county to pay over, to whom and when, money collected and not paid over	"	2	129	442
sheriff to return tax duplicate and to whom, and take receipt therefor.....	"	3	129	442
sheriff to settle with board of county commissioners and when, county commissioners how to proceed.....	"	4	129	443
clerk of board of commissioners to direct tax duplicate to county collector, and when, duty of collector.....	"	5	129-30	443
county commissioners may extend the time for the collection of, limitation.....	"	6	130	443
county commissioners of Louisa county may appoint day of sale, how collector to proceed	"	7	130	443
TERRITORIAL TAX—				
amount to be levied	29	1	52	380
duties of the several clerks of boards of commissioners in relation thereto....	"	2	52	380
who to collect, compensation for collection; to pay same into territorial treasury and take duplicate receipts therefor, auditor's warrants to be taken in payment of delinquent list of, by whom and when made out, to whom to be returned.....	29	3	52	380
county treasurers, when and how to make settlement with auditor and treasurer of territory	"	4	52	381
auditor and treasurer prohibited from purchasing warrants for less than the face of same	"	5	52-3	381
county treasurers prohibited from purchasing territorial obligations; penalty for, amount of, and how recovered....	"	6	53	381
mileage to county treasurers in making deposits; proviso, may transmit money and accounts at his own risk.....	"	7	53	381
repealing clause	"	8	53	381
		9	53	381
AVERY THOMAS—				
act for relief of	74		93	414
to take name of Lewis Ashton Thomas.....	"	1	93	414
change of name not to affect contracts or liabilities of	"	2	93	414
TERRITORIAL TREASURER—				
to give duplicate receipts for territorial taxes, and to whom	29	3	52	380
prohibited from purchasing territorial obligations for less than face of same....	"	6	53	381

	Chapter.	Section.	Page.	Page. Reprint
COUNTY TREASURER—				
bond of constables, in counties not organized into townships to be made payable to, and where filed	3	2	2	340
to receipt for tax list, and when	21	32	33	364
to be collector of taxes	"	33	33	364
to give notice of time and place of collection; how and when given	"	34	33	364
to collect taxes if person taxable can be identified, though assessed by wrong name	"	35	33	364
when resisted may require assistance; penalty of refusal how recovered	"	36	33-4	364
may distress if taxes not paid before 1st day of January	"	37	34	364
how to proceed in case of distress	"	38	34	365
may adjourn sale, notice of	"	39	34	365
to pay surplus to owner, after payment of taxes and charges	"	40	34	365
how to proceed when person removes from county without payment of taxes	21	41	34	365
how to proceed when person removes, dies, or (if a woman) marries before payment of taxes	"	42	34	365
if treasurer dies, or becomes incompetent, commissioners to appoint collector; administrators of deceased to deliver tax list to commissioners	"	44	34	365
appointed, to file bond and with whom, to whom payable, and by whom to be approved; penal sum of, conditions of ..	"	45	34	365
to levy distress where person taxed has personal property	"	47	35	366
to make return of tax list and money collected, to whom and when	"	48	35	366
to make annual statement of condition of treasury, to whom and when	"	49	35	366
to make and file in his office a list of delinquent lands and property, and when compensation of	"	50	35	366
to receive taxes due upon delinquent list for two years	"	51	35	366
to receive taxes due upon delinquent list for two years	"	53	35	366
how to proceed when taxes remain due and unpaid for two years	"	54	35	366
form of tax list upon which taxes remain unpaid for two years	"		36	367
to publish list of delinquent lands with notice of intended application for judgment to sell; notice of sale, when and where; effect of	"	55	36	367
to file with clerk of district court a copy of advertisement, with certificate of due publication thereof, together with report and certificate to be placed at the head of common law docket; by whom, form of	"	56	36-7	367
report, copy of to constitute process on which to sell; sale of, return thereof, to whom and when	"	57	37	367
report, copy of to constitute process on which to sell; sale of, return thereof, to whom and when	"	60	37-8	368
to receive taxes and charges on lands advertised before sale	"	61	38	368
to sell lands and lots advertised, where and when; sale how conducted	"	63	38	369
how to proceed at sale, how to divide land when whole tract not sold, how to proceed when no person will pay taxes for whole tract	21	64	38	369
to make deeds, how proven	"	65	38	369

