

Iowa Laws, statutes, etc. Codes

# SUPPLEMENT

TO

REVISED AND ANNOTATED

C#

# CODE OF IOWA

CONTAINING

THE ACTS AND RESOLUTIONS

OF THE

Twenty-Third General Assembly,

TOGETHER WITH NOTES AND DECISIONS OF THE SUPREME COURT, ANNOUNCED SINCE  
1898 DOWN TO AND INCLUDING MAY TERM, 1900.

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By W. E. MILLER.

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# ADDITIONAL NOTES

## TO REVISED AND ANNOTATED CODE OF 1888.

### SECTION 84.—

Prior to July 4, 1884, the sale of beer was not unlawful, and instructions which authorized the finding of a defendant guilty of a nuisance in keeping of a place for the sale of beer prior to that time, were erroneous. *State v. Jacobs*, 75 Iowa, 247.

### SECTION 180.—

Chapter 134, laws of 1886, conferring authority upon the district judges of the state in convention to adopt rules of practice to prevail in all of the districts of the state, does not abrogate the common law power of the district court of a particular district to make a rule upon a point not covered by the rules adopted by the judges in convention; nor does it abrogate a rule in existence in a particular district when the act was passed, on a point not covered by the rules adopted by such convention. Accordingly, *held* that a rule in a particular district, requiring the clerk to tax a certain sum as costs against the losing party to a demurrer, was not abrogated by that chapter, the judges in convention having failed to make any rule upon that point; and the change in the number of a district by the statute, the counties therein remaining the same as before, makes no difference. *Shane v. McNeill et al.*, 75 Iowa, 459.

### SECTION 183.—

An agreement to submit a cause for decision by the court in vacation, to be entered as of the last day of the preceding term, authorized by this section of the Code, does not extend the time for filing a bill of exceptions to a ruling on instructions, which is limited in such cases to three days after verdict, by section 2789. *Edwards et al. v. Cosgro et al.*, 77 Iowa, 428.

Where the parties consented that judgment should be entered in vacation as of the last day of the preceding term, but it was entered a few days after the opening of the next term, *held* that this was not prejudicial to defendant, and was no ground for reversal. *Farley v. O'Malley*, 77 Iowa, 531.

### SECTION 190.—

Under this section, rendering a judge incompetent to preside at the trial of an action where one of the parties is related to him within the fourth degree, unless by mutual consent, the objection is waived, if the party adverse to the one so related, knowing the fact of such relationship, and that the judge is expected to preside, agrees to try at the pending term, and goes through the trial without objection until after a verdict is rendered against him. *Stone et al. v. Marion County*, 78 Iowa, 14.

### SECTION 197.—

This section requires the clerk to keep, as a record, a book in which an index of all liens shall be

kept, and also requires the keeping of indexes of judgment dockets, etc. *Held*, that it is sufficient to search the "index of all liens" for a judgment or other lien, and none being indexed there, it is not necessary to refer to other indexes. *Aetna Life Insurance Co. v. Hesser et al.*, 77 Iowa, 387.

### SECTION 190.—

Plaintiff brought his action in the district court, for an injunction, one of the judges, there being three, was his uncle, but he procured his temporary injunction from one of the other judges of the district. He then let his case lie for about two years, when the defendant brought it on for trial at a term when the plaintiff's uncle was presiding over the court in that county. The plaintiff then moved to have the cause set down for trial on depositions and documentary evidence, which motion was overruled. He then moved for a continuance till the next term, and in his affidavit in support of his motion stated that the presiding judge was his uncle, and, therefore, prohibited from trying the cause. This motion was also overruled. Plaintiff then moved for a change of forum, on the ground that the presiding judge was prejudiced against him, but he did not present the relationship of the judge as a reason for such change, nor did he at any time specifically call the court's attention to section 190 of the Code, under which he now insisted that the judge was disqualified; the only reference to that matter was made in his affidavit for continuance. This motion for change of forum was also overruled, and upon a trial before the court judgment was rendered for the defendant, from which plaintiff appealed. *Held* that the judge being related to the plaintiff in the third degree according to the civil law was, under section 190 of the Code, disqualified from the first to try the cause without the mutual consent of the parties, and that nothing done or omitted by plaintiff amounted to consent on his part. *Chase v. Watson*, 75 Iowa, 150.

### SECTION 200.—

The provisions of this section requiring the clerk immediately upon the filing of a paper in court to make in the "appearance docket" a memorandum of the date of filing of all petitions, demurrers, answers, motions or papers of any other description in the cause, and no pleading of any description shall be considered as filed in the cause \* \* \* until the said memorandum is made," is mandatory as to all pleadings in a cause, and that they cannot be regarded as filed until the proper memorandum is made; but this mandatory provision applies only to papers of that character. *Everling v. Holcomb*, 74 Iowa, 722.

Minutes of testimony taken before the grand jury, not being "pleadings" are not required by this section to be entered in the appearance docket; and, though they are required to be filed in the case, they are sufficiently filed when handed to

the clerk to be kept as a part of the record, and such filing need not be evidenced by the clerk's signature indorsed thereon, though such indorsement is always advisable. Consequently the want of the memorandum in the appearance docket and the clerk's signature to the filing, does not bar the state from calling the witnesses on the trial of the indictment. *The State v. Craig*, 78 Iowa, 637.

The failure of the clerk in entering a suit in the appearance docket, as directed by section 198 of the Code, does not, under section 200, amount to a failure to file a petition against a defendant in the action whose name is not mentioned in the petition. *Toliver et al. v. Morgan et al.*, 75 Iowa, 619.

In section 3583 of the Code, requiring a justice of the peace when an appeal is taken, to file in the office of the clerk of the appellate court all of the original papers and a transcript of his docket, the word "file" means deposit, and when the papers and transcript are so deposited by the justice, the cause is deemed to be in the appellate court, and the neglect of the clerk to note the filing in the appearance docket is immaterial, as section 200 of the Code, making it the duty of the clerk to note therein the filing of pleadings, is not applicable. *Harrison v. Clifton*, 75 Iowa, 736.

#### SECTION 213.—

A motion to strike from the files an additional abstract filed by the appellees in the supreme court, on the ground that it was verbally agreed between the attorneys for the respective parties to submit the case on the printed abstract of appellants, which was denied by appellees, was refused, though affidavits of attorneys for appellants were filed in support thereof, as such an agreement can not be established by such affidavits, under this section of the Code. *Reigleman et al. v. Todd, Sheriff et al.*, 77 Iowa, 696.

Under this section, relating to the power of attorneys to bind their clients by agreements as to the management of a case, irregularities in the taking of depositions cannot be cured by the affidavit of counsel offering such depositions, settling out an oral agreement or understanding between the counsel, waiving such defects. *Hardin et al. v. Iowa R'y & Const. Co. et al.*, 48 N. W. R., 544.

Under this section of the Code, an agreement between the attorneys in a case affecting the rights of clients cannot be established by oral evidence, except it be the admission of the attorney whose client is to be charged by the agreement. *The State v. Stewart*, 74 Iowa, 336.

#### SECTIONS 230, 239, 242.—

Section 230 of the Code, which provides that "unless the judge otherwise orders jurors shall be summoned to appear at 10 o'clock A. M. of the second day of the term," furnishes no ground of objection to an indictment found at the August term, at which the grand jury was impaneled on the first day, because said section, as to grand jurors, can refer only to the first term of the year, at which alone the grand jurors are summoned. *The State v. Standley*, 76 Iowa, 215.

#### CHAPTER 42, LAWS OF 1886.—

This chapter, in providing that grand juries, in counties having a population of sixteen thousand or less, shall consist of five persons, is not in conflict with section 6, article 1, of the state constitution, which provides that "all laws of a general nature shall have a uniform operation," etc., especially since the third constitutional amendment gives the general assembly power to fix the number of the grand jury at from five to fifteen. *The State v. Standley*, 76 Iowa, 215.

#### SECTIONS 240, 241.—

In a county containing fifteen townships, from which twelve jurors are to be drawn, the ballots bearing the names to be drawn from each township were sealed in separate envelopes, which were placed in a box, and the clerk drew twelve. The ballots from each of these envelopes were placed in a box, and one drawn therefrom, and the person named thereon placed on the panel. *Held*, that this was such a departure from the mode prescribed in the statute as to invalidate any indictment found by the grand jury so drawn. *State v. Beckey*, 44 N. W. R., 679.

ment found by the grand jury so drawn. *State v. Beckey*, 44 N. W. R., 679.

#### SECTION 301.—

Under this section of the Code, six days' notice to each member of the board of supervisors of a special meeting of the board is not required where the notice is personally served, but only in cases where it is served by leaving it at his place of residence; nor is it necessary that one week's notice of such meeting be given to the public when it is given by publication in a newspaper, but only when it is given by posting. And where personal notice of the special meeting was served on the supervisors four days prior to the meeting, and general notice was given by five days' prior publication in a newspaper, *held*, that was sufficient to make the special meeting valid. *Supervisors of Mitchell County v. Horton et al.*, 75 Iowa, 271.

#### SECTION 303.—

There is no reason why business cannot be done by the board of supervisors as properly at a special meeting as at a regular one, if it be specified in the request for, and notice of, the meeting, excepting in cases where, from the nature of the business, or the provisions of the law, or the rights of others, requires that it be done at a regular meeting. *Id.*

#### SECTION 303, SUBD. 16.—

Although this section authorizes boards of supervisors "to alter, vacate or discontinue any state or territorial highway within their respective counties; to lay out, establish alter or discontinue any county highway heretofore or now laid out, or hereafter to be laid through or within their respective counties, as may be provided by law," etc., yet such boards have no authority, in the absence of a statute directly confirming it, to construct a bridge across a navigable lake, the bed of which belongs to the state. *Snyder v. Foster*, 77 Iowa, 638.

#### SECTION 303.—

This section constitutes the township trustees a board of health, and gives them charge of all cemeteries within their townships, dedicated to public use, not controlled by other trustees or incorporated bodies. Section 415 confers upon them power to make regulations for the protection of the public health, and respecting nuisances; and the trustees having purchased property with township funds, for use as a cemetery, and finding it unfit for that purpose, may sell the same, with a restriction that it shall not be used for a private or public cemetery. *Bushel v. Whitlock et al.*, 77 Iowa, 285.

#### SECTION 456.—

A city cannot maintain an action in equity to enjoin and abate a nuisance on the ground of injury to its citizens, since that remedy is given only to "any person injured thereby." But the authority of the corporation to abate a nuisance given by section 456 of the Code, is to be exercised in the enforcement of an ordinance enacted under section 482. Whether if the corporation, as such, were specially injured by the nuisance, it might not then maintain an action in equity, under section 3331 of the Code, not decided. *The City of Ottumwa v. Chinn et al.*, 75 Iowa, 406.

#### SECTION 464.—

Under this section, which forbids a railroad corporation to lay tracks in the streets of a city until the damages to owners of abutting lots have been ascertained and compensated, the occupation of a street prior to the ascertainment and compensation therefor is a nuisance, and the rights of the abutting owner to enjoin the occupancy of the street by the purchaser of a railroad at a foreclosure sale is not merged in an unpaid judgment obtained against the railroad company for the damages. *Harbach v. Des Moines & K. C. R'y Co.*, 44 N. W. R., 348.

Under this section of the Code a railroad company cannot lay a track in a street longitudinally without the consent of the city and compensation made to the abutting lot owners. *Enos v. St. P. & K. C. R'y Co.*, 42 N. W. R., 575.



## SECTION 465.—

A city cannot, without complying with the terms of the statute, establish or change the grade of its streets, or order or cause the work of grading to be done on its streets, resulting in injury to a property owner, and escape liability to him. And so where plaintiff's alleged damages to themselves resulting from such change of grade of the streets and that such grade "was not ordered to be done by the affirmative vote of two-thirds of the city council or trustees of said city, as required by law," and that said city did not "before thus changing the physical grade of said streets, nor at any time have the damages caused by said change assessed, appraised, appropriated or paid as required by law. Held that the petition containing such allegations as stated a good cause of action. *Trustees of Diocese of Iowa v. City of Anamosa*, 76 Iowa, 538.

## SECTION 469.—

In an action against a city for damages to property caused by the grading of a street in such a manner as to injure and diminish the value of the abutting property, the plaintiff alleged that the grading was not done by order of an affirmative vote of two-thirds of the city council, nor by resolution, ordinance or other legislative proceeding, nor did the defendant at any time have the damages assessed and paid as required by law, held that the petition stated a cause of action. *Trustees of the P. E. Church v. City of Anamosa*, 76 Iowa, 538.

## SECTION 470.—

This section which confers upon cities and towns organized under the general laws authority to acquire lands for various municipal purposes, further provides that they shall have power "to dispose of and convey" such lands, should they be deemed unsuitable for the purpose for which they were acquired. Section 1, chapter 80, laws of 1880, authorizes such cities to purchase lands sold under execution when the city has any interest in the proceeding, and "to dispose of the property," or of any real estate, or any interest therein, "in such manner, and upon such terms as the city council shall deem just and proper." Held that these statutes do not confer upon cities the authority which can only exist by a legislative grant, to donate land and buildings to the county in which it is situated in order to induce a relocation of the county seat in such city. *Brockman v. The City of Creston* et al., 44 N. W. E., 322.

## SECTIONS 478, 479.—

Where a sewer has been constructed and a tax therefor levied upon adjacent property, the city may recover such tax by actions under these sections of the Code, notwithstanding formal irregularities and defects in the proceedings, which do not affect the real merits of the case. *City of Burlington v. Quick*, 47 Iowa, 416. *Dillie v. City of Davenport*, 74 Id., 60.

## SECTION 481.—

Under this section a municipal corporation, if by ordinance they so elect, may cause delinquent taxes levied for certain purposes to be certified to the county auditor, etc. Such taxes may be so certified and collected by the county treasurer, as directed in said section, even though the ordinance electing so to proceed is passed after the work is done for which the tax is levied. *Shaw v. Des Moines County*, 74 Iowa, 579.

## SECTION 527.—

Though this section of the Code declares that no street or alley which shall hereafter be dedicated to public use by the proprietors of the ground in any city, shall be deemed a public street or alley, or to be under the use or control of the city council, unless the dedication be accepted and confirmed by an ordinance especially passed for such purpose, the statute does not forbid the assumption of control, without the acceptance by ordinance; and where a street has been used for many years, and the city has by ordinance ordered it to be improved, and sidewalks to be laid, it becomes liable for failure to keep the street in repair. *Byerly v. The City of Anamosa*, 44 N. W. E., 369.

## SECTION 527.—

Viewed in the light of the settled policy of the State, and of the public interest, and of other provisions of the statute (Code, secs. 303, 390, 994), the proper meaning of section 527 of the Code is that it fixes absolutely the liabilities of counties for public bridges, over streams crossing State and county highways, which exceed forty feet in length, and that their liability for constructing and maintaining bridges forty feet or less in length is not affected by said section, but depends upon the necessity and importance to the public of each bridge, its character and cost, and the financial ability of the road-district in which it is situated to construct and maintain it. *Casey v. Tama County*, 75 Iowa, 655.

## SECTION 478.—

When notice of a special assessment on city property to pay for street improvements is necessary to be given to the respective owners, and the city has provided by ordinance for giving such notice by publication in a newspaper of general circulation published in the city, notice given in accordance with the provisions of such ordinance is sufficient, and personal notice is not required. *Lyman v. Plummer et al.*, 75 Iowa, 353.

## SECTION 690.—

While it is the duty of the board of supervisors, under this section of the Code, to require an officer who has been re-elected to produce and account for all public funds which have come into his hands under color of his office, before approving his bond for a second term; yet a failure to perform such duty, and a false pretense by the board that it has been performed, will not discharge the sureties on the bond for the second term, after it has been accepted and approved, from liability for a defalcation occurring during that term. *Palmer & Searwright v. Woods et al.*, 75 Iowa, 402.

## SECTION 697.—

This section directing the contestant of an election to file his statement of contest within twenty days after the canvass of the votes, does not prevent the contestant from afterward amending the grounds of contest. *Brown v. McCallum*, 76 Iowa, 479.

The limit of twenty days within which, under this section, the statement of the contestant of an election must be filed, does not operate as a statute of limitation so as to prevent any amendment to the statement after the expiration of the twenty days. *Brown v. McCollum*, 76 Iowa, 479.

## SECTION 771.—

Under this section when a county officer receiving a salary is compelled by the pressure of the business of his office to employ a clerk, he may do so without authority from the board of supervisors, and they may be compelled to make a reasonable allowance for such clerk. *Harris v. Chickasaw County*, 77 Iowa, 345.

## SECTION 784.—

The board of directors of a school district township met for the purpose of electing a treasurer on the third Monday of September, as required by section 1721 of the Code, and elected a person to that office, and adjourned to the first day of October to give him opportunity to accept or decline. At the adjourned meeting he appeared and declined the office, and the board again adjourned to October 15, when another election for treasurer was had which resulted in a tie, and the board again adjourned to November 8, at which time the plaintiff was elected treasurer. Prior to this the defendant, who had been treasurer for the previous year, claiming that he had a right to hold over as treasurer, now filed his bond and oath of office with the president of the board, but the board refused to accept or approve it. In an action by *quo warranto* to oust the defendant from the office it was held that, since the board had entered upon the election of treasurer on the day prescribed by law, it might complete that business at any adjourned meeting—such adjourned meeting being but a continuation of the regular one from

which the adjournment was taken; that the refusal to accept by the person elected did not entitle the defendant to hold over, because the meeting adjourned to a day fixed for the very purpose of learning whether he would accept or not; and his refusing at the adjourned meeting was the same in law as if he had been present and refused at the regular meeting; and thereupon the board had the right to proceed as if no ballot had been taken. *Carter v. McFarland*, 75 Iowa, 196.

#### SECTION 797.—

The act of congress of July 12, 1862, was a grant to the state of Iowa, in present, of the alternate sections of the public lands, lying within five miles of the Des Moines river, between the Racoon forks and the northern boundary of the state of Iowa; and said lands became the property of the Des Moines Valley R'y Co., under chapter 57, laws of 1868, and became taxable upon the railroad company had complying with the conditions of said chapter, which was January 1, 1871. Although the secretary of the interior had not yet certified them to the state, and although the governor refused to execute patents therefor to the company until several years thereafter. *Whitehead v. Plummer et al.*, 76 Iowa, 181.

#### SECTION 803.—

This section requires that a trustee shall list for taxation, trust property held by him, for the beneficiary of such property. *Equitable Life Ins. Co. v. Board of Equalization of City of Des Moines*, 74 Iowa, 178.

#### SECTIONS 829, 830.—

For an excessive assessment of property for taxation, the tax-payers remedy is with the township board of equalization, and by appeal from such board to the district court. If not satisfied with its action. The board of supervisors has no power to grant him relief, and the fact that the board of supervisors has not classified the property, as it has power to do, under Code, section 821, makes no difference. *Missouri Valley & Blair R'y & Bridge Co. v. Harrison County*, 74 Iowa, 283.

From comparison of these and other sections of the Code it is held that the board of equalization of a township, town, or city has no authority, in the even numbered years, to add to or change the assessed value of real estate as established in the next preceding odd numbered years, in which alone such property is assessable; and where such change was attempted, the collection of the additional taxes arising from an increase of the assessed value was properly enjoined. *Gould v. Lyon County et al.*, and nine other like cases, 74 Iowa, 95.

#### SECTION 831.—

On an appeal from an order of the board of equalization increasing the assessment of a taxpayer, the appellate court tries the case anew upon the evidence introduced in that court, and not alone upon the record of the board of equalization; the object of an appeal, according to the true meaning of the word, being to secure a new trial upon the merits. *Grimes v. The City of Burlington*, 74 Iowa, 123.

#### SECTIONS 832, 836, 837.—

Where the board of supervisors, acting as a board of equalization, directs that the assessed value of the realty in a certain town be reduced a certain per centum, and the county auditor fails and refuses, upon demand, to enter the property in said town in the tax lists at the reduced and equalized assessment, owners of the real estate in the town, who have not yet paid their taxes, may proceed against the auditor by *mandamus* to compel him to comply with the law as provided in these sections of the Code. The auditor has no discretion in the matter, and the tax-payers are not deprived of the remedy by *mandamus* on the ground that they have an adequate remedy at law or by injunction; for those remedies would not afford the relief sought and to which they are entitled, to-wit: the correction of the tax list. *Ridley et al. v. Dougherty*, 77 Iowa, 226.

#### SECTION 845.—

Where a party has title based upon a sale of land for delinquent taxes not carried forward, and therefore invalid under the statute, and he conveys by warranty deed, and his grantee buys in the patent title and sues him for a breach of warranty and recovers, that is an adjudication that the patent title is superior to the tax title, and the grantor cannot, after a few years, be heard to claim that his tax title has now, by the lapse of time, ripened into a perfect title, and ask to have it quieted against his grantee. The adjudication cut off all claims based on or growing out of the title decreed to be invalid. *Sac County Bank v. Hoxper*, 77 Iowa, 435.

Certain delinquent taxes upon personal property were not carried forward on the regular tax lists, as required by this section of the Code, but were entered by the treasurer in a separate book which he kept for the purpose, but which was unknown to the law. Afterwards, the person who was liable for the taxes sold certain land to the plaintiffs; who had no actual knowledge or notice of such taxes, or that they were or would be a lien on such lands if they had been properly carried forward on the tax books. Held, that the entries in the treasurer's special book did not impart constructive notice to the plaintiffs of such entries, and that a subsequent sale of the land for such taxes was valid. *Dow & Co. v. Dale et al.*, 74 Iowa, 108.

Before the enactment of this section of the Code a sale of land for delinquent taxes not brought forward upon the treasurer's tax list was valid, at least as against the owner. By the enactment of that section the rule was changed. *Hunt v. Gray*, 76 Iowa, 208.

#### SECTION 870.—

Where a tax-payer was assessed at the place of his residence with shares in a bank located in another state, and, without complaining to the city or township board of equalization, he applied to the board of supervisors for an abatement of the tax, and they granted the relief asked; held, that they acted without jurisdiction, and that a taxpayer of the county was entitled to have the said action of the board of supervisors reviewed and set aside on certiorari. *Van Wagener et al. v. Supervisors of Lyon County*, 74 Iowa, 716.

#### SECTION 876.—

This section provides that when a "purchaser at tax-sale shall designate the portion of any tract of land or town lot for which he will pay the whole amount of taxes assessed against such tract or lot, the portion thus designated shall, in all cases, be considered an undivided portion." In these cases it appears from the tax-sale record, which is the authoritative record of the sales, that the bids were made upon fractions of the tracts, as one-twentieth and one-eightieth. Held, that the law would regard the sales as of undivided interests, and valid, though the list of lands advertised for sale showed that the bids were for "two acres" and "one-half acre." *Jenswold & Doran and The State v. Rutledge*, 77 Iowa, 692.

#### SECTION 891.—

Where a person entitled to redeem lands sold at tax-sale applies to the proper officer for the amount necessary to redeem, and on being informed as to the amount, pays it, and receives a certificate of redemption, the certificate is not rendered invalid by the fact that the officer made a mistake in computing the amount due, and a deed subsequently issued to the purchaser at the tax-sale is valid. *Hintrager v. Maloney et al.*, 43 N. W. 11, 529.

Nor is a mere notice, subsequently given to the redemptioner, of the mistake made by the officer sufficient to avoid the certificate. *Id.*

When a decree in defendants' favor is on condition that they pay certain moneys into court for plaintiff within a certain time, payment within the required time is a performance of the judgment, and an appeal by defendants will not lie. *Id.*

A tax-deed is not void on its face because it shows that the land was sold for less than the whole amount of the taxes due, for such sale is

not unlawful. Chapter 79, laws 1876, provides that in certain cases lands may be sold for less than the amount of taxes due thereon (see Miller's Code, page 299, ed. of 1888), and the deed is presumptive evidence that the sale was lawfully made. *Griffin v. Tuttle et al.*, 74 Iowa, 219.

#### SECTION 833.—

Under this section of the Code in an action for the redemption of land sold for taxes, begun after the delivery of the treasurer's deed, the court must determine claims for improvements made on the land by the person claiming under the tax-deed. In such case where the land belonged to a minor at the time of the sale, and the action was brought by those who inherited from him, and all the costs made on part of plaintiffs were made in the establishment of their right to redeem, and all of those made on part of the defendants in establishing their claim for improvements, as to which claim they were successful; *held*, that the court did not err in taxing all the costs to the plaintiffs. *Serrin et al. v. Brush et al.*, 74 Iowa, 489.

#### SECTION 894.—

Under this section of the Code, which provides that the notice to redeem from a tax-sale shall be given by "the lawful holder of the certificate," when the purchaser indorses the certificate in blank and delivers it to another person with the intent thereby to transfer the property in it to such other person, such person is "the lawful holder," and is the proper person to give the notice, no matter whether or not the assignment has been recorded in the office of the county treasurer, under section 888 of the Code. *Swan v. Whaley et al.*, 75 Iowa 623.

#### SECTIONS 894, 895.—

Under these sections of the Code providing that a purchaser at a tax sale may obtain a treasurer's deed for the property after three years from the sale, and section 902, providing that no action to recover the property shall lie unless brought within five years after the treasurer's deed is executed and recorded, if a purchaser fails to procure a deed within eight years from the sale, his title to the property and all rights dependent thereon are completely extinguished. *Times v. Drezel*, 43 N. W. R., 201.

The purchaser at tax sale who has received a tax-deed and afterwards conveyed the same by quit-claim deed and it passed through several grantees, but the tax purchaser had never had at any time assigned the certificate of purchase, *held* that under section 894 of the Code he was the proper party to file proper proof of the service of notice to redeem, which had been originally given, and to receive a new treasurer's deed for the land. *Babcock v. Bonebrake et al.*, 77 Iowa, 710.

In an action to quiet title, *held* that the statutory notice required by this section where the land was taxed to an unknown owner, and the name of holder of the certificate was first entered on the tax-list as owner, in accordance with the custom of the treasurer, upon payment of the taxes. *Irwin v. Burdick*, 44 N. W. R., 375. Followed in *Irwin v. Dakin, Id.*, 376.

#### SECTION 897.—

Under this section the tax-title of the plaintiffs cannot be resisted by defendant by showing that he held a tax-certificate to the land in controversy at the time of the tax-sale to the plaintiffs. *Johns et al v. Griffin et al.*, 76 Iowa, 419.

#### SECTION 902.—

Where five years have elapsed since the execution and recording of a tax-deed, the prior owner is barred from questioning the tax-title under this section of the Code. The deed also affords such color of title to one in possession under it as will bring him within the general statute of limitations. *Hunt v. Gray*, 76 Iowa, 268.

This section providing that no action for the recovery of real property sold for the non-payment of taxes shall lie, unless brought within five years after the treasurer's deed is executed and recorded, and action by the owner to quiet title

brought more than five years after the execution of the deed is not barred where the deed was given after redemption, such deed being void and gave no right to the purchaser. *Burke v. Cutler et al.*, 43 N. W. R., 204.

#### SECTION 902.—

Action begun June 23, 1888, by the holder of the patent title, to quiet the same against the owner of a tax-title. The lot was sold in 1872 for the taxes of 1871. The tax-deed was executed in 1881, and recorded in 1883. The lot was uninclosed and unoccupied, and not in the actual possession of any person, from the date of the tax-sale to the recording of the tax-deed. *Held*, that the tax-title was extinguished by the special statute of limitations (Code, § 902)—the rule being that the statute begins to run when the purchaser might obtain his tax-deed, and that after five years from that time, *that title*, and all rights dependent upon it are extinguished. *Innes v. Drezel*, 78 Iowa, 253.

#### SECTION 213.—

A stipulation that plaintiff might use in his own behalf a deposition taken in another case, but not filed in this, did not warrant the use of it by the defendant on his behalf; and the claim of the defendant, that plaintiff orally agreed to the use of it by defendant, could not be considered when denied by plaintiff. *Borland v. The Chicago, M. & St. P. R'y Co.*, 78 Iowa, 95.

Disputes as to oral arguments of counsel cannot be settled by their affidavits. They can only be settled in the manner prescribed in the statute. *Hardin & Sons v. The Iowa R'y & Cent. Co.*, 78 Iowa, 726.

#### SECTION 464.—

Under this section city streets cannot be occupied longitudinally by railways without the consent of the city and compensation to abutting lot-owners; and also, under the same section, where a railway was laid diagonally across two streets at their intersection, so that the street in front of plaintiff's corner lot was occupied thereby, *held* that plaintiff was entitled to compensation. *Enos v. The Chicago, St. P. & K. C. R'y Co.*, 78 Iowa, 28.

The five years limitation imposed by this section, within which actions for the recovery of real property sold for the non-payment of taxes, must be brought, is available as a defense, in an action for foreclosure, where the plaintiff seeks to show a tax-title to be invalid for defects in proof of the service of notice of expiration of redemption. *Bull v. Gilbert et al.*, 44 N. W. R., 815.

#### SECTION 912.—

This section of the Code, authorizing the county treasurer to deposit the county funds in a bank on its filing a bond, with sureties, to be approved by him, in double the maximum amount which shall be permitted by resolution of the board of supervisors of the county, does not prevent the treasurer from demanding and taking from the bank additional collateral. *Richards, County Treasurer, v. Osceola Bank*, 45 N. W. R., 294.

This section of the Code authorizing the county treasurer to deposit the funds in a bank on its filing a bond with sureties, to be approved by him, in double the maximum amount which shall be permitted to be deposited by resolution of the board of supervisors of the county, does not prevent the treasurer from demanding and receiving from the bank additional collateral. *Richards, County Treas. v. Osceola Bank, et al.*, 45 N. W. R., 294.

#### SECTION 936.—

Where it does not appear that land proposed to be taken as a highway stands in the name of any one as owner on the auditor's books, a railway corporation, which is in the open and notorious occupation of the land, is entitled to notice if a resident of the county. *Ch., R. I. & P. R'y Co. v. Ellithrope*, 43 N. W. R., 277.

Where the notice required by this section to be given is not given, the highway asked for cannot be established. *Snyder v. Foster*, 77 Iowa, on page 641.

**SECTION 950.—**

Where a public road is established, and the owner of the land through which it passes, is given time to take down his fences across it, a private citizen has no right, before the fences are down and the road formally opened to the public by the supervisors, to undertake to open it himself and force his way across it. The owner of the land has the right to use sufficient force or threats to resist such an attempt. *State v. Stoke*, 45 N. W. R., 542.

**SECTION 959.—**

In order to give the district court jurisdiction of an appeal under the provisions of this section when the decision requires the petitioners therefor the damages, the notice of appeal must be served on the four persons first named in the petition for the highway. This provision is mandatory, and service of the notice upon a less number will not give the court jurisdiction. *Finke v. Gelsomiller et al.*, 77 Iowa, 251.

**SECTION 989.—**

This section of the Code, as amended by chapter 87, laws of 1886, was not intended to prevent necessary improvements in the highways, where they can be made without material injury to adjacent property, even though some inconveniences might result to the owners of such property. And in a case where the plaintiff, a practicing physician, had graded the street in front of his dwelling and office to suit his convenience, making a smooth driveway to his premises, and had so maintained it for many years, *held*, that he thereby acquired no vested right as against the road supervisor, and that an injunction restraining the supervisor from so grading the street as to leave a ditch or gutter six inches deep in front of the plaintiff's premises was properly denied, there being no reason to presume that the supervisor would not use due care in providing a proper crossing. *Randall v. Christianson*, 76 Iowa, 160.

**SECTION 997.—**

This section of the Code provides that on final settlement with the supervisors of road districts the township trustees, if there shall be no money in the treasury, shall order the clerk to issue orders for the amount due, with the number of the district to which they belong, which shall be received as money in payment of highway tax in such district. Sections 999-971 authorize the trustees to levy a tax for township and road funds, and require them to set apart for the use of the whole town a sum sufficient to purchase tools, machinery and guide posts. By section 982 the supervisor of each district is the collector of its road tax, and is not required to pay any part of it to the clerk, except that portion required for tools, etc. The balance must be expended exclusively in the district in which it was levied. *Held*, that road orders given supervisors on general settlements for labor done in their respective districts, and not including outlay for tools, etc., cannot be paid out of the general fund, but each must be confined to the particular district. *Bradley et al. v. Love, Twp. Clerk, et al.*, 26 Iowa, 397.

**SECTION 1001.—**

By this section, bridges erected or maintained by the public constitute parts of the public highway, and must not be less than sixteen feet in width. *Snyder v. Foster*, 77 Iowa, 641.

**SECTIONS 1038, 1064.—**

A corporation may lawfully commence business, that is, exercise its corporate power and authority, when its articles of incorporation are properly filed. It is not necessary that any particular amount of capital stock first be subscribed, unless the articles of incorporation so provide. *Johnson et al. v. Kessler et al.*, 76 Iowa, 411.

**SECTION 1082.—**

Under this section of the Code, which makes stockholders in a corporation individually liable to the amount of unpaid installments on stock owned by them, defendant was held liable to a creditor of the corporation for the difference between the par value of his stock and what he paid

for it. *Boulton Carbon Co. v. Mills*, 43 N. W. Rep., 290.

**SECTION 1160.—**

Where neither the policy of a mutual fire insurance company nor the articles or by-laws therein referred to, contained any limitation of liability to the amount realized from an assessment, *held* that an action for the full amount of the loss, not exceeding the insurance, could be maintained against the company before any assessment was made to meet the loss. *Hart, Adm'r, v. The Pottawattamie Co. Mut. Fire Ins. Co.*, 74 Iowa, 39.

**SECTION 1260.—**

This section, as amended by chapter 15, laws of 1886, applies to railways abandoned before its enactment and on which work was commenced within a period of less than eight years thereafter. *Skilman v. C., M. & St. P. R'y Co.*, 43 N. W. R., 275.

As the statute does not create the suspension, but simply prescribes its effect, it cannot be said to operate retractively. *Id.*

Nor does the statute interfere with vested rights, or impair the obligation of contracts, as the property right of the holder of a right of way does not attach to the land independent of, and distinct from its use for public purposes, and when the public use becomes impossible or is abandoned, the right to hold the land ceases. *Id.*

**SECTION 1265.—**

The defendant was about to construct a railroad so as to cross the plaintiff's track at grade. Plaintiff's track was level for three hundred feet east and nine hundred feet west of the proposed point of crossing. Just east of this level portion of plaintiff's track said track descends at the rate of thirty-seven (37) feet per mile for one thousand feet, and nine hundred feet west of the said point of crossing, there is an ascending grade varying from sixty to seventy feet per mile for seven thousand feet. On account of these grades, and of the necessity of stopping all trains before crossing another track at grade, the cost, danger and inconvenience of operating plaintiff's road would be greatly increased by the proposed crossing at grade. In view of these facts, and of the further fact that the cost of an under crossing would be only about fifteen thousand dollars more than the grade crossing, *held*, that defendant was not entitled under this section of the statute to cross at grade, and that the proposed crossing was properly enjoined. *The Humeston & Shenandoah R'y Co. v. The Chicago, St. P. & K. C. R'y Co.*, 74 Iowa, 554.

**SECTION 1280.—**

This section provides that "the operating of trains upon depot grounds necessarily used by the company and public, where no fence is built, at a greater rate of speed than eight miles per hour, shall be deemed negligence, and render the company liable under this section." *Held* that, in order to enable the owner of stock injured beyond the limits of the depot grounds to recover under this section, it must appear that the stock were upon the depot grounds, and by reason of the excessive speed of the train, were driven therefrom to another portion of the track, and injured. *Story v. Chicago, M. & St. P. R'y Co.*, 44 N. W. R., 690.

In an action against a railroad company for damages caused by fire set out on its right of way by an engine, the defendant cannot escape liability for its own negligence, even though it appears that the plaintiff was negligent also, and that his negligence contributed to the loss. Under this section of the Code the doctrine of contributory negligence does not apply. *West v. Chicago & N. W. R'y Co.*, 77 Iowa, 654. This point affirmed on rehearing. See, also, *Johnson v. C. & N. W. R'y Co.*, *Id.* 668.

Under this section of the Code a railroad company is liable for injury to stock upon its right of way for want of fence only when such want, in connection with some act of the company, is the proximate cause of the injury; and in this case no such act was shown. *Ashbach v. The Chicago, B. & Q. R'y Co.*, 74 Iowa, 248.

On an action for injury to stock by a railway company where the petition set up merely that the injury was caused by the want of a fence, *held*, that the plaintiff was not entitled to have the question of general negligence adjudicated. *Id.*

Under this section providing that where the owner of an animal that has been killed by a railroad company serves a notice in writing, accompanied by an affidavit, of the death, on the company, it shall be liable for double the value of the animal unless it pays the value thereof within thirty days. Service of a copy of the notice is sufficient, the method of service not being prescribed. *Van Slyke v. Chicago, St. P. & K. C. R'y Co.*, 45 N. W. R., 306.

Under this section of the Code, in an action for the value of stock killed by reason of a failure to fence the track of a railroad, the owner cannot recover for the killing of a cow when he was himself present, and saw the efforts of the trainmen to stop the train, and had the power and opportunity to drive the cow from the track, but willfully refused to do so. *Moody v. Minneapolis & St. Paul R'y Co.*, 77 Iowa, 29.

Under this section of the Code a railroad company is liable for setting a fire on its right of way which destroyed certain stacks of hay of plaintiff, though he was guilty of contributory negligence in failing to protect them by ploughing around them. *West v. Chicago & N. W. R'y Co.*, 77 Iowa, 654; *Enyle v. Same*, 77 Id., 661; *Johnson v. Same*, Id., 666.

#### SECTION 1307.—

A railway company is liable for injuries resulting from negligence of agents, or mismanagement of engineers or other employees, etc., sustained by laborer employ to keep the track free from snow, where it appears that it was his duty to ride on the train, and remove obstructions as they were encountered, though the train was not actually in motion at the time the injury was received. *Smith v. Humeston & S. R'y Co.*, 43 N. W. R., 545.

This section authorizing actions against railway companies by employees for injuries caused by the negligence of co-employees, is not in conflict with the fourteenth amendment to the constitution of the United States. *Rayburn v. The Central Iowa R'y Co.*, 74 Iowa, 637. Following *Buckle v. Central Iowa R'y Co.*, 64 Id., 603.

In such case, the plaintiff is not precluded from bringing his action against the company, under this section on the ground that the negligence complained of was in no manner connected with the use and operation of the railroad. See opinion on page 638, 74 Id.

#### SECTION 1317.—

This section of the Code, authorizing actions against railroad companies by employees for injuries caused by the negligence of co-employees, is not in conflict with the fourteenth amendment to the constitution of the United States. *Rayburn v. The Central Iowa R'y Co.*, 74 Iowa, 637.

#### SECTION 1319.—

Under this section, 808 of the Code, all railroad bridges are to be assessed for taxation by the executive council, except those over the Mississippi and Missouri rivers, and they are to be assessed by the assessors of the local districts in which they are situated; and such construction does not render section 808 unconstitutional. *The Missouri Valley & Blair R'y & Bridge Co. v. Harrison County*, 74 Iowa, 233.

#### SECTIONS 1332, 2466.—

In a bastardy proceeding the defendant pleaded guilty and an order was made that he pay certain installments for the support of the child "until the further order of the court." Afterward in a supplementary proceeding by the father to recover the child with a view of supporting it himself, the custody was left with the mother, but the order to pay for its support was vacated. *Held*, that this order was proper, in view of the fact that the father had recognized the child as his, and was, without any order to that effect, under obligations to support it. *The State v. Hastings*, 74 Iowa, 574.

#### SECTIONS 1361, 1365.

Under these sections of the Code, the board of supervisors of a county having a poor-house may discontinue relief to a poor person after the township trustees have once determined that he is a proper subject for relief, and that, in their judgment, he should not be sent to the poor-house. *Ellison v. Harrison County*, 74 Iowa, 494.

#### SECTION 1452.—

One who causes his cattle to be herded upon the unimproved and uninclosed prairie lands of another, without the consent of the owner of the lands, is liable therefor to such owner, though by the Iowa law a trespass is not committed when cattle running at large enter uninclosed land. *Harrison v. Adamson*, 76 Iowa, 337.

#### SECTIONS 1453, 1454.—

Notice to the person having charge of a mare distrained under these sections, and to the person having charge of the farm on which the mare was kept, of the distraint, and of a notice to the trustees, was held sufficient. *Lyons v. Van Gorder*, 77 Iowa, 600.

#### SECTION 1454.—

Where one who distrains a trespassing animal gives the notice required by the statute to the person who has charge of the animal, as well as to the one having charge of the farm on which it is usually kept, it is sufficient, under this section, to give the township trustees jurisdiction to appraise the damages done by the animal, though the owner has not been notified. *Id.*

#### SECTION 1523.—

Where liquors are purchased out of the state and put into bottles securely sealed and packed in cases, boxes and barrels, and thus transported to a point within this state, the prohibition of the sale of such liquor after it has arrived at its destination, whether of the unopened bottles taken from the boxes and barrels in which they are packed, or of the original packages themselves, is within the police power of the state, and is not in violation of the constitution of the United States, vesting in congress the power to regulate commerce between the states. *Collins v. Hills et al.*, 77 Iowa, 181.

An injunction forbidding the sale of intoxicating liquors at a certain place in the state is violated by a sale at that place of liquors in the original packages in which they were purchased outside of the state, and transported within the state. Following *Collins v. Hills*, 41 N. W. R., 571. *Grusendorf v. Howat, Judge, etc.*, Id., 573; *Leisey et al. v. Hardin*, 43 Id., 1888.

The prohibitory law, as amended, so as to cover the manufacture and sale of beer, which was previously legal, is constitutional. *Kaufman v. Dostal*, 73 Iowa, 691. Following *Magler v. Kansas*, 123 U. S., 623.

This section prohibits the manufacture and sale of intoxicating liquors except as permitted or authorized by statute, and the manufacture for exportation from the state not being permitted or authorized, is illegal, even though the manufacturer holds a permit to manufacture for lawful purposes. *Pearson v. The International Distillery*, 72 Iowa, 348.

This section of the Code prohibits the manufacture and sale of intoxicating liquors, except as permitted or authorized by law, and the manufacture for exportation from the state not being permitted or authorized, such manufacturing is illegal, even though the manufacturer holds a permit to manufacture for lawful purposes. *Id.*

Where intoxicating liquors purchased outside of the state is put up in bottles securely sealed, and packed in boxes, cases, and barrels, and thus transported to a place within the state, the prohibition of the sale of such liquors after it has arrived at its destination, whether of the unopened bottles taken from the boxes and barrels in which they were packed, or of the original packages themselves, is within the police power of the state, and is not in violation of the constitution of the United States, vesting in congress the power to regulate commerce between the states. *Leisey &*

*Co. v. Hardin*, 78 Iowa, 286. Following *Collins v. Hills*, 77 Id., 181.

[The first above cause was removed to the supreme court of the United States, where the judgment of the supreme court of Iowa was reversed by a majority opinion—Justices

..... *dissenting*. The federal court decides that the Iowa statute under which the action was brought, and which was sustained as being valid and constitutional, by the supreme court of Iowa, is in conflict with that clause of the constitution of the United States which confers upon congress the power "to regulate commerce with foreign nations and among the several states, and with the Indian tribes," and therefore said statute is invalid and of no effect.]

The manufacture of intoxicating liquors within the state of Iowa, without a lawful permit, though for the purposes of export only, renders the manufactory a nuisance. *Craig v. Werthmueller & Ende et al.*, 78 Iowa, 504.

#### SECTION 1526.—

Defendants, who were brewers, obtained a permit in November, 1885, to manufacture and sell intoxicating liquors for mechanical, medicinal, culinary and sacramental purposes only, for one year from that date. *Held*, that their right to sell for medicinal purposes was taken away on the 8th day of April, 1886, when chapter 83 of the laws of 1886 took effect, whereby the right to sell liquors for medicinal purposes was vested exclusively in registered pharmacists. *The State v. Aulman*, 76 Iowa, 624.

For a flagrant violation of the law in relation to the sale of intoxicating liquors, a fine of one thousand dollars will not be reduced by the supreme court as excessive. *Id.*

#### SECTION 1531.—

The principal of the bond in suit had made application for a permit to sell intoxicating liquors for lawful purposes, in a certain town, and the application described the particular house in which the sales were to be made, as required by law it should. For the purpose of obtaining such permit, the bond in suit was executed. The bond referred to the application, and recited the town in which the sales were to be made, but not the lot and block, and it did not recite the fact that the application was for leave to sell such liquors for mechanical, culinary and sacramental purposes only, but these matters were inserted in the bond after its execution. The condition of the bond was that the principal should "faithfully carry out the provisions of all laws now or hereafter in force, relating to the sale of intoxicating liquors." *Held*, that the bond was not materially altered by the insertion of the matters above referred to, and that the sureties were not discharged thereby. *Starr v. Blatner et al.*, 78 Iowa, 356.

#### SECTIONS 1537, 1538.

In an action on a bond given to obtain a permit to sell intoxicating liquors for lawful purposes, the alleged cause of action was that the defendant made false returns to the auditor. In an amendment to his answer, the defendant stated in substance that the reports were erroneous in several particulars, but that such errors were the result of mistakes on his part. *Held*, that the amendment should have been stricken out on motion, because, in an action at law at least, the penalty of the statute cannot be avoided on the ground of mistake. *State, ex rel. Braden v. Chamberlin et al.*, 74 Iowa, 286.

#### SECTION 1539.—

Sales of liquors to the classes of persons enumerated in this section are not by its terms declared to be misdemeanors, and the penalty imposed by it can be enforced only by civil action by a citizen of the county. *State v. Douglass*, 73 Iowa, 279.

#### SECTION 1593.—

In an action by the state to recover of a registered pharmacist the penalty prescribed by the statute for selling intoxicating liquors to a person in the habit of becoming intoxicated, papers pur-

porting to be applications from such person to defendant for the purchase of intoxicating liquors, which are produced from the county auditor's office, and are testified to by the defendant himself, as appearing to be in his handwriting, are sufficiently identified to be admitted in evidence, though the usual sworn certificate was not attached, and the deputy auditor testifies that the defendant, in reporting his sales, always made a sworn certificate. *State v. Oeder*, 45 N. W. R., 543.

#### SECTION 1540.—

This section, providing that if "any person not holding such permit \* \* \* sell \* \* \* any intoxicating liquors," etc., the permit referred to, is that provided for in the preceding sections, viz.: A permit granted by the board of supervisors for the sale of intoxicating liquors for certain enumerated purposes, and not the permit of a registered pharmacist to sell for the actual necessities of medicine only, granted under chapter 83, laws of 1886. Hence, sales by a registered pharmacist for any other purpose than the actual necessities of medicine are as certainly forbidden and made punishable by this section as are sales by persons having no authority to sell for any purpose; and the keeping of a place where such sales are made is prohibited and declared a nuisance by section 1543 of the Code. *State v. Salts*, 77 Iowa, 193.

On proof of the sale of intoxicating liquors place of business the burden is upon him to prove that the sales were lawful. *State v. Coughly*, 73 Id., 626.

In this section providing that "if any person not holding such permit \* \* \* sell

any intoxicating liquor, etc., the permit referred to is that provided for in the preceding sections, viz.: A permit granted by the board of supervisors for the sale of intoxicating liquors for certain enumerated purposes, and not to the permit of a registered pharmacist to sell for the actual necessities of medicine only, granted under chapter 83, laws of 1886. Hence, sales by a registered pharmacist for any other purpose than the actual necessities of medicine, are as certainly forbidden and made punishable by this section as are sales by persons having no authority to sell for any purpose; and the keeping of a place where such sales are made is prohibited and declared to be a nuisance by section 1543 of the Code. *State v. Salts*, 77 Iowa, 193. (*State v. Douglas*, 73 Id., 279, distinguished.)

#### SECTION 1542.—

Sales of intoxicating liquors by a registered pharmacist for any purpose, except for the actual necessities of medicine, is forbidden unless he has a permit from the board of supervisors authorizing such sales for lawful purposes. *State v. Salts*, 77 Iowa, 193.

#### SECTION 1543.—

The defendant was indicted under this section for nuisance in keeping a place for the unlawful sale of intoxicating liquors. It was admitted that during the time covered by the indictment he had a diploma as a physician, a certificate as a pharmacist, and a valid permit from the board of supervisors for the sale of liquors for lawful purposes. The testimony of witnesses as to sales was to the effect that they were made in good faith for medical purposes, and no unlawful sales were shown. *Held*, that the conviction was not supported by the evidence. *State v. Flusche*, 44 N. W. R., 606.

A pharmacist is bound to know whether the persons to whom he sells liquors are such as he may lawfully make sales to; and the burden is on him to show that his sales were lawful. *State v. Thompson*, 74 Iowa, 119. Compare *State v. Coughly*, 73 Id., 626.

The offense under this section and that under the next section are not the same, and a conviction for one will not bar a prosecution for the other. *State v. Graham*, 73 Iowa, 533.

An injunction enjoining a party from the sale of intoxicating liquors upon certain premises described as "part of lot No. 2, in the northeast quarter of the northwest quarter of section 23," etc., is not void for uncertainty in not specifying the particular building or place intended. *Ver Straeten v. Lewis, Judge, et al.*, 77 Iowa, 130.