	Chapter.	Section.	Page.	Reprint Page.
COUNTY TREASURER—Continued				
deeds and sales to be legal and valid.....	"	66	38-9	369
when and how to pay territorial tax.....	"	68	39	369
duties of, so far as collection of revenue is concerned, to be discharged by William C. Cameron; from what time and for what term; required to pay monthly; compensation of	"	69	39	369
to receipt to pedlars for money when applying for license	25	3	47	376
to prosecute for any violations of act granting license to pedlars	"	5	47	376
to collect territorial tax, compensation for; to pay same into territorial treasury, to take duplicate receipts; proviso.....	29	3	52	380
when to make out delinquent list of territorial tax; to whom to be returned....	"	4	52	381
when and how to settle with auditor and treasurer of territory	"	5	52-3	381
prohibited from purchasing territorial obligations, penalty for, amount of, and how recovered	"	7	53	381
mileage to in making deposits; proviso; may remit money and accounts at his own risk	"	8	53	381

U—V

VALUATION LAW—

officer to select property, how governed; required to take personal property before real estate	23	1	43	373
officer how to proceed in selecting personal property	"	2	43	373
if personal property not sold for two-thirds of valuation at expiration of first six months and plaintiff refuse to take same, officer to retain levy, and require bond for re-delivery; duty of officer at expiration of second six months, duties of clerks and justices when not sufficient time under original execution to sell	"	3	43-4	373
levy of execution to operate as a lien upon property, how lien released	23	4	44	373
how this act to apply	"	5	44	373
repealing clause	"	6	44	373
burying grounds exempt from levy and sale real estate sold under mortgage or deed of trust executed prior to passage of this law to sell to highest bidder, how same may be redeemed	"	7	44	374
deeds made by sheriffs to be prima facie evidence, and of what	"	8	44	374
	"	9	44	374

VACATION OF STREET—

county commissioners of Henry county authorized to vacate a part of Webster street in Mount Pleasant, for what purpose	117	1	134-5	448
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W

WOLVES—

county commissioners required to offer reward for killing wolves	8	1	12	348
evidence of killing shall be the scalp with the ears thereon; to be produced before justice of the peace, who shall certify the same	"	2	12	348

	Chapter.	Section.	Page.	Reprint Page.
WOLVES—Continued				
county commissioners to order amount of such certificate to be paid out of county treasury	"	3	12	348
repealing clause	"	4	12	348
WRITS OF ERROR—				
shall issue when, to whom to be directed, and where	6	3	6	342
when to be sued out	"	4	6	343
when persons laboring under any disability may sue out	"	5	6	343
may be sued out by District Attorneys.....	"	6	6	343
survivor in joint judgment may sue out....	"	7	6-7	343
where two or more are entitled, who may sue out, duties of person suing out....	"	8	7	343
who precluded from bringing upon same judgment	"	10	7	343
party suing out to give notice, to whom, and when, effect of notice not being served	"	11	7	343
who may sue out and against whom.....	"	12	7	343
when plaintiff to judgment below dies, before writ sued out, whom writ may be issued against	6	13	7	343
by whom, to whom, and when returnable; failure how punished	"	15	7	343
not to stay or supersede executions unless certain conditions complied with.....	"	16	7	344
to operate as a supersedeas and when....	"	19	8	344
to be allowed in courts of chancery.....	"	20	8	344
proceedings in supreme court, in all writs of upon dismissal of, court may award damages and to whom, limitation of.....	"	31	9	345
upon determination of, court may award process to carry decision into effect..	"	33	9	345
where writ of and supersedeas allowed in criminal cases, and judgment of court below affirmed, powers of supreme court	6	36	9	345
blank writs of, by whom issued, to whom sent	"	45	10	346
writs of coram nobis may be obtained, when and where, when returnable, effect of if certain conditions complied with....	28	1	51	379
plaintiff in error to file assignment of, and when	"	2	51	379
party suing out to cause notice in writing to be served, upon whom and when, proceedings of court thereon; if notice not sufficient, cause to be continued unless defendant enter voluntary appearance; if defendant in error is a non-resident he may be brought in by publication; judgment and effect of.....	"	3	51	380