An injunction to restrain the defendant from maintaining a nuisance by keeping a place for the unlawful sale of intoxicating liquors, though not enforced, is a bar to a second action by another plaintiff seeking the same relief. *Dickenson v. Etchorn*, 43 N. W. R., 620.

Proof of actual sale is presumptive evidence that the sale is illegal, and the burden of proving that the sales made were legal, is on the defendant. *Shear v. Green*, 73 Id., 688.

The provisions of the statute relating to the abatement of the nuisances are applicable to acts committed before the enactment of such provisions. *McLane v. Bonn*, 70 Id., 752; *Drake v. Gordon*, 73 Id., 707.

An order imposing a fine and imprisonment for contempt for the violation of an injunction may be made by the judge in vacation. *McLane v. Granger*, 37 N. W. R., 123.

#### SECTION 1544.—

A railroad company receiving packages of whisky consigned by a person without the state to a person within the state of Iowa, after the expiration from six to fifteen days from the receipt of the various packages at the point of destination, is no longer a carrier, but becomes a warehouseman and the liquors, if intended for illegal sale, may be seized in its freight depot and confiscated. *State v. Creeden et al.*, 43 N. W. R., 673.

#### SECTION 1546.—

Where a constable serves a warrant for the seizure of intoxicating liquors he is entitled to a fee of one dollar, and where no liquors are found the county is liable for such fee under this section of the Code. *Byrum v. Polk County*, 76 Iowa, 75.

Under this section, providing that, when intoxicating liquor is taken on a search warrant, and no one is made defendant, the costs shall be paid as in criminal cases, where the prosecution fails, a justice issuing such process can recover fees therefor against the county, though no liquors were found. *Garrett v. Polk County*, 43 N. W. R., 618.

#### SECTION 1551.—

This section requires that peace officers shall see that the provisions of the law relating to the sale of intoxicating liquors, are enforced, and shall in certain cases, on filing information, institute suits and proceed to trial, and that the county attorney shall appear for the state "unless the person filing such information shall select some other attorney"; and when an information is filed by a constable for warrant for the search of premises and seizure of intoxicating liquors kept for illegal sale, an attorney selected by the constable to prosecute such suit, is entitled, under section 3320 of the Code, to receive five dollars from the county, for such services. *Nichols et al. v. Polk County*, 42 N. W. R., 627.

#### SECTION 1553.—

It is provided in this section of the Code, as amended by chapter 66, laws of 1886, that, "if any express company, railway company, or any agent or person in the employ of any common carrier, or if any other person \* \* \* shall knowingly convey between points, or from one place to another within this state, for any person \* \* \* any intoxicating liquors, without first having been furnished with a certificate from the county auditor," etc.; held, that the words, "any other person," do not enlarge the classes before named in said section, but mean simply other persons of like kind, or in like employment, with those specified. Held, further, that where a man having horses and two wagons was employed exclusively by a wholesale liquor dealer to deliver liquors to retail sellers in the same city, the driver employed by such person, with the horses and wagons thus engaged, was included in the class referred to by the words, "any other person." *The State v. Campbell*, 76 Iowa, 122.

#### SECTION 1553.—

The statute does not prohibit the transportation of liquors out of the state, but it does prohibit the manufacture of liquors for purposes other than for sale according to the provisions of the statute. This construction does not render the statute un-

constitutional as an interference with inter-state commerce. *Pearson v. International Distillery*, 72 Iowa, 348.

#### SECTION 1554.—

A pure and simple gift of intoxicating liquors by one person to another, who is not a minor, is not a criminal act; but it becomes criminal when it is intended as a subterfuge to conceal an unlawful sale, and to evade the penalties of the law. *State v. Hutchins*, 74 Iowa, 20. See sections 1523, 1539, 1540 of Code.

#### SECTION 1555.—

Under this section a beverage which contains alcohol is intoxicating liquor, regardless of whether the quantity of alcohol contained therein is, or is not, of itself intoxicating. *State v. Intoxicating Liquors* (Cummings, claimant), 76 Iowa, 243.

#### SECTION 1557.

This section of the Code providing that the person injured in her means of support by the intoxication of another shall have a right of action against the person selling the liquor "for all damages actually sustained, as well as exemplary damages," it was proper to instruct the jury that if plaintiff was entitled to actual damages, it was their duty to add thereto an amount as exemplary damages. *Thill v. Polman et al.*, 76 Iowa, 638.

#### SECTION 1558.—

In an action by a wife against a saloon-keeper for damages on account of unlawful sales of liquors to her husband, and against the owner of saloon property for the purpose of establishing her judgment in said action as a lien thereon, where it appeared that not only the sales made to plaintiff's husband were unlawful, but the whole business, as there carried on, was unlawful, it was error to instruct the jury that, although they found the owner of the property or his agent knew of the unlawful business, and assented thereto, yet they could not charge the property with the judgment in the case unless they also found that he or his agent knew of the sales to the plaintiff's husband, and assented thereto; for consent to use the property for an unlawful purpose is consent to every unlawful act done pursuant thereto. Such is the effect of this section. *Wing v. Benham et al.*, 76 Iowa, 17. See, also, *Myers v. Kirt*, 67 Id., 421, and 64 Id., 27.

In order to make saloon property liable for judgments based upon unlawful sales of intoxicating liquors therein, it is sufficient to allege and prove knowledge of the owners of such property of such unlawful sales, without alleging and proving their consent. (See and compare section 12, chapter 66, laws of 1886.) *Judge v. Flounoy et al.*, 74 Iowa, 164. See, also, *Snedaker v. Jones*, Id., 235, and cases cited.

#### SECTION 1572.—

As to the general assets of a bank in the custody of a receiver, the sureties upon a bond of the bank against whom judgment has been rendered have no prior rights over other creditors, since this section of the Code declares that the assets in such cases shall be "ratably distributed among the creditors, \* \* \* giving preference in payment to depositors." *Richards, County Treasurer v. Osceola Bank et al.*, 45 N. W. R., 204.

#### CHAPTER 66, LAWS OF 1886.—

Under section one (1) of this chapter attorneys' fees are taxable against the unsuccessful defendant in all cases brought to enjoin liquor nuisances, whether prosecuted in the name of the state by the county attorney, or in the name of a private citizen of the county. *State v. Douglass & Hopkins*, 75 Iowa, 432.

#### CHAPTER 83, LAWS OF 1886.—

A pharmacist who has a permit to sell intoxicating liquors, but who sells them for purposes other than the legitimate and actual necessities of medicine, is subject to the utmost rigors of the laws relating to the unlawful sales of such liquors, and his liquors may be seized under a search-warrant, as provided in this chapter. *State v. Ward et al.*, 75 Iowa, —.



**CHAPTER 66, LAWS OF 1886.—**

Under this chapter the plaintiff, if successful in an action to abate a liquor nuisance, is entitled to recover such attorney's fees as may be reasonable for the services necessarily rendered, in whatever court, not less than twenty-five dollars. In a case which was begun in the district court, removed to the federal court, appealed to the supreme court of the United States and remanded to the district court where it was instituted, *held*, that an attorney's fee of three hundred and fifty dollars was not unreasonable, and should have been allowed upon the evidence. *Farley v. O'Malley*, 77 Iowa, 531.

After an action to abate a nuisance by selling liquors had been commenced under the Iowa prohibitory laws, a statute was enacted authorizing the taxing of an attorney's fee against the defendant. *Held*, that to apply this statute in that action did not infringe the constitutional prohibition as to *ex post facto* laws, as the fee thus collected was part of the costs of the case, no part of penalty. *Farley v. Gusheker*, 43 N. W. Rep., 270.

**SECTIONS 1717, 1806.—**

Under these sections as amended, the electors of a district township have power to authorize their board of directors to obtain, at the expense of the district, such highways as the board may deem necessary for proper access to the school-houses of their district, and to vote a tax upon the taxable property of the district for obtaining such highways; and section 1806 makes this statute applicable to independent school-districts. *McShane v. Indap's Dist. of Pleasant Grove*, 76 Iowa, 333.

**SECTION 1723.—**

This section, which provides that contracts for the construction of school houses shall be let to the lowest responsible bidder, and bonds with sufficient sureties for the faithful performance of the contracts, shall be required, confers upon the school directors no authority to contract with one who is not the lowest bidder and does not furnish the bonds required, and hence the acceptance of his bid does not constitute a contract. *Weitz v. Ind. School-Dist. of Des Moines*, 44 N. W. R., 606.

**SECTION 1802.—**

Where the population of a district having six directors is, at the date of a given election, reduced to less than 500, only one director can then be elected under this section. *State v. Simkins et al.*, 77 Iowa, 676.

**SECTION 1806.—**

This section does not refer merely to the duties of officers of independent districts, but confers on the electors the same general powers as those conferred on the electors of district townships, and it makes applicable to independent districts acts of nineteenth general assembly, chapter 51, giving electors of district townships the power of obtaining highways necessary for access to school buildings, and of voting taxes for that purpose. *McShane v. Board of School Directors et al.*, 76 Iowa, 333.

**SECTION 1923.—**

Where a person purchases a stock of goods in another county from that in which he resides, and gives a chattel mortgage for the price, which is recorded in the former county, and leaves them in charge of his brother, who adds to the stock, makes sales therefrom, pays debts, etc., all in the name of the vendee, there is no such "actual possession" by the purchaser as contemplated by this section of the statute, requiring a chattel mortgage, where the mortgagor retains "actual possession," to be recorded in the county where the holder of the property resides, to be valid against creditors and purchasers without notice, and the mortgage has priority over one of a later date, given by the purchaser, and recorded in the county in which he lives. *King v. Wallace et al.*, 42 N. W. R., 776.

**SECTION 1924.—**

Under this section of the Code an express trust in land cannot be established by parol evidence. *Andrew v. Concannon et al.*, 76 Iowa, 251.

It is incompetent to establish by parol evidence a trust in real property alleged to have been created by an oral agreement. *Richardson v. Haney et al.*, 76 Iowa, 101; *Andrew v. Concannon et al.*, Id. 251.

**SECTION 1941.—**

Though this section provides that no instrument affecting real estate shall be of any validity as against subsequent purchasers, for a valuable consideration, without notice, unless recorded, etc., an unrecorded bond for title takes precedence of a subsequent quit claim deed; since the grantee therein cannot be regarded as a purchaser without notice. *Steele et al. v. Sioux Valley Bank*, 44 N. W. R., 504; overruling *Pettingill v. Devin*, 35 Iowa, 353.

**SECTION 1967.—**

A deed of swamp land, by a county judge, may be acknowledged in a county other than that of his residence, or of which he was the judge; and if such acknowledgment were not valid, it is cured by this section of the Code, the acknowledgment having been taken in 1860. *Henderson v. Robinson*, 76 Iowa, 333.

A defective acknowledgment of a power of attorney, executed in 1867, and recorded before the taking effect of the code of 1873, was cured by section 1967. *Collins v. Vallean*, 43 N. W. R., 284.

In a case involving the validity of an acknowledgment of a deed, it was *held* that the defect complained of was cured by this section of the Code. *Henderson v. Robinson et al.*, 76 Iowa, 603.

**SECTIONS 1976, 1983.—**

Where a party under the occupying claimant laws seeks to recover for improvements made by him or his assignors upon land adjudged to another person, and the only color of title under which the improvements were made was possession, such possession must have been continuous for five years up to the time at which the suit was brought for the recovery of the land; and if there is no evidence of such continued possession, there is nothing to submit to the jury. *Welles et al. v. Newsom*, 76 Iowa, 81.

Under section 1976 an occupying claimant, who is in possession, under color of title, cannot recover for improvements made before he acquired color of title by adverse possession. *Snell v. Mcchan*, 45 N. W. R., 398.

**SECTION 1990.—**

There was a judgment against a married woman, who was the owner of a homestead. She conveyed the homestead by assigning her contract of purchase under which she held the property, but her husband did not join in the assignment, but they both abandoned the homestead to the assignee. *Held*, that the assignment was void, and that the judgment became a lien upon the property. The wife, notwithstanding her assignment, remained the owner of the homestead, which being abandoned, became liable for the judgment. *Belden v. Younger*, 76 Iowa, 567.

Since the conveyance of the homestead by the husband, in which his wife does not join, is, under this section void, such conveyance, when made to a daughter, may be attacked by any one having an interest in the property, though all the beneficiaries of the homestead have apparently acquiesced in the conveyance since it was made. *Bolton v. Oberne et al.*, 44 N. W. R., 547.

**SECTION 1993.—**

This section subjects the homestead to execution sale for debts created by written contract executed by the persons having power to convey and expressly stipulating that the homestead is liable therefor; it shall not, in such case, be sold except to supply the deficiency remaining after exhausting the other property pledged for the payment of the debt on the same written contract. Section 3030 provides that, when a judgment is against his principal and his surety, the officer having the collection thereof shall exhaust the property of the principal before proceeding to sell that of the surety. In an action to foreclose a mortgage, it appeared that it had been executed



by a husband and wife to secure his indebtedness to the plaintiff; that it conveyed the land of each, including the homestead, which belonged to the husband; that subsequently plaintiff released from the mortgage the wife's land, the value of which was greater than the debt. *Held*, that the homestead could not be subjected to any part of the debt, as the statute giving protection to sureties will be construed as subject to the homestead law. *Roskott v. Kraft et al.*, 43 N. W. R., 539.

#### SECTIONS 1994, 1995, 1998.—

In an action to enjoin an execution sale of forty acres of land claimed as a homestead, the plaintiff's dwelling-house, which must be upon the homestead premises, was partly on the forty-acre tract in question and partly upon a forty-acre tract adjoining, belonging to the wife. *Held*, that the whole of his forty-acre tract was not exempt as a homestead, but that the homestead was partly on his land and partly on that of his wife. Also, that the provisions of the statute relating to the marking out, platting and recording of homesteads gave plaintiff ample protection without the interference of a court in equity, and that his petition was properly dismissed. *Henderson v. Rainbow*, 76 Iowa, 320.

#### SECTION 1996.—

In an action to set aside an unlawful execution sale of a homestead situated within a town plat, in which it appeared that it consisted of one acre of ground, *held*, that the plaintiff had the burden to show that its value did not exceed five hundred dollars, in order to avoid the sale of the excess over one-half acre, but that the plaintiff's own testimony that he offered to take four hundred and fifty for it was sufficient in the absence of all other evidence. *Boot v. Brewster et al.*, 75 Iowa, 631.

#### SECTION 1997.—

Where a homestead, owned by the husband, is used by him for the unlawful sale of intoxicating liquors, it becomes liable for fines, costs and judgments rendered against him on account of such unlawful conduct; and the title being in him, it makes no difference that such use of the homestead is without the consent and against the will of his wife. *McClure v. Brantiff et al.*, 75 Iowa, 38.

In an action against the husband, who holds the title to the homestead, to subject it to the payment of a judgment, the wife has such an interest in the homestead as to entitle her to intervene for the protection of the homestead, regardless of whether the husband asserts the homestead right or not. *Id.*

#### SECTION 2007.—

Upon the death of the husband, the widow has the election either to occupy and enjoy the homestead for life, or to take a distributive share of one-third, in fee-simple, of the real estate of which the husband was seized at the time of his death. She cannot take both, but she may elect which she will take; and until the distributive share is set apart, she, by occupying the homestead, must be regarded as having elected to take it; so that a mortgage made by her while occupying it, upon the undivided one-third of her husband's real estate, does not create a valid charge upon the same as against the heirs in an action for partition. *McDonald v. McDonald et al.*, 76 Iowa, 137.

#### SECTION 2014.

The common law rule, that when a tenant for years holds over after the termination of his lease, with the assent of his landlord, and pays rent according to the terms of his lease, a tenancy from year to year is established, is changed by this section of the Code, which provides that "any person in the possession of real property, with the assent of the owner, is presumed to be a tenant at will, unless the contrary is shown. *O'Brien v. Truxel & Bro.*, 76 Iowa, 760.

#### SECTION 2015.

Where land is leased for the purpose only of raising a crop of corn thereon, the rights of the

lessee expire when the corn is harvested, and he is not entitled, in the absence of a special stipulation therefor, to pasture his cattle upon the stocks. The rights of the parties in such cases cannot be controlled by custom. *Kyle v. Keller*, 76 Iowa, 34.

#### SECTION 2031.

Where the defendant claimed that the highway in question existed both by dedication and prescription, the court instructed that "knowledge in or notice to the owner of the use of the road as a public highway may be inferred from the use of the road by the public in such manner as that the owner, using his faculties as a reasonably prudent and observant person, having care for his property, would see or learn of such use." *Held*, that this was not in conflict with the above section of the Code, which provides that use of land shall not be evidence of adverse possession; because (1) the court did not state that such notice of use would be notice of an adverse claim; (2) other instructions in the charge avoided any misunderstanding by the jury; and (3) the action was based upon an alleged dedication, as well as upon prescription, and said section relates to titles by prescription only. *Duncombe v. Powers*, 75 Iowa, 135.

Under this section requiring that in order to support a claim of easement in land by adverse possession for ten years, such possession must be proved "by evidence distinct from, and independent of the use, and that the party against whom the claim is made had express notice thereof," proof merely that for more than ten years the plaintiff had kept the water of a stream diverted so as to flow over defendant's land, is not sufficient to establish a right to continue such use. *Preston v. Hull*, 74 Iowa, 309.

Where the question was as to the existence of a public highway, which, if it was a legal highway at all, became such either by dedication or prescription, and there was evidence tending to show a dedication, *held*, that evidence of use by the public was competent for the purpose of showing an acceptance of the dedication, though not competent, under this section of the Code, to show title in the public by prescription. *The State v. Birmingham et al.*, 74 Iowa, 407.

#### SECTION 2077.—

This section of the Code does not prohibit an oral agreement for the payment of ten per cent interest; and where there has been such an oral agreement, and the amount of such interest was afterward ascertained and a promissory note given therefor, it was binding upon the parties, and the creditors of the maker of the note cannot interfere. *First Nat. Bank of Nevada v. Fenn*, 75 Iowa, 221.

#### SECTIONS 2108, 2109.—

Where the holder of a note neglects either to bring suit thereon or to allow the surety to do so, when requested as provided by the statute, the surety will be discharged, notwithstanding the principal has removed from the state. *Hayward v. Fullerton*, 75 Iowa, 371.

#### SECTION 2113.—

Under this section, providing that all written contracts import a consideration, when the plaintiff has established the defendant's signature to a promissory note the burden of proving no consideration is on the defendant. *McCormick Harvesting Machine Co. v. Jacobson*, 42 N. W. R., 499.

In an action on drafts drawn on defendants, plaintiff was not required to reply to an answer pleading want of consideration, but had a right to show that the drafts were accepted as a compromise, though he had not pleaded a compromise. *Gafford v. Am. Mort. & Invest. Co.*, 77 Iowa, 736.

#### SECTION 2115.—

This section of the Code makes invalid a general assignment for the benefit of creditors which is not made for the benefit of all the creditors in proportion to the amount of their respective claims; but there is no statute depriving the debtor of the common law right to make a partial assignment of his property for the benefit of his creditors. *Loomis & Son v. Stewart et al.*, 75 Iowa, 387.

## SECTION 2120.—

In the prosecution against the assignee of a claim which was resisted, because filed more than three months after the first publication of the notice of assignment, it appeared that the assignee had made and filed a report, as required by this section of the Code, and the report showed that the notice had been duly published. *Held*, that this was *prima facie* evidence of that fact, and that the court would take judicial notice of it, without a formal tender of the report in evidence. *Conlee Lumber Company v. Meyer*, 74 Iowa, 403.

## SECTION 2129.—

In an action by a material man against a landlord to establish and enforce a landlord's lien upon improvements, placed on the premises by the tenant, the fact that the plaintiff sought to establish that the landlord was a purchaser of the materials, and to make him personally liable did not defeat the rights to a lien, under this section of the Code, providing that one cannot have a lien who has collateral security on the contract—where the claim of personal liability was, before trial, dismissed without prejudice. *The National Lumber Co. v. Bowman*, 77 Iowa, 706.

## SECTION 2130.—

H. W. and S. had agreed to form a corporation, but it was not organized until some months later. Meanwhile H., by arrangement with others, purchased land in his own name and erected a building thereon, all of which became the property of the corporation after its organization. *Held*, that H. was not entitled to a mechanic's lien upon the property on account of the improvements made thereon by him, because they were not made under any contract with the owner of the land as required by the statute, he being himself the owner at the time he made the improvements, and the corporation was not in existence. But *he'd* further that, he was entitled to judgment for the expenditures made by him for its use and benefit. *The Littleton Saws, Bk. et al. v. The Osceola Land Co. et al.*, 76 Iowa, 660.

## SECTION 2133, MILLER'S CODE.—

Where in the statement filed with the clerk of the court as the foundation for a mechanic's lien, the description of the property to be charged was as follows: "Thirty lengths of corn-cribbing at Mill's Station, Pottawattamie county, Iowa"; *held* that it was too indefinite for the purpose. *Rose & Wainwright v. The Billingsly & Nanson Com. Company*, 74 Iowa, 51.

Where lumber was furnished for the erection of numerous corn-cribs at several different places, and the cribs were afterwards sold to another party, *held* that, if any of them were complete when purchased, and it was not shown that any of the lumber furnished within ninety days of the purchase went into such completed cribs, then the purchaser took them free from any lien for the lumber,—no statement for a lien having been filed until after the purchase. *Id.*

## SECTIONS 2135, 2133.—

Under section 2135, which provides that the lien shall attach to the buildings, etc., for which the materials were furnished in preference to any prior lien on the land, and section 2133, which provides that the failure to file the statement within the time prescribed shall not defeat the lien except as to purchasers and incumbrancers without notice, such a lien is paramount to the lien of the landlord for rent, he having notice of all of the facts. *National Lumber Co. v. Bowman*, 77 Iowa, 706.

Where the plaintiff was entitled to a mechanic's lien on a building, which was superior to all other liens, but H. had a mortgage which was a prior lien on the land on which the building was situated, *Held*, that the plaintiff was entitled to a decree for the sale of the building as personal property, as against the owner, although the right of redemption was thereby cut off. *Luce et al. v. Curtis et al.*, 77 Iowa, 346.

## SECTION 2203.—

An agreement between husband and wife by which the former conveys land to the latter, in consideration of her relinquishment of all her interests in other lands of his, being void under this section of the Code, is not ratified by her taking possession of the lands conveyed to her, and claiming them as her own, and omitting them, and the rents and profits thereof, from the inventory of her husband's assets filed by her as his executrix, as she is incompetent to satisfy her husband's invalid deed, upon which the agreement to relinquish depends, and for the further reason that the agreement itself is forbidden by law, and she is not thereby barred of claiming dower. *Shane v. McNeill et al.*, 76 Iowa, 459.

## SECTION 2211.—

The keeping of boarders by a married woman is such a business, independent of her duties as a wife, as entitles her to the proceeds of such business as her own. *Gilbert, Hedge & Co. v. Glemly et al.*, 75 Iowa, 513.

## SECTION 2222.—

In an action by a wife for divorce on the ground of habitual drunkenness of her husband, although there was no direct corroboration of her testimony that he acquired the habit after marriage, yet as the testimony of the other witnesses tended indirectly to establish that claim, *Held*, that the corroboration was sufficient as in this section provided. *Lewis v. Lewis*, 75 Iowa, 200.

## SECTION 2223, PAR. 2.—

Want of affection between husband and wife is no defense in an action for divorce on the ground of desertion. *Taylor v. Taylor*, 45 N. W. R., 307.

## PAR. 5.—

In action for divorce, by the wife, it appeared that the defendant habitually abused her, addressing her in profane and obscene language, applying abominable epithets to her, and on several occasions treated her with physical violence; that he falsely accused her of infidelity, and misused the children in her presence; that she was stricken with paralysis, and during her illness he showed the utmost indifference, and tried, in many ways, to irritate and annoy her, *Held*, that, while no single act of his was sufficient to endanger her life, yet, since the general effect was to undermine her health, his conduct was sufficient ground for divorce. *Doolittle v. Doolittle*, 43 N. W. R., 616.

## SECTION 2224.—

By this section of the Code the pregnancy of a woman by a man other than her husband at the time of the marriage is a cause for divorce to the husband, and he is under no legal obligation to live with her, nor can he be required to support her or maintain the child, and his agreement to do these things is not sufficient consideration for his promissory note. *Brannum v. O'Conner*, 77 Iowa, 632.

## SECTION 2229.

Where a decree of divorce has been granted and the custody of a child awarded the plaintiff, and a certain sum in alimony awarded in her favor, this is conclusive on the parties so long as the circumstances remain the same; and a subsequent supplemental proceeding, or independent action, seeking to recover an additional sum for the support of the child, cannot be maintained without alleging such change in the circumstances of the parties as would make an additional order expedient. *Held v. Held*, 74 Iowa, 661.

## SECTION 2236.—

Where a marriage was decreed to be a nullity on account of the insanity of the husband at the time of the contract, and it appeared that the wife was in good health when married, but that she had lost her health on account of the deprivations suffered by her while living with her husband, and it further appeared that he was worth about fifteen thousand dollars at the time the marriage was annulled by the decree, *held*, that an allowance to

her of thirty-five hundred dollars was fair compensation under this section of the Code. *Barber v. Barber*, 74 Iowa, 301.

#### SECTION 2263.—

A mortgage made by a guardian as such is void as against the ward, unless approved by the court. But after such mortgage has been foreclosed in an action to which the ward has been made a party by due and legal service of notice, he cannot question its validity in an action brought to invalidate it, and set aside the title of the purchaser at the foreclosure sale. *Downs v. Mann et al.*, 76 Iowa, 723.

#### SECTION 2222.—

Ever since the enactment of the Code of 1851, a testator in this state has had the right to dispose of his property by will as he pleased, and an heir to whom nothing is devised takes nothing. *Hall et al. v. Stinnett et al.*, 74 Iowa, 279.

#### SECTION 2340.—

Since the amendment of this section by chapter 11, laws of 1878, giving the right to a jury trial in cases of the proof of wills when contested, the judgment in such cases is conclusive upon the parties. And in this case, when the will was offered for probate, and parties made their contest, and had a full trial, with the right to demand a jury, which they waived, held, that they cannot now institute an original proceeding, and try again the identical questions which have been adjudicated against them. *Smith et al. v. James and Haverstock*, 74 Iowa, 482.

#### SECTION 2353.—

This section, providing that the probate of a will shall be conclusive until it is set aside in an original or appellate proceeding, allows such original or appellate proceeding to be brought by one who was a party to the probate, but was only notified thereof by publication and did not appear. *Gregg et al. v. Megatt et al.*, 43 N. W. R., 760. Following same case, 42 Id., 461.

#### SECTION 2368.—

A debtor residing in a state other than that of his creditors' domicile may legally pay a note to the administrator, appointed in the latter state, before administration is granted in any other state, though the note has never been in said administrator's possession, but is held by an attorney residing in a third state, in whose hands it was placed for collection by the creditor. *Bull v. Fuller et al.*, 42 N. W. R., 572.

#### SECTION 2275.—

An anti-nuptial contract, providing that during marriage neither party should be restricted in the disposition of their property, real and personal, and authorizing each to execute deeds without the consent or signature of the other, does not include the right of disposal by will so as to defeat the widow's right to an allowance for a year's support for herself and children, as given under this section of the Code, though she may have relinquished by her agreement both her right to dower and homestead. *In re Peet's Estate*, 44 N. W. R., 354.

The fact that the whole estate is disposed of by the will does not prevent an allowance, as the allowance, when necessary, to be paid prior to the debts of the estate, which latter are preferred to the rights of legatees. *Id.*

This section providing that the court shall, if necessary, set off to the widow and children under fifteen years of age, of the decedent, or to either, sufficient of his property, of such kind as shall be deemed appropriate, to support them for twelve months from the time of his death, held, that if the personal property is inadequate, a sale of the real estate may be ordered. *Newans v. Newans et al.*, 44 N. W. R., 213.

#### SECTION 2370.—

In proceedings by an administrator, under this section of the Code, against the father and mother of his intestate, it appeared that the father had in his possession a note and a sum of money, which

he and his wife testified that intestate said were to be given to her. The note and money were in payment for property sold by intestate the day before he died, and were never in his possession, but were delivered to his father shortly after his death, held, that the gift being unaccompanied by possession was void, and the administrator was entitled to the property. *Donover v. Argo et ux.*, 44 N. W. R., 818.

#### SECTION 2403.—

Where the heirs and devisees, who are "competent to take possession," consent to an order directing the administrator to collect the rents and profits of real estate accruing after the death of decedent, and their appropriation to the payments of debts is shown to be necessary, the administrator may sue for and recover them. *Toerring v. Lamp*, 77 Iowa, 488.

#### SECTION 2408.—

After the death of the mortgagor of chattels, the mortgagee may, upon breach of the conditions of the mortgage, proceed to foreclose by notice and sale under the statute, just as he might have done had the mortgagor survived, and he is not required to file his claim and submit to the slow process of administration to adjust priorities and determine his rights. *Cooke v. Montgomery et al.*, 75 Iowa, 259.

#### SECTION 2455.—

A decedent at his death held a policy of life insurance payable to "his legal heirs." He left, surviving him, a widow and one child. This section of the Code, which provides that "if the intestate leave no issue the one-half of his estate shall go to his parents and the other half to his wife," is the only instance where the rights given to the widow under the statute partake of the nature of heirship. held, that the whole amount of the policy went to the child. *Phillips v. Carpenter et al.*, 44 N. W. R., 898.

#### SECTION 2475.—

Where heirs and representatives make application to open an administrator's account within three months after settlement, and allege that no report was filed until over two years from the appointment, that it was then filed without notice to them, that fees were allowed to attorneys for which no services were rendered, they make out a case for relief. *Van Akin et al. v. Welch*, 45 N. W. R., 406.

#### SECTION 2514.—

This cause having been brought and tried in the court below as a law action, without any objection on part of defendant, he cannot, on appeal, be heard to complain that it should have been tried as an action in equity. He should have moved in the trial court for a transfer of the cause to the equity calendar, as provided in this section of the Code. *Spelman v. Gill*, 75 Iowa, 717.

Where an action is commenced by equitable proceedings, when the case made is not one for equitable cognizance, the court rightly transferred the cause to the law docket. *Galliers v. Peppers et al.*, 76 Id., 521.

That an action is in equity when the remedy is at law, is no ground for demurrer. *Riddle v. Beatlie*, 77 Id., 168.

#### SECTIONS 2517, 2540.—

Where a defendant in an equitable action to foreclose a mortgage pleaded a counter-claim upon which a legal issue was framed, it was held that he was not entitled to have such issue tried by a jury. *Ryman v. Lynch*, 76 Iowa, 587.

The provisions of this section have no application to double actions seeking the same relief, and a motion to consolidate such actions was rightly refused. *Jamison v. Burlington & W. R'y Co.*, 43 N. W. R., 529.

#### SECTION 2516.—

Where a defendant has filed a motion to transfer the cause to the law calendar, he is not required to file his answer until the motion has been decided. *Ellis & Ellis v. Butler*, 78 Iowa, 632.

**SECTION 2517.—**

In an action to foreclose a mortgage, the defendant pleaded a counter-claim asking damages against the plaintiff for slander, and he complained on appeal, because the court refused to grant him a trial by jury on the counter-claim. *Held*, that he was not entitled to such trial,—the rule being that all issues of fact arising in equitable actions must be tried by the court. *Ryman v. Lynch*, 76 Iowa, 587.

**SECTION 2520.—**

"The provisions of this section of the Code, concerning the prosecution of a civil action, providing that it shall be followed in special proceedings, not otherwise regulated, so far as applicable." *Held*, that such application was properly made by petition, and, where the administrator filed no answer and offered no proof, the allegation of the petition should have been taken as confessed, and the relief prayed for granted. *Van Akin et al. v. Welch*, 45 N. W. R., 406.

**SECTION 2521.—**

It is no objection that an application to the court of probate was made in less than fifteen years after the rendition of the judgment, sought to be enforced, for such action was not an action upon the judgment within the meaning of this section, prohibiting actions on judgments of courts of record within fifteen years after their rendition. *Coffin v. Eisinger*, 75 Iowa, 30.

**SECTION 2529.—**

Under the third subdivision of this section the statute begins to run against a tax-sale purchaser's action to recover redemption money paid into the auditor's office, which an ordinance directs the auditor to hold subject to the order of the purchaser or his assignee, when the auditor in office receives the money from his predecessor, and not when it is first paid into the office. Successive officers are not to be regarded one and the same person, or as impersonal, except where they stand for and represent the public. *Hintrager v. Richter et al.*, 76 Iowa, 406.

**SECTION 2442.—**

Under this section, providing that the widow of a non-resident alien shall be entitled to the same rights in the property of her husband as a resident, except as against a purchaser from the decedent, the term "non-resident alien" means one who resides out of the state. *In re Gill's Estate*, 44 N. W. R., 533.

Mortgagees of the property of such non-resident alien are purchasers, within the meaning of this section. *Id.*

**SECTION 2421.—**

The fact that a claim against an estate is not proven within a year after the first notice of administration is given as required by this section, does not effect the jurisdiction of the court to determine the validity of such claim. *McLeary et al. v. Doran et al.*, 44 N. W. R., 360.

It is the province of the court, sitting in equity, to decide whether the bar of the statute should be removed on account of peculiar circumstances, provided under this section of the Code, but when the bar is removed, it is error to refuse a jury trial to establish the claim, if it is disputed. *Lamm v. Sovy*, (two cases), 44 N. W. R., 393.

**SECTION 2435.—**

Under this section, judgment may be rendered against an administrator, who has made a tender of payment, which was refused, where he fails to keep the tender good by bringing the money into court, or fails to pay the same on demand. *Ramwater v. Hummell*, 44 N. W. R., 814.

Where an administrator has been ordered by the probate court to pay a sum of money to one of the heirs of his intestate, his tender of such sum establishes his liability to pay the same. *Id.*

Where after refusal to accept such tender the administrator deposits the money in bank to the heir's credit, but fails to notify him of such deposit, until after the bank has failed, the administrator

remains liable, as if no deposit had been made. *Id.*

**SECTION 2440.—**

A sale by a referee in partition is a judicial sale within the meaning of this section, giving a dower in such property of her husband who has not been sold on execution or any other judicial sale. *Williams v. Weacott*, 77 Iowa, 332.

**SECTIONS 2441, 2451.—**

Section 2441 of the Code provides that the distributive share of the widow in the decedent's estate, "shall be set off as to include the dwelling house given by law to the home- \* \* \* unless she prefers a different arrangement. But no different arrangement shall be permitted where it would have the effect to prejudice the rights of creditors. By section 2451, it is provided that if the land cannot be divided it must be sold. *Held*, that, where the land is sold, creditors of the decedent's heirs have no such interest in the estate as will entitle them to require the widow's share to be paid exclusively from the proceeds of the homestead, which in the hands of the widow is by section 2408, exempted from liability for antecedent debts. *Kile v. Kile et al.*, 44 N. W. R., 718.

That the plaintiff did not know that her share was required by law to be filed within one year of the date of publication of the appointment of an administrator was insufficient excuse for her failure to file within the time prescribed by this section of the statute. *Roaf v. Kile*, 76 Iowa, 506.

**SECTION 2452.—**

A bequest to the wife of the testator "of the property of every name and nature, as long as she shall live," followed by a bequest over to the testator's daughters of so much of the property as may remain at the death of the wife, creates a life estate in the wife, with a power of disposition limited from the nature of the property and that to which it was adapted. Such bequest affects the widow's distributive share of the estate, within the meaning of section 2452 of the Code, and it does not elect, after notice, to take under the will she cannot take the benefit of the provisions of the Code for her therein. *In re Foster's Will*, 76 Iowa, 381.

A devise of a life estate to the wife of the testator does not bar her right to a distributive share in his realty, there being no provision in the will contrary to or inconsistent with such construction. *Howard v. Watson et al.*, *Id.*, 229.

Under the provisions of this section of the Code the widow's share cannot be affected by any act of her husband, unless she consents thereto within six months after she receives notice of the provisions of the will, by the other parties interested in the estate, no election by her is necessary, does the time within which it must be made to run till the notice is given; there being no presumption that she has knowledge of the provisions of the will. *Id.*

The failure of a widow to file her election under the will of her husband does not bar her right to so take, when no notice has been served on her of the provisions of the will. This section of the Code gives her six months after service of such notice to file her election, and the fact that she has knowledge of the provisions of the will makes no difference. *Howard v. Watson et al.*, 76 Iowa, 229. See also *In re Will of Foster*, 364.

**SECTION 2529.—**

An original notice in an action on account delivered to the sheriff and duly served March 1898. On the 24th of June following would have been barred by the statute of limitations. The notice was defective, in that it required the defendants to appear at the next August term of circuit court, which, it stated, would begin on the 30th day of August, when in fact it began on the 31st of that month. At this term there was no appearance for defendants, and the cause was continued and another notice served on the defendants. *Held*, that the defect in the first notice was fatal, and that the beginning of the action

from the time the second notice was placed in the hands of the sheriff, which was after the action was barred. *Fernkes & Bros. v. Case et al.*, 75 Iowa, 152.

Covenants of seizin and of good right to convey are synonymous; and if, at the time of the conveyance, the grantor does not own the land, the covenant is broken immediately, and the right of action at once accrues, and is barred by the statute after the lapse of ten years from that time, under this section of the Code. *Mitchell v. Kepler*, 75 Iowa, 207.

The statute of limitations will not commence to run in favor of a bailee until he denies the bailment and converts the property to his own use. Accordingly, where the plaintiff deposited with defendant a watch, to be repaired, and for safe keeping, and did not demand it for a period of ten years, when the defendant refused to deliver it, *held*, that an action for conversion might be brought at any time within five years after such demand and refusal. *Reisenstein v. Marquardt*, 75 Iowa, 294.

Where the statute of limitations begins to run against an ancestor in his life-time, it will not cease to run upon his death, except as to minor heirs. See section 2535 of Code. *Grether v. Clark*, 75 Iowa, 383.

This paragraph provides that actions founded on unwritten contracts, and those brought for injuries to property, or for relief on the ground of fraud, in cases heretofore solely cognizable in a court of chancery, and all other actions not otherwise provided for, must be brought within five years after the cause of action accrued. Section 2530 provides that in actions for relief on the ground of fraud or mistake, the cause of action will not be deemed to have accrued until the fraud or mistake complained of shall have been discovered. *Held*, that an action against a railroad company to recover the excess of charges required to be paid by the plaintiff over those required of other persons for the same service, brought more than five years after the cause of action accrued, its existence being fraudulently concealed by defendant, is not within section 2530, being an action at law. *Carrier v. Chicago, R. I. & P. R'y Co.*, 44 N. W. R. 208.

#### SECTIONS 2529, 2530.

By these sections of the Code, an action for relief for fraud in exclusively equitable cases must be brought within five years after discovery. Where an alleged fraudulent deed was executed in 1874, and recorded two years later, *held*, that the recording of the deed operated as a discovery of the fraud as to a creditor who had obtained judgment before its execution, there being no evidence that such discovery was unavailable as a basis of further inquiry and proceeding. *Hawley v. Page et al.*, 77 Iowa, 229; *Francis v. Wallace*, 77 Id., 373.

#### SECTION 2531.—

Where in an action for rent of sewing machine for a number of years, the evidence showed no contract except that plaintiff bought the machine, took it to defendant's house and left it there to be used by the family, it was presumed that the account was not continuous, and that the running of the statute of limitations was not suspended under this section of the statute, which provides that when there is a continuous open account the cause of action shall be deemed to have accrued on the date of the last item. *Gavin v. Bischoff*, 45 N. W. R., 306.

#### SECTION 2532.—

"The sheriff of the proper county," within the meaning of this section, is sheriff of the county in which the action is brought, although the defendant is in fact in another county. *Hampe v. Shaffer et al.*, 76 Iowa, 563.

#### SECTION 2535.—

For injuries resulting in the death of a minor, a right of action accrues to his administrator at the time of his death, and the statute of limitations begin to run, unaffected by this section. *Murphy v. Chicago, M. & St. P. R'y Co.*, 45 N. W. R., 362.

#### SECTIONS 2543, 2544.—

Under these sections every action must be prosecuted in the name of the real party in interest, except that a trustee of an express trust, or a party with whom or in whose name a contract is made for another's benefit, and others specified, may sue alone in their own names, it was accordingly *held* that one holding the legal title to land may sue in relation thereto, though she paid nothing for it, and her counsel paid the consideration and had the conveyance made to her without her knowledge. *Cassidy v. Woodward*, 77 Iowa, 354.

The persons who compose the board of health of a township are not trustees of an express trust, and are not entitled under these sections of the Code, sue in their own names to recover money for the use of said board. *Sanderson et al. v. Cerro Gordo County*, 45 N. W. R., 560.

#### SECTION 2544.—

Upon a division of a religious society, under an agreement for an apportionment of its property between the new societies organized by the several factions, the trustees of one of the new societies, appointed for the purpose of collecting its dues from the other new society under the contract of a division, are the proper parties to bring an action for that purpose, though the society for which they act is not incorporated; and the fact that the name of the society is joined with theirs as plaintiffs does not effect their right to recover. *Arte et al. v. Guthrie et al.*, 75 Iowa, 674.

#### SECTION 2545.—

This section provides that "all persons having an interest in the subject of the action, and in obtaining the relief demanded, may be joined as plaintiffs," and section 2583 permits such persons to unite with the plaintiff or to intervene in an action. *Held*, that the several judgment creditors might unite in a petition alleging that they have no adequate remedy at law, seeking a discovery of the judgment debtor's property, and to compel defendants, trustees of the judgment debtor, to perform certain duties which they allege will place such property within reach of legal process. *Gorrell et al. v. Gates et al.*, 44 N. W. R., 905.

#### SECTION 2566.—

A judgment against a minor is void where there has been no appearance for him, either by his regular guardian or by a guardian *ad litem*. *Dohms v. Mann et al.*, 76 Iowa, 723.

#### SECTION 2580.—

Under this section of the Code, an action against a foreign corporation may be maintained in the courts of this state when it is aided by attachment proceedings against the property of such corporation found within this state; and a judgment of a federal court in this state, dismissing a former action based on the same cause, but not aided by attachment, on the ground that it had no jurisdiction of the defendant, is no bar to the subsequent action aided by attachment. *Weyand v. The Atchison, Topeka & Santa Fe R'y Co.*, 75 Iowa, 573.

#### SECTION 2581.—

This section provides that when by its terms a written contract is to be performed in any particular place, an action for the breach thereof may be brought in the county in which such place is situated. Defendant ordered plaintiffs to manufacture and ship to him at S., a wagon, and agreed to pay one-half cash and the balance in six months, "said account to be settled by note at A. on receipt of goods." *Held*, that defendant was to perform by the note at A., and the right of action was for failure to do so, and that the action was properly brought in the county in which A. was situated. *Bradley et al. v. Palen*, 42 N. W. R., 623.

#### SECTION 2589.—

Where a non-resident defendant is found and served with a notice within a county other than the one in which he is sued, a motion to dismiss the action will be denied, as his remedy is to ask

a removal of the action to the county in which he was served. *Marquardt et al. v. Thompson*, 42 N. W. R., 634.

#### SECTION 2590.—

Under this section, requiring that a motion for a change of venue on the ground of prejudice of the inhabitants of the county in which suit is brought, or undue influence of an attorney in the suit, must be supported by the filing by the applicant of "an affidavit, verified by himself and three disinterested persons," one affidavit verified by the applicant and a separate affidavit by three disinterested persons, setting forth substantially the same statements as are contained in the applicant's affidavit as to the facts required by the statute, are sufficient. *Deere et al. v. Bagley*, 45 N. W. R., 557.

#### SECTION 2590. SUBDIVISION 3.—

The granting of a change of venue under this provision is a matter of discretion, though there were no counter affidavits, and the affidavits were not brought into court and examined. *Garrett v. Bickler et al.*, 42 N. W. R., 621.

Under this section of the Code, as amended by chapter 94, laws of 1894, an application for a change of venue on the ground of alleged prejudice of the judge, is addressed to the sound discretion of the judge, and this is so though no "counter affidavits" are filed, nor the affidavits examined in court. The judge is not, as a matter of course, to grant the change, but "being fully advised," he must decide "according to the very rights and merits of the matter." *Garrett v. Bicklin, Winzer & Co.*, 78 Iowa, 115.

#### SECTION 2600.—

Where the petition was not filed until after the time fixed therefor in the original notice. It was error for the court to refuse to dismiss the case on the motion of defendant; but this error was waived by the defendants then appearing and answering the petition, thus giving the court jurisdiction of his person—having already jurisdiction of the subject matter of the action. *Paddleford v. Cook*, 74 Iowa, 433.

#### SECTION 2604.—

Where a return of the service of a notice to redeem land sold at tax-sale, is made on the same paper, it may be verified by a proper affidavit attached and referring thereto; it need not be on the same paper. Nor the return show the county of service; for that is immaterial where the service is personal. Nor is such service deficient because it does not show for what county the acting notary was qualified as such; for of that the courts take judicial notice. *Rowland v. Brown*, 75 Iowa, 679.

#### SECTION 2610.—

Plaintiff demanded of Benton county five hundred dollars because of injuries to his wife on account of a defective bridge, and the claim was rejected, and an action was brought for that amount, but afterwards, by amendment the amount claimed was enlarged, on the ground that the injuries had turned out to be much more serious than at first supposed. Held that it was error to allow a recovery for the larger amount, since no claim therefor had been presented to the board of supervisors, as required by this section of the Code. *Marsh v. Benton County*, 75 Iowa, 489.

A claim presented to the board of supervisors and payment demanded, for "damages for loss of life of claimant's intestate by falling from a bridge by reason of the negligence of the county" in its construction, and stating the amount of damages, is sufficiently definite, under this section, without proof of the death, or specification of the facts constituting the negligence. *Dale v. Webster County*, 76 Iowa, 370.

#### SECTION 2612.—

The recording agent of an insurance company, whose business is merely to write policies and look after the interests of company in connection with property insured by him, is not an agent employed

in the general management of the business, within the meaning of this section of the Code, relating to the service of process on corporations. *State Ins. Co. v. Waterhouse et al.*, 43 N. W. R., 611.

#### SECTIONS 2612, 2613.—

An application for insurance was forwarded to the plaintiffs company by one who was not its agent, but a mere volunteer. An original notice in an action to recover on the alleged contract of insurance was served on one B, who was plaintiffs' recording agent in the county; that is, he had nothing to do with the business of the company except to write policies, and give attention to such policies as he had issued, and to look after the business of the company in connection with the property insured by him, held that the notice and service were void as to the plaintiff—not being authorized by section 2612 of the Code, because B was not an agent employed in the general management of the business of the company; nor by section 2613, because the action did not grow out of, nor was it connected with the office or agency of B. *The State Ins. Co. v. Waterhouse et al.*, 78 Iowa, 674.

#### SECTION 2618.—

This section of the Code authorizes service of the original notice in an action for partition of real estate, upon non-resident defendants, and is sufficient service, though such non-residents are minors. *Williams et al. v. Wescott et al.*, 77 Iowa, 332.

#### SECTION 2628.—

The doctrine of *us pendens* under this section does not apply to a petition for divorce, alleging that defendant has real and personal property, and asking for alimony, and that it be charged as a special lien upon the realty. A mortgage executed and recorded after such petition is filed is superior to either of the judgments for temporary or permanent alimony subsequently rendered. *Scott v. Rogers et al.*, 77 Iowa, 488.

#### SECTION 2630.—

A plaintiff may, in the same action in different counts, join a claim to recover rent of real property under an implied contract, and also a claim for damages for the wrongful occupation of the same property for the same time. In this case the first claim was pleaded in the original petition and the second one in an amendment. *Foster et al. v. Hinson et al.*, 76 Iowa, 714.

#### SECTION 2630.—

Under this section but one demurrer to a pleading can be filed, and so-called "amended demurrer" which presents wholly new matter, and arrests the progress of the cause, is no part of, nor an amendment to, the first demurrer, for which costs may be taxed. *Lundbeck v. Palmair*, 43 N. W. R., 271.

Under a rule that a fee should be taxed in favor of a successful party on the decision of a demurrer, held, that such fee should have been taxed against the defendant upon the overruling of his second demurrer, which he entitled an "amended demurrer," but which could not be so regarded, because it presented wholly new matter. Although a demurrer following a demurrer is forbidden by this section of the Code, defendant could not, having had the benefit of his unlawful demurrer, escape the penalty on the ground that it was illegally filed and should have been assailed by motion. *Lundbeck v. Palmair*, 78 Iowa, 434.

#### SECTION 2650.—

Where the plaintiff fails to state a material fact in his petition, and no objection is made thereto by demurrer or answer, the objection is deemed waived, and none can be urged thereto in the supreme court on appeal. *Lynn v. Morse*, 76 Iowa, 666.

A defect in verification of a petition in attachment is waived by answering and going to trial. It is not ground for a motion in arrest of judgment. *Turner v. Founker et al.*, 76 Iowa, 258. See, also, *Mitchell v. Joyce*, Id., 449.

## SECTIONS 2655, 2657, 2710.—

It is provided in these sections of the Code that the defendant may plead in his answer as many distinct or inconsistent defenses as he has, and that each affirmative defense must be set forth in distinct division of the answer. In an action against a railroad company for negligently burning plaintiff's hay, the first division of the answer, after admitting defendant to be a corporation as alleged, and denied "each and every other allegation contained in said petition not herein otherwise admitted." Held, that the words "not herein otherwise admitted," referred to the whole answer, and was not a statement of a different defense in a distinct division; and where the plaintiff's ownership of the hay sued for was admitted in the second division of the answer, the admission of improper evidence of such ownership was not prejudicial. *Comes v. The C., M. & St. P. Ry Co.*, 43 N. W. R. 235.

## SECTION 2659, PARAGRAPH 3.—

In an action upon contract against several defendants a cause of action against the plaintiff arising out of matters independent of the contract, must be in favor of all the defendants in order to be pleadable as a counter-claim. And so in an action on a promissory note against the principal and surety, a cause of action against the plaintiff and in favor of the surety alone, cannot be thus pleaded; but in such case, as an exception to the rule, a cause of action in favor of the principal alone, may be so pleaded. *Corbett v. Hughes*, 75 Iowa, 281. See, also, *Reeves v. Chambers*, 67 Id., 81.

## SECTION 2659.—

In an action by an administrator against several persons on a note given to the intestate, a debt contracted by the intestate to one of the defendants is a proper counter-claim under the Code (§ 2659), being a cause of action in favor of one of the defendants. *Sherman v. Hale et al.*, 76 Iowa, 383.

The term "counter-claim," as used in the Code, includes the "set-off," "counter-claim," and "cross-demand" of the Revision. And in an action by an administrator the two makers of a promissory note to his intestate, a claim in favor of one of the defendants for boarding the intestate's son may be pleaded as a counter-claim under this section of the Code. *Id.*

## SECTION 2665.—

A plea in avoidance must, for the purpose of the plea, confess the matter which it seeks to avoid; but such confession need not be in terms, but may be by implication; and such implication will arise by operation of law, where the plea in avoidance does not deny any of the matter sought to be avoided. *Day v. The Mill Owners' Mutual Fire Ins. Co.*, 75 Iowa, 694.

An answer cannot be said to contain a counter-claim, so as to necessitate a reply, where a decree in favor of defendants on the allegations of the petition would give them all the relief which they would obtain on the averments of their answer. *Kavaller v. Machula*, 41 N. W. R., 500.

No reply is necessary to affirmative facts alleged in an answer as a defense, where the defense to such matters does not rest upon the facts avoiding them. *Chase v. Kaynor et al.*, 43 N. W. R., 269.

## SECTION 2666.—

Although new matter alleged in a reply must not be inconsistent with the petition, yet where the answer and such reply raised an equitable issue, and the plaintiff filed a motion to try the cause as an equitable action, which was so ordered, and no objection was made to the reply, or the motion in the court below, and the cause proceeded to trial, held, that no objection to the reply could be heard in the supreme court. *Adams County v. Hunter et al.*, 78 Iowa, 328.

## SECTION 2683.—

Where one creditor brings an action to set aside, in his favor, a conveyance alleged to be fraudulent as to him, and another creditor comes in and alleges that the conveyance is also fraudulent

as to him, and asks for similar relief as to himself, he is not an *intervenor*, within the meaning of the Code, (§ 2683) because he is not interested in the matter in litigation, nor in the success of either parties to the action, nor against both; but he is a mere interloper, and his pleadings are unknown to the law and can have no legal effect. Consequently, a petition of intervention, so called, in such a case, does not give constructive notice, under the doctrine of *lis pendens*, that such person claims an interest in the land. *The Des Moines Ins. Co. v. Lent et al.*, 75 Iowa, 322.

Where one citizen of a county has brought an action to restrain and abate a liquor nuisance, another citizen of the same county has no right to intervene and join the plaintiff in the prosecution, because the right of intervention, as given by this section of the Code, must be based upon private interest; while no private interest is involved in this case, but the action is brought wholly for the public benefit. *Conley, Int., v. Zerber*, 74 Iowa, 609.

## SECTION 2686.—

In an action against a railroad company for a personal injury, alleged to have been caused by the negligence of the section boss in causing the speed of the train to be increased, the evidence showed that it was the conductor who ordered the increase of speed, held, to be an immaterial variance under this section of the Code. *Rayburn v. Central Iowa Ry Co.*, 74 Iowa, 637.

## SECTION 2689.—

Although an original assignment of errors may not be filed in the Supreme Court later than ten days before the first day of the trial term, yet an amendment to such assignment may be filed, under this section, upon motion for leave to do so, at any time before the submission of the cause; but, in this case, the costs accrued up to the time of filing the amendment are taxed to the appellant. *Stanley v. Barringer*, 74 Iowa, 34.

It is within the discretion of the court to allow a material amendment to be made in the pleadings at any time. *Estich v. The Mason City & Fort Dodge Ry Co.*, 75 Iowa, 443.

Under this and other sections of the Code, it has become the rule to allow amendments, and to deny them is the exception. Per *ROTHROCK, Justice*, in *Newman v. The Cov. Mut. Ins. Ass'n*, 78 Iowa, 59.

## SECTION 2691.—

The right of a defendant to a continuance on account of an amendment to the petition cannot for the first time be urged in the Supreme Court on appeal. *Wyland et al. v. Mendel et al.*, 78 Iowa, 739.

## SECTION 2704.—

In an action against a city for negligence resulting in injury to the plaintiff while driving on its streets, the plaintiff must allege and prove that he was free from contributory negligence, and the defendant may, under a general denial, prove acts constituting contributory negligence on the part of plaintiff. And in this case it was held that the defendant was properly permitted, under a general denial, to prove that the plaintiff was intoxicated at the time of the accident, which was at night; it being beyond controversy that it is negligence for an intoxicated person to drive on the streets of a city in the night-time. *Fernbach v. City of Waterloo*, 76 Iowa, 508.

## SECTION 2710.—

In an action to recover the value of hay destroyed by fire, the defendant in the first division of his answer, after admitting certain averments, proceeded: "And it denies each and every other allegation in said petition unless the same is herein otherwise admitted." In the second division certain other admissions were made. Held, that the word "herein," used in the first division, referred to the whole answer, and not only to the first division, and that therefore the first division did not set up a distinct defense unaffected by the admissions in the second division. Hence the erroneous admission of evidence to prove one of the

facts admitted in the second division was without prejudice, and it was not error for the court to state these admissions in the instructions to the jury. *Comes v. Chicago, Mil. & St. P. R'y Co.*, 78 Iowa, 391.

#### SECTION 2712.—

An amendment to a petition pleading a material fact, which is not denied by the answer, is to be regarded as admitted. *Estlin v. The Mason City & Fort Dodge R'y Co.*, 75 Iowa, 444.

#### SECTION 2717.—

In an action to abate a liquor nuisance, where plaintiff shows his right to maintain the action by alleging that he is a citizen of the county, such allegation is not put in issue by a general denial of the fact, nor by (what amounts to the same thing) a denial of knowledge or information sufficient to form a belief as to the truth of the averment. To form an issue in such case the facts relied on to negative the allegations of the petition must be specifically pleaded in the answer. *Craig v. Hasselman et al.*, 74 Iowa, 538.

#### SECTION 2729.—

In an action for personal, plaintiff alleged that she was walking north on O street, and that the defendants driving south at a "furious rate of speed" on the same street, and that when they reached M street they turned their horses suddenly to go up M street, and before she could get out of the way the horses ran against her. Held that the direction in which the defendants were driving, as well as the rate of speed, was immaterial, and need not be proved as alleged, but that the petition was sustained by evidence that defendants were driving east on M street, and that they negligently ran upon and injured the plaintiff, and an instruction that plaintiff could recover only upon proof of the literal averments of the petition was erroneous. *Robbins v. Diggins*, 78 Iowa, 521.

#### SECTION 2730.—

This section provides that in certain cases the signature to a written instrument shall be deemed genuine, and admitted, unless denied by the person whose signature the same purports to be, but that, "if such instrument be not negotiable, and purports to be executed by a person not a party to the proceeding, the signature thereto shall not be deemed genuine, and admitted, if a party to the proceeding \* \* \* state under oath that he has no knowledge or information sufficient to enable him to form a belief as to the genuineness of such signature." Held, where the plaintiff alleged himself to be the owner of a contract for the purchase of a machine, by written assignment from the vendor, and defendant put in issue the execution of the assignment and the plaintiff's ownership of the claim, that the burden was upon plaintiff to show the existence of the assignment. Its substance, and that the contract was in force at the time of the action. *Probert et al. v. Anderson*, 77 Iowa, 60.

Under this section providing that when a written instrument is referred to in a pleading, and is incorporated in or attached to such pleading, the signature thereto shall be deemed genuine and admitted, unless the person whose signature the same purports to be shall, in a pleading or writing, filed within the time allowed for pleading, deny the genuineness of such signatures, under oath, notes, copies of which were attached to plaintiff's petition, may be introduced in evidence without proof of the genuineness of the signature, though defendant's answer consists of a general denial. *Dickey et al. v. Baker et al.*, 41 N. W. R., 24.

In an action on a promissory note, where the signature is not denied under oath, the note may be introduced in evidence without proof of the genuineness of the signature. The fact that the answer is sworn to makes no difference, where it contains no such denial. *Jones, Dickey & Co. v. Baker et al.*, 76 Iowa, 303.

#### SECTION 2741.—

When the appellant in a law action seeks to have the judgment reversed on the ground of error in dismissing the case on the evidence given at the trial, it is not necessary or proper to bring up to the supreme court the evidence offered but not received. *The State ex rel Brad v. Chamberlin et al.*, 74 Iowa, 206.

Where on appeal it is designed to present to the court, the rulings of the court below in rejecting certain evidence, it is unnecessary and improper to set out in the abstract evidence not necessary to explain the exceptions taken to such ruling. *Hammond v. Wolf*, 78 Iowa, 227.

#### SECTION 2742.—

Whether the successor in office of the judge who tries a cause may certify the evidence for the purpose of an appeal, *quarre*, but, at all events, the certificate so made in this case was disregarded, because it was not entitled as in any case and did not purport to be attached to the evidence nor to identify it in any way. *Pattersonville Est. Int. v. Coad*, 74 Iowa, 710.

A recital in the certificate of the trial judge of the evidence in an equity case, that the cause was submitted upon packages of depositions filed upon certain dates, does not identify such evidence as required by this section of the Code amended by chapter 35, laws of 1882. The certificate should, by setting out the names of the witnesses, or the name of the officer before whom the deposition was taken, and the date when taken, or other explicit recital, identify with certainty the items of evidence referred to. *Reagan v. Hahn*, 75 Iowa, 733; *Cross v. Burlington & S. W. R. Co.*, 58, *Id.*, 63.

A certificate of the trial judge that the record contains all the evidence introduced and offered is not sufficient to authorize a trial *de novo*, in the supreme court, where the abstract fails to state that "it contains all the evidence contained in the record." *Polk County v. Nelson et al.*, and *The Same v. The Same*, 75 Iowa, 648.

Under this section requiring the evidence in an equitable action to be in writing and certified by the judge at any time within the time allowed for an appeal, and made part of the record, where a translation of the short-hand reporters notes of such action is not filed, though certified by the judge within six months, the time limited by section 2743, for an appeal, the evidence will not be considered on appeal. *Kawalter et al. v. Machin et al.*, 77 Iowa, 121; Followed in *Thomas v. E. Danald*, *Id.*, 209.

A certificate of the judge who tried the case which does not include the evidence offered on the trial, but purports to certify only the evidence introduced, is fatally defective, for the purpose of a trial *de novo*, on appeal. This section requires that for the purpose of trying a cause anew in the supreme court all the evidence offered on the trial must be certified by the judge, and made part of the record. *Giltrap v. Walters et al.*, 72 Iowa, 407. And where the abstract fails to state or certify that it contains all the evidence offered on the trial, no trial *de novo* can be had. *Parks v. Gerner*, *Id.*

An abstract on appeal in an action to set aside conveyance as fraudulent, which contains no statement that it contains all the evidence and is certified by the judge *quo*, does not authorize a new trial under this section. *State v. Nelson et al.*, 43 N. W. R., 80.

Under this section the certificate of the clerk for the purpose of identifying and authenticating the record, and not for the purpose of making written evidence of a part of the record, must be done by the certificate of the judge. *Runge v. Hahn*, 38 N. W. Rep., 389.

#### SECTION 2743.—

Under this section, the court, if either party request it, shall give its decision in writing, stating separately the facts found, and the legal conclusions found thereon, and the whole decision shall be a part of the record, and the finding shall have the effect of a special verdict, and it was held that findings of fact and law must be made prior to



contemporaneous with the judgment; and that it is irregular for the court to enter judgment and file the said finding at a subsequent day of the term. An agreement between the parties that the time for filing a bill of exceptions should be extended for ninety days, gave no authority to the judge to file his findings of fact after judgment was rendered. *Hodges v. Goetzman*, 78 Iowa, 476.

#### SECTION 2844.—

When a defendant moves for a verdict at the close of plaintiff's evidence, and the court intimates that the motion will be sustained, but made no entry on the calendar or given a direction for defendant, there has been no "final submission" of the case, within this section, providing that plaintiff may dismiss his action "before final submission of the case to the jury, or to the court, when the trial is to the court." *Morrissey v. The Chicago & N. W. R'y Co.*, 45 N. W. R., 545.

#### SECTIONS 2779, 2790, 2792, 2793.—

Every party to an action tried to a jury is entitled to have every fact or point essential to his case called to the attention of the jury by his counsel in argument; and, guided by this principle, the court may, in its discretion, determine whether one or more counsel shall address the jury either in the opening or closing of the argument. Accordingly, where the plaintiffs had two counsel, and one of them addressed the jury in the opening argument and then stated that they would next be addressed by counsel for the defendant, after which his associate would address them further on behalf of the plaintiffs, and the court then adjourned until the next morning; when defendant's counsel waived their right to address the jury, whereupon plaintiffs' counsel who was to have made the closing argument claimed the right to further address the jury, which claim the court denied; *held* on appeal, that the supreme court could not find that the court below had abused its discretion; it not appearing that there was any failure by the counsel who addressed the jury on behalf of plaintiff to fully and fairly present every fact and point material to the plaintiffs case. *Carrothers & Murray v. McMurray*, 75 Iowa, 173.

#### SECTION 2788.—

It is error to read to the jury the pleadings in a case, in charging the jury, when such pleadings are not copied into the instructions as part thereof. *Hall v. Carter et al.*, 74 Iowa, 364. But the judgment will not be reversed for such error where the issues were sufficiently stated in other paragraphs of the charge. *Id.*

#### SECTION 2790.—

This section provides that either party may take and file exceptions to the giving or refusing of instructions within three days after the verdict, and may include them in a motion for a new trial. *Held* that exceptions to instructions alleged for the first time in a motion for a new trial filed by agreement three months after the trial, were not in time to enable the court to review them, the agreement to extend the time for filing the motion for a new trial not having the effect of extending the time for filing exceptions. *Bush v. Nicholls*, 77 Iowa, 171. *Edwards et al. v. Cosgro et al.*, *Id.*, 423.

Where an exception to an instruction was filed the next day after the verdict was rendered, but it did not specify the part of the charge objected to, nor the ground of the objection, no question was thereby raised for review on appeal. *Norris v. Kipp*, 74 Iowa, 444.

Where an exception to an instruction was filed the day after the verdict was rendered, but did not specify the part of the charge, objected nor the ground of objection, raises no question for review in the supreme court. *Id.*

#### SECTION 2877.—

Under this section of the Code, a defendant served by published notice only, and against whom a judgment by default has been rendered, has two years from the date of the judgment to appear and move for a new trial. The two years

do not begin to run from the date of the default, for the entry of a default is not the rendition of a judgment. *Walker v. Cameron et al.*, 78 Iowa, 315.

#### SECTION 3055.—

An action against a sheriff to recover property seized on execution cannot be maintained unless the notice of ownership provided by this section of the Code has been given. *Doolittle v. Hall*, 78 Iowa, 571.

#### SECTION 2787.—

Instructions and exception thereto are part of the record, and they need not be made of record by bill of exceptions. *Allison et al. v. Jack et al.*, 76 Iowa, 205.

#### SECTION 2908.—

The jury may, in their discretion, return a special verdict. *Hall v. Carter*, 74 Iowa, 364.

#### SECTION 2822.—

Appellant agreed to submit her cause, on the facts and the law, to a referee, and she moved the court for the confirmation of the report of the referee as a whole; but on motion of the referee the court set aside the conclusions of law as found by the referee and rendered judgment on its own views of the law from the facts found by the referee. *Held* that appellant was not entitled, upon the setting aside of the referee's conclusions of law, to have the case submitted to a jury, as she would have been, had the finding of facts also been set aside. *In re Assignment of Hooker & Son*, 75 Iowa, 377.

#### SECTION 2831.—

Under this section the bill of exceptions must be filed during the term, unless the time is extended by consent or order of the court. *Deering v. Irving*, 76 Iowa, 519.

The time of filing a bill of exceptions may be extended by the stipulation of the parties filed in the cause and such agreement will be binding without the approval of the court. *The State ex rel Braden v. Chamberlin et al.*, 74 Iowa, 266.

#### SECTIONS 2831, 2835.—

A bill of exceptions to rulings on evidence, in the trial of an action at law, must be signed by the judge, or, in case he refuses to do so, by the by-standers. It is not sufficient that the bill be noted by the short-hand reporter and included in the extended transcript of his notes, which is certified by him. *The Ind. Dist. of Fairfield v. Farmer et al.*, 74 Iowa, 744.

This section of the Code requires a bill of exceptions to be filed during the term, unless by consent of parties, or by order of the court or judge, the time is extended. In a case where the bill was filed after the term, and without any such consent or order. *Held* that, it should be stricken from the files on motion in the supreme court. *Deering & Co. v. Irving*, 76 Iowa, 519.

#### SECTION 2837.—

The discretion lodged in the lower court, in the matter of granting new trials will not be disturbed by the supreme court, except in a clear case of abuse of that discretion. *Peebles v. Peebles et al.*, 77 Iowa, 11.

#### SECTION 2838.—

Matters not in hearing in the verdict may be shown by affidavits of jurors, as for instance, that, in determining whether a witness had, as he testified, signed a paper which was in evidence, they compared it with another paper which was erroneously supposed to be one which also claimed to have written. *Krudnevier v. Shields*, 70 Iowa, 428.

#### SECTION 2844.—

Thereupon the final submission of a cause it is error to allow the plaintiff to reverse the right to dismiss without prejudice in the event that the court shall decide the case against him. *McArthur v. Schultz*, 43 N. W. R., 233.

Under this section, one of two or more plaintiffs in an action for partition of land, may dismiss the action as to herself, on the ground that she has

sold her interest in the land, and the fact that there are other plaintiffs in the suit is immaterial. *Ocheltree et al. v. Hull*, 77 Iowa, 721.

#### SECTION 2871.—

Where the order appealed from was one setting aside a judgment by default, *held* that the supreme court could not consider a complaint made by appellant that appellee was permitted to file a demurrer to the petition after the judgment had been set aside, instead of an answer, as required by this section of the Code. His remedy was to move to strike the demurrer from the files. *Jean v. Hennessy*, 74 Iowa, 348.

#### SECTION 2877.—

The two years limitation period provide in this section does not begin to run from the time of default, but from the time of the rendition of the judgment. *Walker v. Cameron et al.*, 43 N. W. R., 199.

The two years limitation, provided in this section, do not begin to run from the time of default, but from the time of the rendition of the judgment. *Id.*

#### SECTION 2882.—

Where judgment creditors are not made parties to the foreclosure of a senior mortgage lien, their right to redeem is absolutely barred in ten years from the date of their judgment, and cannot be extended by the levy of an execution on the land before the expiration of the ten years. *Abbe v. Curtis et al.*, 77 Iowa, 644.

An action to enforce the lien of a judgment on real estate twelve years after its rendition is barred by this section of the Code, which makes the judgment a lien upon the land of the judgment debtor for ten years from the date of the judgment. *Polk County v. Nelson*, 43 N. W. R., 80.

A judgment is a lien upon the equitable interest in real estate, owned or held by the defendant at the time of its rendition, or subsequently acquired, so it was *held* that a judgment against defendant was a lien on real estate which he subsequently acquired and took possession of under a contract of purchase, though it had not been conveyed to him. *Rand & Co. v. Garner et al.*, 75 Iowa, 311.

A judgment ceases to be a lien on lands after ten years from the date of rendition. *Polk County v. Nelson et al.*, 75 Iowa, 648.

#### SECTIONS 2833, 2834.—

By these sections a judgment is a lien upon lands in the county from the date of rendition, but not upon lands in another county until the filing of a certified transcript therein. *Held* that these sections are to be construed with reference to the provisions requiring indexes to be kept and that until a judgment is properly entered in the index, it is not a lien, and the record is not notice, as against persons having no actual notice. A judgment is not rendered within the meaning of these provisions until it is indexed. *Atna Ins. Co. v. Hesser et al.*, 77 Iowa, 381.

#### SECTION 2906.—

An adjudication denying the motion made under this section, estops plaintiff from subsequently bringing an action to recover the amount claimed, though in such special proceeding he only asks for a final order requiring defendant to pay over money collected, and not for a judgment for the amount. *Hawk et al. v. Evans et al.*, 76 Iowa, 593.

A motion based on said section and containing only the essential facts entitling plaintiff to the relief asked, is a privileged communication, and not libelous. *Id.*

#### SECTION 2933.—

It is the duty of an executor to probate the will, and he should not, in the absence of a showing of bad faith, be held personally liable for the costs. And in a case where the executors and others proposed the will for probate, but it was contested on the grounds of undue influence and incapacity, and there was a general verdict for the contestants, *held* that a motion to tax all the costs, except the fees of the witnesses to the will, to the proponents, was properly overruled. *Meeker et al. v. Meeker et al.*, 74 Iowa, 352.

#### SECTION 2940.—

The plaintiff held a judgment against one of the defendants rendered in Kansas. The other defendant was the wife of the judgment debtor, to her he had conveyed land in Iowa without consideration. *Held* that plaintiff might maintain an action in chancery against both defendants, who were non-residents of Iowa, for the purpose of obtaining judgment against the husband, on the Kansas judgment, and against the wife to subject the land in Iowa standing in her name, to the payment of the judgment so obtained; since it often happens in actions in chancery that the same relief is not sought or granted against all parties joined as defendants. *Taylor v. Branscombe et al.*, 74 Iowa, 534.

#### SECTION 2951.—

Damages resulting from false representations, whereby one is induced to purchase land and pay therefor more than its true value, constitute a "debt for property obtained under false pretenses" within this section of the Code, prescribing such a debt as a cause for attachment. *Stanhope v. Swafford et al.*, 77 Iowa, 594.

#### SECTION 2961.—

Under this section of the Code, where there is a recovery on an attachment bond for the wrongful suing out of the attachment, an attorney's fee may be allowed the plaintiff, even though he recover but nominal damages. *Lyman v. Landerbaugh*, 75 Iowa, 481.

#### SECTION 3016.—

A proceeding by intervention in an attachment suit, under this section of the Code, is not necessarily of an equitable nature, and cannot be so regarded on appeal, when not so treated in the court below. *The Clinton National Bank v. Studebann*, 74 Iowa, 104.

#### SECTION 2903.—

This being a provisional proceeding under this section of the Code, for the custody of property pending the determination of its rightful ownership, *held* that the evidence (see opinion) was sufficient to justify an order requiring the property to be placed in the custody of the court. *Brandt v. Allen*, 76 Iowa, 50.

#### SECTION 2906.—

A motion for an order upon an attorney to pay over money collected by him; under this section of the Code, and which contains only a statement of the facts essential to the recovery of the relief asked, is a privileged communication, and is not libelous. *Hawk & Co. v. Evans et al.*, 76 Iowa, 593.

#### SECTION 2906.—

This section of the Code requiring delivery bonds, given for attached chattels, to be filed with the clerk of the court, is directory merely, and a failure to so file the bond does not discharge the obligors therein. *The New Haven Lumber Co. v. Raymond et al.*, 76 Iowa, 225.

#### SECTIONS 3016, 3019.

Where attached property is ordered discharged upon the petition of a third party claiming it, under section 3016 of the Code, the plaintiff, in order to prevent the execution of the order, must perfect his appeal within two days thereafter, as provided in section 3019 of the Code; otherwise, the property will be discharged by operation of law. *Ryan v. Heenan*, 76 Iowa, 589.

#### SECTION 3019.—

This section is not limited to a dissolution of the attachment on motion of the defendant, but applies to an order of discharge obtained one intervening under section 3016, claiming title to the property. *Id.*

#### SECTION 3055.—

A notice to the sheriff, under this section that the property about to be levied upon by the sheriff, which states merely that he must not "make levy on \* \* \* any personal property situated on

(certain lands) the same being my own individual property, or that which I have leased, and which I am in full possession of," is indefinite as to the ownership of the property, and cannot be made the basis of replevin against the sheriff. *Doolittle v. Hall, Sheriff*, 43 N. W. R., 535.

Chapter 117, laws of 1886, giving to junior creditors the right to levy on mortgaged chattels, upon tender or payment of the mortgage debt, does not authorize the mortgagee to replevy the chattels from the officer making the levy, without giving the notice of his claim required by section 3055 of the Code, even though the execution creditor has not offered to pay the mortgage debt. *Danforth v. Harlow*, 71 Iowa, 236.

The provisions of this section of the Code applies to special as well as general executions. *The Bank of Reinbeck v. Brown, Sheriff*, 76 Iowa, 696.

#### SECTION 3090.—

Where an execution sale is set aside because the land was a homestead, a fact not known to the purchaser at the time of the sale, he is entitled under this section to recover the amount paid on his purchase, but has no right to have the judgment assigned to him. *Jones v. Blumenstein et al.*, 77 Iowa, 361.

#### SECTIONS 3101, 3112.—

Where a confession of judgment authorizing the entry of a decree of foreclosure of a deed of trust contains an agreement that the sale under the decree shall be absolute, with no right of redemption, a decree and sale in accordance with the terms of the agreement is conclusive against a subsequent judgment creditor. *Cook v. McFarland et al.*, 43 N. W. R., 519.

Such agreement is not invalidated by the provisions of the above sections of the Code, regarding the rights of holders of junior liens to redeem from prior judgments and sales thereunder. *Id.*

#### SECTION 3102.—

While the statutory right to redeem property sold under execution can be exercised only within the period and in the manner prescribed by the statute, the right of the grantee in a fraudulent conveyance to discharge a judgment against his grantor, which has been adjudged a lien on the property, is an equitable one, and quite different. And where a husband conveyed his farm to his wife in fraud of his creditors, and afterwards a judgment was recovered against him, and in an action against her it decreed to be a lien on the farm, and before the sale she appealed from the decree, but the appeal was not decided until more than a year after the sale; *held* that, the sheriff was properly enjoined from executing a deed under the sale at the end of the year, and that upon the decree creating the lien upon the property being affirmed, and the payment by her, soon thereafter, to the clerk of the court in which the decree was rendered, of the amount of the lien, though this was more than a year from the date of the sale, the property was discharged of the lien, and the injunction against the sheriff was properly made perpetual. *Teabout v. Jaffray & Company et al.*, 74 Iowa, 28.

#### SECTIONS 3112, 3115.—

After the expiration of nine months from the date of an execution sale of land, no creditor has a right to redeem the land, unless the creditor who has last redeemed within the nine months enters on the sale-book within ten days after the expiration of the nine months, the utmost amount he is willing to credit on his claim, as provided in section 3115 of the Code. In other words, the creditor who has last redeemed within the nine months, may if he choose, hold the land as against all persons except the owner, but his lien, and the claims out of which it arose, will in that case be extinguished. *Leap v. Forrest*, 76 Iowa, 195.

#### SECTION 3133.—

Under this section providing that the death of only one of the defendants shall not prevent execution being issued, which, however, shall operate alone on the survivors, and their property, execution

issued after the death of a sole defendant is inoperative, and it is immaterial that the property was already held under attachment before defendant's death, or that the judgment *in rem*; service having been made by publication. *Bull v. Gilbert et al.*, 44 N. W. R., 815.

#### SECTION 3148.—

A referee appointed under section 3137 of the Code has jurisdiction under this section to issue a warrant of arrest of a debtor, upon the proof being made as required by this section. *Marriage v. Woodruff*, 77 Iowa, 291.

#### SECTION 3154.—

Where a petition for a new trial was founded on fraud practiced by the successful party in obtaining the judgment and on unavoidable mistake preventing the petitioner from defending, as authorized by this section of the Code, it was *held*, that the appeal from the order striking the petition from the files, was not taken within six months from the rendition of the default judgment was immaterial, as that judgment was not involved in the appeal in the sense that the appeal was taken directly from it. *Wishard v. McNeil*, 42 N. W. R., 578.

Under this section a motion to set aside a judgment by default may be made at a term subsequent to the term at which it was rendered. *Walker v. Freestone*, 45 N. W. R., 303.

#### SECTION 3154.—

Judgment by default for want of an answer was rendered against the defendant Dec. 17, 1887. June 5, 1888 he filed a petition for a new trial under this section of the Code, on the grounds of fraud and unavoidable casualty, which was stricken from the files. Within six months after the last order, but more than six months after the judgment by default, he appealed to the supreme court. On motion of the appellee to dismiss the appeal because not taken in time, *held* that, though the appeal could not properly be regarded as taken from that judgment, yet that judgment was involved in the appeal from the order striking the petition for a new trial from the files, and hence the motion could not be granted. *Wishard v. McNeil*, 78 Iowa, 40.

Plaintiff made default in an action against him, although he knew that the debt on which he was sued had been paid and receipts given therefor. In an action to set aside this judgment rendered by default, he alleged that he was not able to find the receipts prior to the rendition of the judgment, but that he had since found them; but he did not allege facts showing due diligence in searching for the receipts. *Held*, that he was not entitled to a new trial, under section 3154 of the Code, on the ground of newly discovered evidence. *Heathcote v. Hawkins & Co.*, 74 Iowa, 566.

#### SECTIONS 3163, 3164.—

These sections providing that the supreme court has jurisdiction over all judgments and decisions of all courts of record, do not provide for an appeal from the verdict of a jury, and an appeal will be dismissed where the record simply shows that a verdict was rendered thereon. *Dicky v. Givens et al.*, 41 N. W. R., 606.

#### SECTION 3168.—

Where the original notice is merely defective, and having been properly served, on an appeal by the defendant from a judgment by default, without having appeared in the court below to correct the error, the judgment will be affirmed as this section provides that a judgment or order shall not be reversed for any error which can be corrected on motion in an inferior court until such motion has been made and overruled. *Gray v. Wolf*, 77 Iowa, 630.

If the plaintiff has failed to establish his rights to recover, the defendant should move the court to direct a verdict in his favor, or ask an instruction to that effect. He cannot have a reversal of the judgment without a motion in the court below

for a verdict, upon the ground that the evidence does not sustain the allegations of the petition. *Kirk v. Litterest*, 71 Iowa, 71.

#### SECTION 3173.—

Under this section, prohibiting appeals to the supreme court, when the amount in controversy does not exceed \$100, unless the trial judge shall certify that the cause involves a question of law upon which it is desirable to have the opinion of the supreme court, the supreme court has no jurisdiction to review the ruling of the court below, in such a cause touching the sufficiency of evidence, to warrant the submission of questions to the jury or its ruling on a motion to set aside a verdict, as being contrary to law and the evidence, or to instructions given, since these are questions of fact and not of law. Nor can it review rulings granting or refusing instructions in such cases as this, because this involves questions of fact, as well as of law. *Bensly v. Chicago & N. W. R'y Co.*, 44 N. W. R., 544.

Where a decree was rendered in a cause, adjudicating all the issues between the original parties, but the final disposition of the case was delayed by reason of an intervention. *Held*, that the time for taking an appeal from the decision of the issues between the original parties, commenced to run from the time of entering the first decree, and its correctness could not be called in question in any appeal taken after six months from such decree. *Carler v. Davidson*, 73 Iowa, 45.

The certificate of the trial judge required by this statute for an appeal to the supreme court of a cause involving less than \$100, is not sufficient to confer jurisdiction upon the appellate court when it fails to state that the questions certified are involved in the case. *Beeler v. Garrett et al.*, 76 Iowa, 231; citing *Beach v. Donovan*, 74 Id., 543.

An action to foreclose a mortgage is not a case involving an interest in real property within the meaning of this section of the Code, providing that the limitation on appeals prescribed therein shall not apply to such cases, and, if it involve less than \$100, can only be appealed on the certificate of the judge upon a question of law. *Brown v. Smith et al.*, 76 Iowa, 315.

The amount in controversy must be determined from the pleadings alone; that it must be possible, consistently with the pleadings, to render judgment against one of the parties for more than \$100; and where plaintiff's claim of about \$70 is admitted, with the exception of two or three dollars, and defendant puts in a counter-claim of only \$102, the case is not appealable without a certificate. *Buckland v. Shepard et al.*, 77 Iowa, 229.

Where the amount in controversy is less than \$100, and there is no certificate of the trial judge, as provided in this section, the supreme court has no jurisdiction. *Wilcox v. Chisum, Treas.*, 42 N. W. R., 636.

The fact that it is apparent from appellant's abstract, in an appeal from a refusal to tax an attorney's fee in an action to abate a nuisance, that he would not be entitled to a fee exceeding \$100, in amount, does not necessitate a certificate by the trial judge, as that is required only when it affirmatively appears from the pleadings that the amount involved is less than \$100. *Farley v. Gelsheker*, 43 N. W. R., 279.

Where the averments of the petition and the prayer for judgment together show with certainty that the amount in controversy exceeds one hundred dollars, it is sufficient to give the supreme court jurisdiction under this section of the Code. *Rutter v. Plate et al.*, 41 N. W. R., 474.

Facts essential to the jurisdiction of the supreme court, must appear on the face of the record, and, as an appeal must be taken within six months after the rendition of the judgment, jurisdiction cannot be assumed where the record gives merely the day and month, but not the year, of the entry of judgment, and states that notice of appeal was served on the attorneys of the adverse party and on the clerk, but fails to show how long after the entry of judgment the appeal was taken. *Gleason et al. v. Collett*, 77 Iowa, 448.

The certificate required by this section must be

made at the time of the trial, and then made part of the record. *Brown v. Grundy County*, 43 N. W. R., 529.

#### SECTION 3174.—

The requirement of this section that, when an appeal is taken by "part of several co-parties" the notice of appeal must be served upon the other co-parties, is not jurisdictional, but in such case the appellate court may determine the questions arising between the parties before it, and which do not effect the rights of the parties not served with notice. *Wright et al. v. Mahaffey et al.*, 76 Iowa, 96.

The failure to serve notice of appeal is not jurisdictional, but the court can consider such questions in the case as affect only the rights and interests of the appellant and adverse party. *Moore v. Held*, 73 Iowa, 538.

#### SECTION 3175.—

A party who has not appealed cannot insist upon other or different relief from that awarded him in the court below. *Lamb v. Council Bluffs Ins. Co.*, 70 Iowa, 228.

#### SECTION 3178.—

Although appellant's abstract stated that notice of the appeal had been served on the clerk of the trial court, appellee's abstract, which was not controverted, and must therefore be taken as true, denied that the notice was served on the clerk. As such service is necessary to perfect the appeal, it follows that the appeal must be dismissed. *Indt. Dist. of Sheldon v. Apperle et al.*, 76 Iowa, 238. See also, *McManus v. Swift*, Id., 576; *Littleton Sav. Bank et al.*, Id., 660.

The supreme court is without jurisdiction of a cause submitted on an abstract reciting that defendant "filed notice and acceptance, by plaintiff's attorney, of appeal," but not reciting service of notice on the clerk, as required by this section of the Code; no transcript being filed, having no jurisdiction, the cause was dismissed by the court on its own motion. *McManus v. Swift et al.*, 76 Iowa, 576.

#### SECTIONS 3178, 3179.—

Where the abstract, on appeal to the supreme court, contains a notice of appeal, but contains no evidence or statement that the notice had been served on the appellee or his attorney, or on the clerk of the trial court, the supreme court acquires no jurisdiction except to dismiss the cause. *Michel v. Michel*, 74 Iowa, 577.

A notice stating the appeal to be "from the decision of the said district court," was insufficient, as not showing what decision, final or otherwise, was intended. *Weiser v. Day et al.*, 77 Iowa, 25.

Under this section of the Code, an appeal is taken by the service of a notice in writing on the adverse party, and also on the clerk of the court wherein the proceedings were had, stating the appeal, etc. Where the abstract or appeal fails to show service of such notice on the clerk, the cause will be dismissed. *Hayden v. Goeppinger et al.*, 41 N. W. R., 607.

#### SECTION 3179.—

In the absence from the record of copies of notices of appeals to the supreme court, there is no sufficient showing that an appeal has been taken. *Cox et al. v. Macy et al.*, 76 Iowa, 316.

Under this section the clerk of the court from which an appeal is taken to the supreme court must transmit a copy of the record to that court. Such court cannot recognize the original papers, except the testimony; nor that, when only certified by the original certificate filed with the other papers. *Id.*

#### SECTIONS 3179, 3181.—

When the statute requires a transcript of the record in a case to be sent to the court on appeal, the requirement is not complied with by filing the original papers in the court. And so, in an equity case, where a trial *de novo* was sought, and there was no agreed abstract, and appellee claimed that

did not appear that the evidence was before the court, *held*, that the original certificate of the trial judge to the evidence could not be considered, and, there being no transcript of such certificate, the evidence must be regarded as without certificate and the appeal dismissed. And in the same case, for a like reason, *held*, further, that the original notices of appeal filed in the appellate court, instead of copies thereof, as the law requires, could not be considered as showing that an appeal had been taken, and for that reason, so, the appeal must be dismissed; especially since the original notices of appeal showed that service thereof was made before the day of the judgment appealed from. *Id.*

#### SECTIONS 3180, 3182.—

Under these sections all causes appealed were on thirty days before a term of the supreme court are for hearing at that term, unless continued by consent for cause; and a recital in an appellant's notice of appeal that the case will be for hearing at a term following one which is more than thirty days from the service of such notice is mere surplusage, and does not affect the appeal or the time of the trial thereof. *Mickley v. Tomlinson et al.*, 41 N. W. R., 311.

#### SECTION 3185.—

Since the abolition of the circuit court (chap. 134, laws of 1886) applications for change in, or correction of, the records of that court, must be made to the district court, and that without an order from the supreme court. *De Wolfe v. Taylor*, 71 Iowa, 648; *Synolds v. Suttif*, *Id.*, 540.

#### SECTION 3181, CHAPTER 56, LAWS OF 1874.—

It is not the practice in the supreme court under this section of the Code to affirm causes summarily on motion, after they have been prepared for submission on the part of appellants, on the ground of delay in presenting abstracts and arguments. If prejudice has resulted to the other party by reason of such delay, redress must be sought in some other way. *Fowler v. Town of Auberry Hill*, 74 Iowa, 644.

#### SECTION 3183.—

An original assignment of errors cannot be filed in the supreme court later than ten days preceding the first day of the term at which the appeal is for hearing. *Stanley v. Barringer*, 74 Iowa, 34.

#### SECTION 3186.—

An appeal from a decree abating and enjoining liquor nuisance, and the filing of a *supersedeas* bond, does not suspend the injunction, but only the enforcement of the nuisance, and for violation of an injunction pending the appeal the defendant may be punished for contempt. *Lindsey v. Clayton*, *strict Court*, 75 Iowa, 510.

#### SECTION 3207.—

Under this section, providing that assignments of error must point out the very error objected to, among several points in a motion must point out which is relied on as error, and that the court will only regard errors assigned with requisite exactness, an assignment of error objecting to the admission of testimony, which does not point out the testimony to which objection is made, is insufficient and will not be considered. And the same is true as to an assignment that the court erred in refusing to instruct the jury to return a verdict for the defendant when the motion to instruct was based upon three grounds, neither of which was signified; also as to an assignment with reference to a motion to set aside the verdict and for a new trial, based upon seven grounds, neither of which is specifically relied on; and also as to a general assignment that "the court erred in rendering judgment against the defendant on the verdict." *Abraham v. Iowa City*, 76 Iowa, 301. This section provides that assignments of error must point out the very error objected to, and that among several points in a demurrer or motion the assignment must designate which is relied on as error, and that the supreme court shall regard only such errors as are assigned with the requisite

exactness. Under this rule five different assignments of error in the present case were disregarded. *Id.*

#### SECTIONS 3226, 3228, 3229, 3242.—

Section 3226, providing that no counter-claim shall be allowed in an action of replevin, was not meant to prevent the defendant from setting up the value of the property and the damages suffered by him on account of the wrongful taking of the property under the writ, and recovering the property, or its value, and the damages, etc., for the statute specially provides that he may do this. *McIntire v. Eastman*, 76 Iowa, 455.

#### SECTION 3216.—

By this section of the Code the writ of *certiorari* lies in which an inferior court or officer exercising judicial functions is alleged to have exceeded his proper jurisdiction, or is otherwise acting illegally, "when in the judgment of the superior court there is no other plain, speedy and adequate remedy." section 3345 provides that a civil action may be brought in the name of the state, *inter alia*, "against any person acting as a corporation within this state without being authorized by law"; also, "against any corporation doing or omitting acts which amount to a forfeiture of their rights and privileges as a corporation, or exercising powers not conferred by law." The defendant, a foreign insurance corporation, having received from the auditor of Iowa, a certificate under the provisions of the law as to insurance corporations, was alleged to be offending against the laws of the state by making more than one kind of insurance. *Held* that *quo warranto* and not *certiorari* was the proper manner of inquiry into such charges. *State, ex rel. Phillips, v. Fidelity & Casualty Co.*, 77 Iowa, 648.

#### SECTION 3226.—

This section of the Code providing that no counter-claim shall be allowed in an action of replevin does not prevent the defendant from recovering damages in such action for the detention of the property replevied. *McIntire v. Eastman*, 76 Iowa, 455.

#### SECTIONS 3329, 3330.—

Where the holder of a first mortgage on land, for further security, takes a deed for the land, and gives back a bond to recover upon the payment of the sum named, the mortgage does not, in the absence of an intention to that effect, merge into the legal title, so as to let in a second mortgage as a first lien on the land; and such intention will not be presumed, but the contrary. Since such result would be against the interest of the first mortgagee. Indeed, the effect of the deed and bond to reconvey is simply that of another mortgage under section 3329 of the Code. *McElhaney v. Shoemaker et al.*, 76 Iowa, 416.

Under section 3329 of the Code, providing that where the vendor of real estate has given a bond to convey the same upon payment of the purchase money, the purchaser may in default of payment, be subjected to an action to foreclose his interest, and under section 3330 the vendee, for the purpose of foreclosure, will be treated as a mortgagor, and a transaction in which a mortgagee takes a conveyance of the legal title and executes a bond for a deed to reconvey to the mortgagor on payment of the debt, is a mortgage; and a mortgage to the previous lien, and prior to such transaction, does not acquire priority, in the absence of an intent to effect a merger. *McElhaney v. Shoemaker et al.*, 76 Iowa, 416.

#### SECTION 3331.—

Under this section of the Code, as well as at common law, a private individual is not allowed to maintain an action to restrain or abate a public nuisance, unless he can show that it occasions some peculiar or special damage or injury to him. Accordingly, where defendant built a bridge over a lake claimed by the plaintiff to be navigable, and the plaintiff afterwards engaged in the business of keeping boats to let for pleasure and fishing purposes on the lake, and the bridge proved an impediment to his boats, and made his business

less profitable than it would have been, held that he had no peculiar right to navigate the lake, and could not maintain an action to abate the bridge as a nuisance. *Hunt v. The Cedar Rapids, Iowa Falls & N. W. R'y Co. et al.*, 76 Iowa, 185.

#### SECTION 3388.—

Plaintiff and defendant entered into a contract by which the former leased the road of the latter for forty years at a stated sum per mile per year. This action was brought to vacate the contract on the ground of fraud by defendant in procuring it, and to restrain the defendant from bringing any actions to recover installments of rent due under it. Held that, the case did not justify the interposition of equity, because the fraud complained of could be finally adjudicated in one action at law for rent, and that a temporary injunction was warranted neither by this section of the Code, nor by the usages of courts of equity in such cases. *The D. & S. C. R'y Co. v. The C. F. & Minn. R'y Co.*, 76 Iowa, 702.

#### SECTION 3483.—

The validity of a judgment sentencing a defendant to imprisonment until his fine is paid cannot be questioned upon *habeas corpus*, on the ground that no time is fixed for the imprisonment. Since this section of the Code provides that it shall not be permissible in such a proceeding to question the judgment of a court when acting within its legitimate province and in a proper manner, and the judgment is only erroneous and not void. *Elmer v. Shingley*, 45 N. W. R., 303.

#### SECTION 3407.—

A commitment for contempt upon facts not within the knowledge of the court, but proved by the testimony of others, is void, unless the evidence be reduced to writing and filed and made of record, as required by this section of the Code, before the order of commitment is made. And in a case where the evidence was taken down by the short-hand reporter, but his notes were never filed, but some weeks later a translation was filed, not for the purpose of remaining of record in the district court, but for use in the supreme court, held that the order of commitment was of no effect, and that the party committed should be discharged. *Dorgan v. Granger, Judge*, 76 Iowa, 156. See, also, *Gietz v. Aylesworth*, 66 Id., 632; *Goetz v. Stuteman*, 73 Id., 604.

#### SECTION 3511.—

Under this section of the Code a justice of the peace has jurisdiction of an action commenced by attachment of property within the township, though the defendant is a non-resident of, and is not found within, the state, and is not personally served with notice. Sections 3507, 3509, limiting the jurisdiction of justices of the peace, apply only to actions commenced by personal service, or to actions in the district court. *Anderson v. Union Pacific R'y Co.*, 77 Iowa, 443.

#### SECTION 3518.—

A party objecting to a decision rendered in a justice's court must, in an intelligible manner, and at the time, make his objections known, in order to have the proceedings reviewed by proceedings in error. *Condey v. Stifel*, 77 Iowa, 283.

#### SECTIONS 3507, 3508, 4000.—

Judgments for fines and costs rendered in justice's courts, in prosecutions for violations of the prohibitory liquor law, are not in any case liens on the real estate used for the unlawful sales, but may be made such in proper cases, by filing transcripts in the office of the clerk of the district court, under sections 3507, 3508 and 4000 of the Code; and the district court has no authority, in an action brought for that purpose, to declare such a judgment, of which no transcript has been filed, a lien on real estate and to direct the same to be sold for its satisfaction. *State v. McCulloch et al.*, 77 Iowa, 450.

#### SECTION 3508.—

A judgment rendered in a justice's court, a transcript of which is filed in the district court,

becomes a lien on real estate of defendant for ten years from the filing of the transcript, and from the date of the judgment only. *Band & Co. Garner et al.*, 75 Iowa, 311.

#### SECTION 3583.—

In this section, requiring a justice of the peace when an appeal is taken, to file in the office of the clerk of the appellate court all the original papers and a transcript of his docket, the word "transcript" means deposit, and when the papers and transcript are so deposited by him the cause is deemed in the appellate court. *Harrison v. Clifton*, 75 Iowa, 737.

#### SECTIONS 3604, 3605.—

Section 3605 of the Code provides that the rule the fourth subdivision of section 3604 shall apply "when the purchase money, or any part thereof, has been received by the vendor, or the vendee, with the actual or implied consent the vendor, has taken and held possession thereunder and by virtue of the contract." Held, that this last provision relates solely to contracts for the purchase and sale of real estate, and does not have the effect to qualify the rule enacted in the preceding provision as to leases for a period exceeding one year. *Thorp v. Bradley*, 75 Iowa, 737. Following *Hunt v. Coe*, 15 Id., 197.

#### SECTION 3602.—

The provision of this section that the appellant must pay the costs of the appeal unless he obtains a more favorable judgment than that which he appealed, applies only to appeals of the party recovering the judgment. Where an appeal is by the party against whom the judgment was rendered, he must, to avoid the costs of an appeal in case the appellee recovers some amount, proffer to pay a certain amount, with costs, provided in section 3503. *Cohen v. Gibson*, 65 N. W. R., 454.

#### SECTION 3614.—

The "three days' notice to quit" required by this section to be given to the defendant in an action of forcible entry and detainer, authorized by section 3611 to be brought against a tenant holding over after the expiration of his term, may be given before the expiration of the term, and not bad though given more than three days before such expiration. *McClain v. Collins*, 77 Iowa, 4. Followed in *Drain v. Jacks*, Id., 620.

#### SECTION 3620.—

In an action of forcible entry and detainer, contention by defendant that he is entitled to the possession of the land in controversy, because a contract by plaintiff to sell it, defendant conceding the title to be in plaintiff, is not prohibited by this section of the code, providing that the question of title shall not be investigated in that kind of action. *Hall v. Jackson*, 77 Iowa, 201.

#### SECTION 3636.—

Where the defendant in a criminal cause testifies in his own behalf, and there is evidence tending to impeach his character for truthfulness, instruction that such evidence shall be regarded by the jury only in determining the credit to be given defendant's testimony as a witness, in his own behalf, sufficiently restricts the application of such evidence to defendant's character as a witness. *State v. Rainsberger*, 45 N. W. R., 34.

#### SECTION 3639.—

Non-expert witnesses cannot be allowed to give opinions as to the mental condition of a testator on the day the will was made, when they did not see him, and could not testify as to his condition on that day. *Blake v. Bourke*, 74 Iowa, 519.

This section of the Code does not prohibit a heir from testifying for the executor, in an action against him by another heir, where the action is not based on any alleged hereditary rights. *Row v. Brown*, 76 Iowa, 170.

#### SECTION 3647.—

Before a witness is entitled, under this section, to be excused from answering questions relating

to his participation in a fraudulent conveyance, on the ground that his answers would tend to criminate himself, it must reasonably appear, not only that the conveyance was constructively fraudulent so as to be invalid as against creditors, but that it was criminally fraudulent under the statute; also, that prosecution for the offense, if any, is not barred by the statute of limitations. *Mahanke v. Cleland*, 76 Iowa, 401.

#### SECTION 3643.—

This section of the Code prohibits physicians to testify as to communications made to them in their professional capacity, unless the party in whose favor the prohibition is made waives the right conferred. *Held*, the fact that plaintiff testified to her general good health during several years prior to an accident, and that a certain physician had occasionally attended her, constituted no waiver of the right; and it was error to allow him to testify to communications then made as to her condition of health. *McConnell v. City of Osage*, 45 N. W. R., 550.

A plaintiff and her husband were held competent to testify as to an oral contract between plaintiff and her mother, who was dead, in a suit to enjoin the sale of the homestead to satisfy an execution against plaintiff's brother as an heir of her mother in the homestead. This section of the Code, in prohibiting them from testifying in a suit against the executor, etc., in support of such contract, not applying to a suit of a judgment creditor of an heir. *Drake v. Painter et al.*, 77 Iowa, 731.

#### SECTION 3641.—

In a civil action by an administrator, the wife of defendant is a competent witness for him as to transactions between the deceased payee of the note sued on, and the defendant, at which she claimed to have been present under the provisions of this section, which makes husband and wife competent witnesses for each other in civil actions. *Auchampaugh v. Schmidt*, 77 Iowa, 13.

#### SECTION 3647.—

Under this section, which provides that a witness shall not be required to answer a question, when the matter sought to be elicited will tend to render him criminally liable, or to expose him to public ignominy, a witness is not *prima facie* excused from answering questions asked in support of allegations of a petition that witnesses' husband had conveyed land to her in fraud of creditors, and that she had received with like intent, and without consideration, unless she can show reasonable grounds for believing that her answer to any particular question would expose her to public ignominy, or to prosecution under section 4074 of the Code. Neither ignominy nor criminality is necessarily involved in such conduct as that alleged, and there is nothing to show but that, were she criminal in the matter, her prosecution would be barred by limitation. *Mahanke v. Cleland, Judge, et al.*, 76 Iowa, 401.

#### SECTION 3648.—

A witness may be asked whether he has ever been convicted of a felony; but not whether he has ever been convicted of a crime, since crimes are not all felonies. *Hanners v. McClelland*.

#### SECTION 3655.—

No valid objection can be made to the testimony of experts as to the characteristics of different signatures, where it is confined to the signature in controversy, and others admitted to be genuine. *Kiordan v. Guggerty*, 74 Iowa, 688.

Under this section, providing that "evidence respecting handwriting may be given by comparison made by experts, or by the jury, with writings of the same person which are proved to be genuine," the opinion of a witness as to the genuineness of a disputed lost signature which he has seen, based upon a comparison of his recollection of it with a signature of the same person in evidence, and admitted to be genuine, is competent. *Hammond v. Wolf*, 78 Iowa, 227.

#### SECTION 3652.—

The provisions of this section of the Code applies as well to oral as to written agreements. *Cobb v. McElroy*, 44 N. W. R., 824.

#### SECTION 3655.—

This section of the Code renders competent the opinion of an expert as to the genuineness of the signature to the disputed instrument, which was lost before the trial, but after he had examined it, based on a comparison of a genuine signature with his recollection of the appearance of the disputed signature. *Hammond v. Wolf*, 42 N. W. R., 778.

#### SECTIONS 3663, 3665.—

These sections of the Code provide that no evidence of contract for the creation or transfer of any interest in lands, except leases for a term not exceeding one year, is competent, unless it be in writing and signed by the party to be charged; but that this provision shall not apply where the purchase money, or any portion thereof, has been received by the vendor, or the vendee, with the actual or implied consent of the vendor, has taken and held possession thereof under and by virtue of the contract, *held*, that when land is sold under an oral agreement that the vendee will execute a mortgage for the unpaid purchase money, the delivery of possession to the vendee being the consideration for such oral agreement, brings the same within the exception of the statute. *Devlin et al. v. Eggleston et al.*, 44 N. W. R., 545.

The lien acquired by the vendor by virtue of such oral contract, is superior to that of a subsequent judgment creditor of the vendee, where the credit was not extended on the faith of the land. *Id.*

This lien arising by contract, and not by mere vendors, the lien is not affected by the vendee's conveyance of the land, under section 1940 of the Code. *Id.*

#### SECTION 3664.—

It is not competent to establish by parol evidence a trust in real estate alleged to have been established by a verbal agreement. *Richardson v. Haney et al.*, 76 Iowa, 101.

#### SECTION 3665.—

In order to take a parol gift of lands out of the statute of frauds, on the ground of part performance, the burden is upon the person seeking to enforce it to establish the parol contract by definite and unequivocal testimony, and to show that the acts alleged to be done thereunder are clear and definite, and referable to such contract. *Truman v. Truman et al.*, 44 N. W. R., 721.

#### SECTIONS 3685, 3687.—

The plaintiff served upon defendant's secretary a subpoena, directing him to produce at the trial certain papers to be used as evidence. The secretary refused to produce the papers, although admitting that he had them in his possession. Plaintiff then orally moved the court for a rule on the defendant for the production of the papers, but the court denied the order. *Held*, that this ruling was right, because under these sections of the Code, the application for such an order must be based upon a petition, stating the facts expected to be proved by the papers. The motion was not directed against the witness for contempt in refusing to obey the subpoena, which would have made an entirely different case. *Beebe & Co. v. The Eq. Mut. Life End. Association*, 76 Iowa, 129.

#### SECTION 3732.—

Under this section, in respect to serving notice to take depositions, it is a good service on the plaintiff and one of the defendants, if a notice addressed to the attorney who has appeared for both, is accepted by him, though he appends to his signature to the acceptance language indicating that he is the attorney of plaintiff only. *Walker v. Abbey et al.*, 77 Iowa, 702.

#### SECTION 3777.—

Although this section does not, nor does any statute, prescribe the time within which the translation of the short-hand reporter's notes

must be filed, yet it has been held in *Hammond v. Wolf*, 42 N. W. R., 778, that they could be properly filed at any time before the appeal was required to be perfected.

Where a skeleton bill of exceptions states that the short-hand reporter's notes are on file, and makes them and the translation thereof a part of the bill, and directs the clerk to copy the translation thereof into the bill, this is sufficient, even though the translation is not filed until after the filing of the bill. *Hunter v. The Bur., Cedar Rapids & N. Ry Co.*, 76 Iowa, 490.

#### SECTION 3804.—

Under this section of the Code entitling a justice of the peace to fees "for each official certificate," the justice was not entitled to fees for the certificates attached to the copies of papers, as they failed to comply with section 3806, which requires that the certificate shall show that the fees claimed were taxed in criminal cases when the prosecution failed, or that the fees could not be made from the persons liable to pay them. *Hinesley v. Mahaska County*, 43 N. W. R., 198.

#### SECTIONS 3804, 4348, 4349.—

This section provides that the fees of a justice of the peace for the trial of criminal cases shall be one dollar for each six hours or fraction thereof; section 2739, defines a trial to be the judicial examination of the issues whether of law or fact, in the cause; and sections 4348, 4349 declare that in a criminal case an issue of law arises upon a demurrer to the indictment, and issue of fact on a plea of not guilty, or of former convictions or acquittal. Held that, under these provisions, where a justice of the peace pronounces judgment on a plea of guilty, there being no objection to the information, and no evidence introduced, there is no trial, and the justice not entitled to such fee. *Mathews v. Clayton County*, 44 N. W. R., 722.

#### SECTION 3814.—

This section allows witnesses five cents per mile for actual travel, both ways, to attend court, and provides that, in criminal cases, where the defendant is adjudged not guilty, such fees shall be paid by the county. Section 3818, provides that, in no criminal case shall witnesses for the defense be subpoenaed at the expense of the county, except upon order of the court or judge before whom the case is pending, and then only upon a satisfactory showing that the witness are material and necessary for the defense. Held that, where a witness in a criminal case attends without being subpoenaed, at the request of the defendant's counsel, he is not entitled to mileage, though he may have been included in the order granting the defendant authority to subpoena witnesses, that not being an order or request of the court to such witness to attend. *State v. Willis*, 44 N. W. R., 690.

#### SECTION 3829.—

An attorney selected by a peace officer, for appearing before a justice of the peace and prosecuting a defendant for the unlawful sale of intoxicating liquors, is entitled to only \$5, under this section of the Code, no matter how many distinct offenses stated in as many counts, are charged in the information upon which the prosecution is based. *Schulte v. Keokuk County*, 74 Iowa, 292.

#### SECTION 3841.—

Exceptions duly taken to an order overruling a motion to retax costs bring up the question as to whether they were properly taxed, without any exception to the order taxing the costs. *The State v. Rainsbarger*, 74 Iowa, 539.

#### SECTION 3862.—

Forcible defilement is defined by this section of the Code as taking a woman unlawfully and against her will, and by force, menace, or duress, compelling her to be defiled. An indictment alleged that the defendant did wilfully take one S., unlawfully and against her will, and by force and menace and duress compelled her to be defiled, and then and there lay hold of her with his hands, and held her upon the ground, and did then and

there force, ravish, and have carnal knowledge of her in manner and form aforesaid was held not bad for duplicity on the ground that it charged both forcible defilement and rape. *State v. Montgomery*, 45 N. W. R., 292.

#### SECTION 3867.—

On the trial of an indictment for seduction, testimony of the prosecutrix that she understood that defendant had other living children was incompetent. *State v. Thompson*, 45 N. W. R., 293.

It is also incompetent to prove by testimony of the prosecutrix that the defendant, after moving from the state, wrote letters to her and to others, denying that he was the father of her child; the letters themselves being the best evidence. *Id.*

#### SECTION 3872.—

The elements of the crime of assault with intent to commit murder are (1) the assault, (2) the specific intent to kill; and (3) malice aforethought; and an indictment which charges these facts is sufficient, even though the facts alleged are not such that, if death had resulted, the crime would have been murder in the first degree. *The State v. Keasling*, 74 Iowa, 528.

#### SECTION 3884.—

Under this section the essence of the offense of burglary is the intent to commit larceny, and an indictment for burglary need not allege the kind, value or ownership of the property intended to be stolen. *State v. Jennings*, 44 N. W. R., 739.

#### SECTION 3909.—

In an indictment under this section of the Code it was held that it was not necessary to allege the particular nature or character of the defendant's employment, but that it would have been sufficient to allege generally that he was in the employment of the person named as clerk, servant or agent. And if, having alleged in the indictment that the defendant's employment was of a special character, the prosecution was bound to aver that the money came into his hands by virtue of such special employment, held that the indictment (for which, see opinion) was not deficient in that respect. *State v. Jamison*, 74 Iowa, 602.

To fraudulently obtain the signature of a party to a mortgage containing the ordinary covenants is an offense under section 4073 of the Code. And an indictment which sets out a copy of the mortgage showing the covenants is not bad, because it fails to allege that the person whose signature was fraudulently obtained, owned the land. *State v. Jamison* 74 Iowa, 613.

#### SECTIONS 4012, 4424.

It is within the discretion of the trial court to grant or refuse separate trials to defendants jointly indicted, for an offense less than a felony. *State v. Kirkpatrick*, 74 Iowa, 505.

#### SECTION 4013.—

The indictment in this case charged the defendant with keeping a house of ill-fame, to which he permitted persons to resort for purposes of prostitution and lewdness; also that, at his solicitation and request, prostitution and lewdness were practiced in said house. Held, that the latter allegation was mere surplusage, being the allegation of matter of evidence, which it was unnecessary to prove. *State v. Schaffer*, 74 Iowa, 704.

An instruction that if defendant kept house of ill-fame, which was resorted to for purposes of prostitution, with the knowledge and consent of the defendant, the jury should find him guilty of keeping a house of ill-fame, sufficiently defines the crime of wilfully keeping a house of ill-fame, resorted to for purposes of prostitution, under this section. *State v. Clark*, 43 N. W. R., 273.

#### SECTION 4015.—

To let a house to a fallen woman for lewd purposes for one night is a statutory offense under this section of the Code, and to charge one falsely with such offense is actionable *per se* without pleading special damages. *Halley v. Gregg*, 74 Iowa, 563.



## SECTION 4016.—

Under this section, as amended by section 2 of chapter 142, laws of 1884, the inveigling or enticing of a female before reputed virtuous to a house of ill-fame, constitutes one offense, and to knowingly conceal or assist or abet in concealing such female so deluded or enticed, for the purpose of prostitution or lewdness, constitutes another offense; and where in some of the counts of an indictment one offense is charged, and in another count both are charged, and the verdict is "guilty as charged in the indictment," with nothing in the record to show what count or counts the jury found to be sustained, *held* that it was error to overrule a motion in arrest of judgment. *State v. Terrill*, 78 Iowa, 149.

## SECTION 4029.—

Where a certain seed company agreed with the defendant to sell for him sixty bushels of "Bohemian oats" at \$10 a bushel. The contract containing a clause to the effect that it was agreed and understood between the parties thereto that the transaction was "of a speculative character, and not based upon the real value of the grain." *Held* that, this was not a gambling contract, as the promisor's obligation thereunder was definite, and independent of any contingency. *Hanks v. Brown*, 44 N. W. R., 811.

## SECTION 4074.—

Where a chattel mortgage is made without consideration, and solely for the purpose of defeating the creditors of the mortgagor, but ostensibly to secure a promissory note, and the property remains in the hands of the mortgagor, and the mortgagee attempts to enforce the mortgage by taking the property, the mortgagor may plead and show in defense the want of consideration and fraudulent character of the mortgage. Both parties in such case being guilty of the crime defined in section 4074 of the Code, the law will leave them where it finds them, and will not lend its aid to the consummation of the fraud by refusing to hear testimony, showing the fraudulent nature and intent of the transaction, to overcome the *prima facie* case made by the mortgage itself. *Galpin v. Galpin*, 74 Iowa, 454.

## SECTION 4097.—

To constitute libel, it is not necessary that the publication should charge the commission of a statutory crime. And where the charge made constitutes libel, as defined by this section of the Code, it is actionable *per se*, and special damages may not be alleged. *Halley v. Gregg*, 74 Iowa, 503; *Call v. Larrabee*, 60 Id., 212.

## SECTION 4107.—

Under this section, as amended by chapter 103 of laws of 1878, which provides that "no defendant convicted of murder shall be admitted to bail," and which must be regarded as repealing all prior inconsistent legislation relating to the subject matter, one convicted of murder in the second degree is not entitled to be admitted to bail pending to an appeal to the supreme court from the judgment of conviction. *Baldwin v. Westenhaver et al.*, 75 Iowa, 547.

## SECTION 4160.—

This section of the Code, which provides that "when a public offense is committed on the boundary line of two or more counties, or within five hundred yards thereof, the jurisdiction is in either county," is not in valid under that provision of the state constitution, which provides that the "right of trial by jury shall remain inviolate," said section having been the law of the state from a date prior to the adoption of the first constitution. *State v. Pugsley*, 75 Iowa, 742.

## SECTION 4166.—

This section provides that an indictment for seduction must be found within eighteen months after the commission of the crime. An indictment found Nov. 17, 1888, charged the crime of seduction on or about February 1, 1886, and also charged that for two years after the act the de-

fendant was out of the state, which fact was admitted by the defendant. The evidence on the trial showed the criminal act as on or about July 25, 1885; *held*, that the indictment was not barred by the statute, and that it was sufficient if the act charged was proved to have been committed within the period of limitation. *State v. Moore*, 77 Iowa, 449.

Defendant and prosecutrix had had illicit intercourse for more than a year, when defendant went away, and prosecutrix reformed and led a virtuous life until after defendant's return, in about a year, when, under promise of marriage, their former relations were resumed. *Held*, that defendant was guilty of seduction when the first offense was committed after their former illicit relations had been broken off. *Id.*

Under this section of the Code an indictment for seduction must be presented within eighteen months after the commission of the offense, but by section 4169 the time during which the defendant is not publicly and usually within the state is not counted. In this case the indictment was presented November 17, 1888, and it charged the commission of the offense about February 1, 1886, and alleged that the defendant was out of the state for two years next after the commission of the offense. The state was allowed to prove the commission of the offense on or about July 25, 1885, to which defendant objected on the ground of surprise. *Held*, that the objection was not good, since defendant admitted his absence from the state, and the date last named being within the statutory period, after counting out the two years, it was competent to prove the commission of the offense at that time, though it was alleged in the indictment to have occurred at a later date. 78 Id., 494.

## SECTION 4189.

This section providing that one charged with a misdemeanor may give bail to the officer making the arrest, and that the magistrate shall endorse upon the warrant the amount of bail, and directions for the enlargement of the accused upon his giving it. A person charged with a misdemeanor may be admitted to bail without appearing before the magistrate. *State v. Benzoin et al.*, 44 N. W. R., 709.

## SECTION 4201.—

Under this provision of the Code, a private person is authorized to make an arrest for public offense, committed or attempted in his presence. *State v. Boyington*, 75 Iowa, 756.

## SECTION 4233.—

This section of the Code requires the magistrate, in preliminary examinations, to issue subpoenas for witnesses desired by either state or defendant. *Held* that until the arrest of the defendant, the magistrate has no jurisdiction over him, and cannot bind the county for the mileage and attendance fees of witnesses subpoenaed before such arrest. *Warnstaff v. Louisa County*, 76 Iowa, 525.

## SECTION 4256.—

Under this section of the Code, as amended by chapter 42, laws of 1886, where twelve persons were summoned and appeared as grand jurors, and the clerk selected seven by lot to constitute the panel, but prior to the empanelling of this jury, and before the others of the twelve had been discharged, one of the seven was excused, *held* that it was proper for the sheriff to fill the panel, under the order of the court, by selecting for that purpose one of the twelve who had not been drawn by the lot of the clerk. *The State v. Gurlagh*, 76 Iowa, 141.

## SECTIONS 4293, 4421.—

G. B. H. was a witness before the grand jury which found the indictment in this case, and proper minutes of his testimony were made, and he signed his true name to the minutes, but his name was indorsed upon the indictment as J. B. H. *Held* that if the variance might be urged as a ground for setting aside the indictment, it was no ground for excluding the evidence of the witness on the trial. *The State v. Story*, 76 Iowa, 292.

## SECTION 4293.—

Where a witness is examined before the grand jury, and the minutes of his evidence taken down by the clerk of the grand jury, and he signed his true name to the minutes, a mistake in the indorsement of his name on the indictment is no ground of objection to him, when called as a witness on the trial. *Id.*

The state was permitted to examine a witness whose name was not indorsed upon the indictment, as required by this section of the Code, upon showing notice to the defendant, as required by section 4421, but the notice stated the residence of the witness to be in Kansas City, Kansas, whereas, it proved to be in Kansas City, Missouri; and the statement in the notice, of what the state expected to prove by the witness varied somewhat from what was actually proved by him. But it was held this was no ground for reversal of the judgment, since it did not appear that the defendant was in any manner prejudiced by these irregularities. *State v. Raineberger*, 74 Iowa, 196.

## SECTIONS 4298, 1543.—

Where an indictment charged the keeping of a building with intent to sell therein, contrary to law, intoxicating liquors, and also charged actual sales therein, but not as unlawful keeping for sale. It was shown that intoxicating liquors were kept on the premises, but there was no evidence of any sales. *Held* that the evidence of keeping was improperly admitted; because there was not an allegation of that fact; and that as no sales were proved, the defendant could not lawfully be convicted; because there remained nothing but the keeping of the building with an unlawful, but unexecuted intention, which is not a punishable offense. *State v. Tierney*, 74 Iowa, 237.

## SECTION 4300.—

An indictment, which in one count, charged that defendant committed an abortion on the deceased with instruments, and thereby caused her death, and in another count, that he used drugs for the purpose, is not void for duplicity, since it only charges one offense in accordance with this section of the statute, which provide that an indictment shall charge but one offense, but may charge it in different forms to meet the testimony. *State v. Baldwin*, 45 N. W. R., 297.

An indictment charging that the defendant kept a house of ill-fame, resorted to by persons for the purpose of prostitution or lewdness, charges only one offense,—keeping a house of ill-fame. *State v. Toombs*, 45 N. W. R., 300.

An indictment, which in one count charges that the defendant committed an abortion on deceased with instruments, and thereby caused her death, and, in the other count, that he used drugs for the purpose, is not void for duplicity, since it charges only one offense, in accordance with this section of the Code, which provides that "an indictment shall charge but one offense, but it may be charged in different forms to meet the evidence." *State v. Baldwin*, 45 N. W. R., 297.

An indictment which charges that the defendant attempted to perform an abortion on a woman, thereby causing her death, but does not allege an intent to take her life, charges murder in the second degree only. *Id.*

## SECTION 4306.—

Under this section of the Code defects and imperfections, in an indictment which do not tend to prejudice the substantial rights of the defendant, on the merits, are not deemed defects or imperfections affecting the validity of the indictment. *State v. Canford*, 76 Iowa, 330.

## SECTION 4314.—

An indictment charging the defendant as principal may be supported by evidence showing him to have been an accessory, since the statute makes accessories principals. *The State v. Pugsley*, 75 Iowa, 742.

## SECTION 4509.—

A judgment that each of defendants pay a fine of fifty dollars, and \$62.75 costs, and that in default

thereof they each stand committed to the county jail for fifteen days, is not illegal as being a judgment for imprisonment for costs; but the imprisonment clause will be held to relate only to the fine, since as to that it is not in excess of the statute. *State v. Boynton et al.*, 75 Iowa, 733.

## SECTION 4374.—

Under this section of the Code, the supreme court will interfere with the ruling of the court below, on a petition for change of venue, when the trial court has abused its discretion. *State v. Billings*, 77 Iowa, 417.

## SECTION 4381.—

Where there is a change of the place of trial in a county where the trial is had is primarily for the costs of the case made in that county, it is entitled to be reimbursed by the county in which the cause originated. *Lockhart et al. v. Montgomery Co.*, 76 Iowa, 79.

## SECTION 4405.—

Under this section, requiring a challenge of a juror for cause to distinctly specify the facts constituting such cause, a challenge for cause which does not show with reasonable certainty, a ground upon which it is based, is insufficient. *State v. Munchrath*, 43 N. W. R., 211.

And the question whether an opinion formed by a juror from reading the evidence upon the trial of another defendant for the same offense, would prevent his rendering a true verdict upon the evidence in the subsequent trial is for the trial court under section 4409, to determine; and in case of doubt the supreme court will not interfere with the decision. *Id.*

## SECTION 4406.—

Where a notice of appeal was addressed to the attorneys of appellee and the clerk of the district court, but does not appear to have been served on the clerk as required by this section of the Code to perfect the appeal the supreme court has no jurisdiction, and the appeal must be dismissed. *Redhead v. Baker et al.*, 45 N. W. R., 733.

## SECTION 4413.—

An assignment of error that "the court, on its own motion, directed the verdict against the defendant," is not sustained by a record which merely recites that "at the close of the evidence the court, on its own motion, instructed the jury in each case in form as directed," as that statement refers only to the form of the verdict. *State ex rel. Littleton v. Harbach et al.* (two cases), 43 N. W. R., 272.

## SECTION 4466.—

Under this section of the Code a defendant charged with the third offense of selling liquors in violation of law, may be convicted of the first offense. *The State v. Gaffney*, 66 Iowa, 262.

## SECTION 4421.—

Where a witness not before the grand jury is introduced by the State, upon notice on the trial under this section of the Code, stating what the State will prove by him, it is not limited in the examination of the witness to the matters stated in the notice. *State v. Craig*, 78 Iowa, 637.

## SECTION 4712.—

Under this section of the Code and section 1 article 4 of the constitution, the governor has power to remit a forfeiture upon an appeal bond, as well after judgment has been rendered thereon as before, and to remit the same in favor of the sureties on the bond as in favor of the principal. *Harlin v. The State et al.*, 78 Iowa, 263.

## SECTION 4489.—

Newly discovered evidence is not a ground recognized by the Code for which a new trial will be granted in criminal cases. *State v. Lee*, 45 N. W. R., 545.

## SECTION 4522.—

An appeal from a judgment for costs against prosecuting witnesses in an information for infor-

on, on the ground that there was no probable cause for the prosecution, is an appeal in a criminal action, and as such, must be taken within a year after judgment, as in this section provided. *v. Hodgson*, 44 N. W. R., 708.

Where the defendant on such information is indicted before a justice of the peace, such conviction is a bar to any inquiry in the district court, on appeal as to whether there was probable cause for the prosecution. *Id.*

#### SECTION 4538.—

Where a defendant has been convicted of a crime charged in two counts, and, on appeal one of the counts is found to be bad, and it cannot be shown on which count he was found guilty, the judgment must be reversed. *State v. Merkle* et al., 74 N. W. R., 695.

This section of the Code requires the supreme court in a criminal case, to examine the record, and render such judgment thereon as the law and facts, without regard to technical errors, allow, or to affirm, therefore, in such case, cannot be sustained. *State v. Bahus* and *State v. McAtee*, 44 N. W. R., 711.

#### SECTION 4539.—

Where the intoxicating liquors of a pharmacist are found to have been seized under a search warrant, and it was proved (upon an appeal to the district court) that he made sales of such liquors to persons in the habit of becoming intoxicated, the court instructed the jury, upon such facts, to find a verdict for the defendant. *Id.* That instruction was erroneous, as matter of law, that the state had a right to appeal to the district court, under this section of the Code for purpose of obtaining "a correct exposition of law." *The State v. Ward* et al., 75 Iowa, 637.

#### SECTION 4550.—

In the trial of an indictment for larceny of cat-evidence that the defendant and his accomplices were seen going in the direction of the place where the cattle were stolen; that the defendant the state the same day search was made for him, and afterwards when arrested, denied his guilt; and that the cattle were found at the residence of the defendant's father, where defendant sometimes lived and worked—is sufficient to support the testimony of defendant's accomplices under this section of the Code. *The State v. Van Kle*, 45 N. W. R., 388.

#### SECTION 4560.—

While a conviction cannot be had on a charge for assault upon the testimony of the prosecuting witness alone, the rule applied only to criminal prosecutions, and not to a civil action for damages for assault and battery committed in an attempt to commit rape. *Rogers v. Winch*, 76 Iowa, 546. This section proving that in a prosecution for assault the defendant cannot be convicted upon the testimony of the person injured, unless she be corroborated by other evidence tending to connect defendant with the commission of the offense, does not apply to an assault with intent to commit a rape. *State v. Grossheim*, 44 N. W. R., 541. A female under the age of thirteen years is legally incompetent to consent to sexual intercourse, nor can she consent to an assault for that purpose. *Id.*

Although under this section a man cannot be convicted with the crime of rape upon the uncorroborated testimony of the prosecuting witness alone, yet in a civil action for damages for assault and battery in an attempt to ravish the plaintiff, a verdict may be rendered upon the uncorroborated testimony of the plaintiff. *Rogers v. Winch*, 76 Iowa, 546.

The rule of evidence that a person charged with a crime cannot be convicted upon the testimony of a prosecuting witness unless it be corroborated by other evidence tending to connect the defendant with the commission of the crime, does not apply to a case of assault with intent to commit a crime. *State v. Hatfield*, 75 Iowa, 592.

#### SECTION 4562.—

Under this section of the Code, requiring in an information, a statement of the acts constituting the offense charged in ordinary and concise language, etc., an information charging that the defendant "did commit the crime of unlawfully and willfully disturbing and interrupting the school taught by," etc., is not sufficient to sustain a conviction. *State v. Butcher*, 44 N. W. R., 239.

Such defect in an information is not waived by a failure to object thereto until after verdict, under the provisions of section 4491 of the Code. *Id.*

#### SECTION 4702.—

When one has been tried and convicted upon an information before a justice of the peace, and he appeals to the district court, he has power to waive trial by a jury in the appellate court, and to submit to a trial by the court; and where he does so, and is so tried and found guilty and judgment rendered against him, he cannot afterwards insist that the court could not rightly try him without a jury. *The State v. Ill*, 74 Iowa, 441; (*see State v. Carman*, 63 Id., 130; *State v. Larrigan*, 66 Id., 428, which were trials upon INDICTMENTS, distinguished.)

#### CHAPTER 71, LAWS OF 1888, SECTION 4.—

Under the provisions of this section of the statute, *held* that an action on the bond of a permit-holder might be brought by any citizen of the county. *State, ex rel. v. Matland*, 71 Iowa, 543.

#### CHAPTER 71, LAWS OF 1888, SECTION 13.—

Under the provisions of section 1537 of the Code, failure to make reports and selling at illegal profit would not render the seller liable to punishment for illegal sales which were otherwise lawful. *State v. Von Halleck*, 72 Iowa, 541.

#### CHAPTER 110, 5TH GENERAL ASSEMBLY.—

This act prohibiting the conveyance of swamp lands until the title shall be perfected in this state, does not render invalid a contract made by a county with attorneys, by which, in return for services rendered by the latter in securing and perfecting the title to swamp lands, it being stipulated that a portion of the lands should be conveyed to them when the title to the whole should be acquired. *Emmet County v. Allen* et al., 76 Iowa, 499.

#### CHAPTER 136, LAWS OF 1876.—

The first section of this act, making women eligible to any school office in the state, repeals by implication so much of section 697 of the Code as requires, in election contests, the technical statement that the contestant is an "elector." *Brown v. McCollum*, 76 Iowa, 479.

#### CHAPTER 43, LAWS OF 1878.—

The provisions of section 7 of this chapter must be construed as abolishing all trusts in land, paid for by one person, where the conveyance is to another absolutely, whether for the benefit of the person paying the money or for some other person, excepting in cases where the conveyance is so taken without the knowledge or consent of the person whose money has been used, or where the alienee, in violation of some trust, has purchased the land so conveyed with moneys belonging to another person, and excepting also the trust in favor of creditors. *Connelly v. Sheridan*, 42 N. W. R., 585.

#### CHAPTER 47, LAWS OF 1876, AS AMENDED BY CHAPTER 160, LAWS OF 1878.

The provisions of this chapter, as amended, authorizing municipal corporations to extend their limits, and providing that "no lands within said extended limits," which shall not have been laid off into lots, etc., shall be taxable for city purposes, does not apply to extensions made prior to the passage of the statute. *Perkins v. City of Burlington*, 77 Iowa, 553.

#### CHAPTER 211, LAWS OF 1880.

The second section of this chapter provides that an omission to attach to insurance policies the

application and representations upon which they are issued shall not invalidate the policies, but merely preclude the company from pleading or proving the falsity of such representations, does not conflict with, and is not superseded by chapter 65, laws of 1886, regulating mutual benefit associations, although the latter contains neither the same, nor any similar, provision. *McConnell v. Iowa Mut. Aid. Association et al.*, 43 N. W. R., 188.

Such act is applicable to the policies of mutual benefit associations. *Id.*

#### CHAPTER 60, LAWS OF 1880.—

The executive council cannot be compelled to enter into a contract with one who made the lowest bid for publishing the supreme court reports, and complied or offered to comply with the provisions of section 4 of this chapter, which provides the manner in which the council shall let such contract to the person making the proposal "most advantageous to the state," as the determination of the relative advantages is a matter of executive discretion, and an action to control its exercise would virtually be an action against the state, which cannot be maintained without its consent. *Mills Publishing Co. v. Larrabee et al.*, 42 N. W. R., 593.

#### CHAPTER 109, LAWS OF 1880.—

At the time of listing plaintiff's property for taxation, plaintiff claimed that certain bank stock he owned should not be assessed, but should be offset by a debt due the bank. The assessor refused to do this, but "consented to and did report to the board of equalization," who ordered him to place it on his books for taxation. *Held* that this was not a raising of plaintiff's assessment requiring the notice provided in section 3 of this chapter, to be given when the board decides to raise the assessment of any person. *Jackson v. Chisum, Treas.*, 42 N. W. R., 650; *Kethi v. Same*, *Id.*, 652.

#### CHAPTER 211, LAWS OF 1880.—

This chapter requiring actions upon policies of insurance to be commenced not sooner than 90 days after notice of loss is given, is in the nature of a statutory limitation of such actions, and is not eliminated from a policy by a provision therein that the contract of insurance is wholly embraced in the policy and application of the assured. *Vore v. Hawkeye Ins. Co.*, 76 Iowa, 648.

#### CHAPTER 109, LAWS OF 1880.—

Under section 3 of this act, the board of equalization, at their first meeting, having decided that an assessment should be raised, it does not render their proceedings void that the change was at once entered of record, where subsequently the proper notice, of which the raised assessment and of the adjourned meeting, at which time, no objection having been made, the assessment was simply left as raised at the first meeting. *Rockafellow v. Watkins, et al.*, 42 N. W. R., 380.

#### CHAPTER 75, LAWS OF 1880, AS AMENDED.—

Under the provisions of this act, forbidding a pharmacist to sell liquors if he has reason to believe that the application for liquor as a medicine is not made in good faith, the conviction of a practicing physician and registered pharmacist, selling under a permit from the county board, cannot be upheld on the evidence of four witnesses for the state that they had bought small quantities of liquor of him in good faith, for what they supposed to be their actual need for it as a medicine, and his own testimony that he had sold in good faith, and on the same supposition, after consultation with them as to their ailments, when, moreover, the purchasers signed the certificates required by law, and there is no evidence of excessive shipments to defendant, or anything else that could raise a suspicion of an illegal course of business. *State v. Hoagland*, 77 Iowa, 135.

#### CHAPTER 38, LAWS OF 1882.—

Section 4 of this act, authorizing a levy of a two mill tax to pay for the cost of paving street and alley intersections, provides that "it shall be competent for any city authorized by this act to levy

such tax to anticipate the collection thereof by borrowing money and pledging such tax, whether levied or not, for the payment of the money thus borrowed. *Held*, that the city is not limited by this statute in making such loan to the amount that would accrue under the levy for a single year, but it has power to pledge the tax to any extent necessary to meet any indebtedness, within the limits of the constitution, that it may incur in a single year. *Cogshall v. City of Des Moines*, 4 N. W. R., 617.

#### CHAPTER 143, LAWS OF 1884.—

Prior to July 4, 1884, the sale of beer was not unlawful, and instructions which authorized the conviction of defendant for a nuisance in keeping a place for the sale of beer prior to that time were erroneous. *The State v. Jacobs*, 75 Iowa, 247.

#### CHAPTER 159, LAWS OF 1884, SECTION 8.—

*Held*, in this case that the evidence did not sustain the case alleging that the tax voted to aid the defendant company in the construction was invalidated on the ground that the company procured the tax to be voted by promising the tax-payers to remit their taxes. *Young et al. v. The Webster City & S. W. R'y Co.*, 75 Iowa, 140.

#### CHAPTER 197, LAWS OF 1884.—

Where a newspaper has been selected to do the county printing under this chapter, subject, however, to a contest as provided in said chapter, no appeal can be taken until there has been final action upon the contest. *Hozie v. Shaw*, 75 Iowa, 427.

#### CHAPTER 45, LAWS OF 1884.—

On the trial of an action to recover personal property the defendant cannot object to the admission in evidence of the notice provided by this chapter on the ground that it had not been properly served, where it appears that the officer received the notice and demanded an indemnifying bond, which was given. *Turner v. Founker et al.*, 76 Iowa, 258.

#### CHAPTER 23, LAWS OF 1884.—

The provision of this chapter providing for the exemption of pension-money or property purchased therewith and that such exemption shall apply also to debts of such pensioners contracted prior to the purchase of the homestead, is as to such debts a law impairing the obligation of contracts, within the meaning of the constitution of the United States, article 1, section 10, and invalid. *Foster et al. v. Byrne*, 76 Iowa, 295.

#### CHAPTER 167, LAWS OF 1884.—

Under this chapter, any publisher of a newspaper who is aggrieved by the action of the board of supervisors in designating the official newspapers of the county, may appeal to the district court, and the right of appeal is not limited to cases where fraud is charged, so it is held in view of the cardinal rule that, in the construction of statutes, it is necessary to ascertain and consider the defect in the prior statute intended to be remedied by the enactment of the later or amendatory statute. *Brown v. Lewis et al.*, 76 Iowa, 159.

#### CHAPTER 104, LAWS OF 1884.—

Under section 7 of this chapter, providing that the examining board may "refuse a certificate to any person who has been convicted of a felony" or may revoke certificates for like cause, or for palpable evidence of incompetency, despite the established fact of prior practice for the statutory time. *State v. Mosher*, 43 N. W. R., 202.

On a trial for violation of this act, by practicing medicine without a certificate, the defendant cannot avail himself of the provision excepting from the penal provisions of said act, physicians who have practiced five years, "provided such physicians shall furnish the state board satisfactory evidence of such practice, and shall procure the proper certificate" even though he has practiced five years, unless he has the proper certificate of the examining board. *Id.*

**CHAPTER 73. LAWS OF 1886.—**

This chapter which authorizes the county attorney to employ council to assist in the prosecution of a person charged with felony, who shall be paid a reasonable compensation, to be fixed by the board of supervisors, does not render the decision of the board final as to the amount to be allowed as such compensation, but if an unreasonably small amount be fixed, proper compensation may be recovered by action against the county. *Stone et al. v. Marion County*, 42 N. W. R., 570.

**CHAPTER 134. LAWS OF 1886.—**

This chapter which abolished the circuit courts, and provided that the district court of the counties should be held at other places than county seats, where the circuit court was authorized to be held, and should hear and determine civil causes only as theretofore exercised at such places by the circuit court, is not repugnant to section 6, article 5 of the state constitution providing that the district court shall be a court of law and equity and shall have jurisdiction in civil and criminal matters in such manner as shall be prescribed by law, in that it creates a district court with limited jurisdiction. *Milner v. Chicago, M. & St. P. Ry Co.*, 77 Iowa, 735.

**CHAPTER 185. LAWS OF 1880.—**

This chapter requiring an affidavit to be filed before an attorney's fee is taxed, does not relate to contracts made before it took effect. *McCormick Harvester Machine Co. v. Jacobson*, 77 Iowa, 582.

**CHAPTER 117. LAWS OF 1886.—**

Where an execution creditor, under this act, desiring to levy upon personal property, deposited the amount of certain mortgage debts which were prior liens on the property and then seized and sold the property upon his execution, it was held that the creditor could not thus subject the property to his execution, where the mortgage note was not due, although the mortgage authorized the mortgagee to take possession of the property whenever he deemed himself insecure; the latter not having availed himself of such provision. *Deering et al. v. Wheeler et al.*, 76 Iowa, 496.

**CHAPTER 189. LAWS OF 1886.—**

This act, which provides for letting contracts for paving and grading streets in cities, requiring such contracts "shall be made by the council, in the name of the city," and shall be made with the lowest bidder or bidders, upon sealed proposals, after public notice, which notice shall contain a description of the kind and amount of work to be done, and materials to be furnished as nearly accurate as practicable; implies a determination by the council in advance of the publication of notice of the kind of material to be used in the work, and an advertisement for bids "for all the different kinds of modern pavements now in use," regardless of the material of which it might be composed, is not a compliance with the statute, and an assessment based thereon, against abutting property, to pay the cost of the paving is invalid and cannot be enforced against the abutting property. *Cogshall et al. v. City of Des Moines et al.*, 41 N. W. R., 617.

**CHAPTER 83. LAWS OF 1886.—**

A pharmacist holding a permit to sell liquors as medicine under this act, and who sells for other uses, has no such permit as is referred to in section 1540 of the Code, exempting from the provisions of that act, sales by persons holding a permit, and is liable to penalties prescribed by section 1543 for such sales. *State v. Sak*, 77 Iowa, 193.

This act in providing that nothing therein contained shall shield the druggist who abuses his trust from the utmost signs of the law, does not require the highest possible penalty to be fixed on the conviction of a druggist. *State v. Hoagland*, 77 Iowa, 135.

**CHAPTER 66. LAWS OF 1886.—**

In an action under this act to restrain a nuisance a witness testified that the defendant paid an internal revenue tax as a retail liquor dealer.

Another testified that the reputation of defendant's place was that intoxicating liquors were kept and sold there. The testimony of four others showed that defendant furnished them whisky in his place for a consideration, though they did not testify directly to payment. Two witnesses testified to the purchase of cider. Another, to the purchase of "zodone," which he supposed was whisky; that he would not say it was poor whisky, and did not know what it was; that he got it because he wanted something to stimulate him. There was testimony to the sale of "hot shot," and other drinks. Defendant testified that he never sold, or kept for sale, intoxicating liquors; that the drinks sold were not intoxicating; that he did not sell sweet apple cider, but sold champagne and peach cider; that he took a license because his neighbors were troubling him, and it was cheaper to pay \$25 than to run the risk. His son-in-law testified that he was about the place a great deal, and never knew of defendant's keeping or selling intoxicating liquor, and that the drinks sold by defendant were not intoxicating. Held, that there should be a decree for a permanent injunction. *State v. Mathieson et ux.*, 42 N. W. R., 577.

The provisions of this chapter in actions to abate liquor nuisances, that evidence of the general reputation of the place designated shall be admissible for the purpose of proving the existence of such nuisance, and, if successful, plaintiff shall be entitled to an attorney's fee, to be taxed against the defendant, applies to an action for such a purpose brought under chapter 143 of laws of 20th General Assembly, but not tried until the act of 1886 took effect. *Garley v. O'Malley*, 77 Iowa, 531.

The allowance of the attorney fee provided for in the first section of this chapter, made to the plaintiff individually, and the acceptance thereof by his attorney, is a waiver of his right to appeal. *Root v. Heil*, 43 N. W. R., 278.

Section 5 of this chapter providing for the abatement of liquor nuisances, is not in conflict with articles 4 and 14 of the constitution of the United States, nor with the constitution of Iowa, sections 8 and 9, article 1, relating to the rights of property. *Craig v. Werthmueller et al.*, 43 N. W. R., 606.

**SECTION 12. RULES OF SUPREME COURT.—**

Appellants filed an abstract of the case below, and an assignment of errors. The appellee filed an additional abstract, denying the correctness of appellants abstract. Section 12 of the rules of the supreme court provides that when a controversy arises as to the record, the appellee shall have a reasonable time after the necessity therefor appears to file a transcript. Held, that as appellants failed to file a transcript within a reasonable time, the judgment below must be affirmed. *Howorth v. Stevens Manufacturing Co. et al.*, 43 N. W. R., 532.

**CHAPTER 177. LAWS OF 1886.—**

Under section 1 of this chapter, providing for the punishment of persons giving away, or having or having in possession with intent to give away, instruments designed or intended to procure an abortion, evidence showing that the defendant gave to a pregnant woman, with intent that she should use it for producing an abortion, an English catheter, is not sufficient to sustain an indictment, where it appears that such instrument, though often used for that purpose, was designed and manufactured for a different purpose. *State v. Forsythe*, 43 N. W. R., 548.

**CHAPTER 190. LAWS OF 1884.—**

Under this act, authorizing railroad companies owning a completed road to condemn lands "for necessary additional depot grounds," upon procuring a prescribed certificate from the railroad commissioners have authority to grant a certificate for the condemnation of land for depot purposes at a place where the company has no depot, and owns not land other than the right of way on its road is built. *Jager v. Dey et al.*, 45 N. W. R., 361.

**CHAPTER 71. LAWS OF 1888.—**

Under this chapter, which provides that "no person shall sell, keep for sale, give away, exchange,

barter or dispense any intoxicating liquors for any purpose whatever," otherwise than as provided in that act; and it being therein further provided that registered pharmacists may obtain permits authorizing them to sell and dispense intoxicating liquors for pharmaceutical and medicinal purposes, etc., *held*, that physicians not holding such permits cannot dispense such liquors in putting up prescriptions for their patients. *State v. Benadone*, 44 N. W. R., 248.

#### CHAPTER 153, LAWS OF 1880.—

Where an indictment under this chapter alleged that the defendant, a firm engaged in banking, were, on a specified date, insolvent, and being so, that they received and accepted on deposit a certain sum of money. *Held*, that evidence was admissible that the deposit was received by the cashier of the bank during the absence of defendants; it being immaterial whether they did the act constituting the offense in person or by agent. *State v. Caldwell et al.*, 44 N. W. R., 700.

#### CHAPTER 113, LAWS OF 1886.—

The first section of this act provides the payment of the United States tax on the business of selling distilled and malt liquors shall be evidence that the person making such payment was engaged in keeping and selling intoxicating liquors contrary to the law of the state. On petition for an injunction against liquor nuisance, it appeared that the special tax had been paid, and defendants testified that it had been paid to protect them in the sale of a beverage known as "B. B." as to the intoxicating properties of which the testimony was conflicting, and there was evidence that they kept and sold hard and soft cider. *Held* that the evidence was sufficient to support a decree against the defendants, the payment of the tax showing that they regarded the liquor as intoxicating. *State v. Schnitz et al.*, 44 N. W. R., 713.

#### CHAPTER 23, LAWS OF 1884.—

Where a person pays for the services of a stallion with pension money, he has, in the colts gotten thereby, a property interest acquired directly by the payment of such pension money, and to that extent exempt under this statute. *Diamond v. Palmer*, 44 N. W. R., 819. *ROTHROCK, C. J., dissenting*.

#### CHAPTER 143, LAWS OF 1876, SECTION 6.—

Since in the state of the law when this case was tried there was no appeal from the superior court. *Held* that one charged in the superior court upon information, with the violation of a city ordinance is entitled to a jury trial in that court. *Preston v. Nye*, 74 Iowa, 360.

#### CHAPTER 136, LAWS OF 1875.—

This act making women eligible to any school office, has the effect to entitle a woman claiming to have been elected to any such office, but denied a certificate of election, to the right to contest the election, although she is not an elector as required by section 692 of the Code—the effect of the first named statute being to repeal to that extent the said section of the Code. *Brown v. McCollum*, 76 Iowa, 479.

#### CHAPTER 23, LAWS OF 1884.—

A homestead purchased with pension money is not exempt from attachment for a debt contracted prior to the purchase of the homestead, and prior to the enactment of chapter 23, laws of 1884, notwithstanding said act declares to the contrary; said act, so far as it declares, being in conflict with article 1, section 10 of the constitution of the United States is invalid. *Foster & Hannum v. Byrne*, 76 Iowa, 256.

#### CHAPTER 45, LAWS OF 1884.—

The notice of ownership required by this chapter, to be given to an officer by any person claiming property which has been seized under an attachment, is sufficient if the officer in fact receives it in due time, as no particular manner of service is required. *Twimer v. Younker, et al.*, 76 Iowa, 258.

#### CHAPTER 66, LAWS OF 1886, SECTION 1.—

In an action to abate liquor nuisances, the plaintiff, if successful, is entitled to recover an attorney fee. Where such fee is allowed and it is paid to the defendant to the attorney of plaintiff, the attorney acts for and on behalf of the plaintiff, and not in his own right, in receiving it, and the legal effect of the payment is payment to the plaintiff; and after such payment the plaintiff cannot maintain an appeal from the judgment, since a party cannot be allowed to accept the benefits of a judgment so far as favorable to him, and at the same time prosecute an appeal from other portions of it. *Root v. Hell*, 78 Iowa, 436.

#### CHAPTER 38, LAWS OF 1882.—

Section 4 of this act provides that it shall be competent for any city authorized by that act to levy a tax to pay for the paving of street and alley intersections "to anticipate the collection thereof by borrowing money, and pledging such tax, whether levied or not, for the payment of the money so borrowed." *Held* that there was no limitation upon the city as to the amount of work of the kind contemplated it might do in a year, except the limitation of the constitution as to the indebtedness it might contract, and that the statute did not limit the city, in making the loan provided for, to the amount of tax which would accrue under a levy for a single year, but that it had power to pledge the tax to any extent necessary to enable it to meet such indebtedness as it might lawfully incur in a single year, and to levy a tax for successive years for that purpose. *Coggeshall v. The City of Des Moines et al.*, 78 Iowa, 235.

#### CHAPTER 104, LAWS OF 1886.—

Section 8 of this act does not except physicians of five years' prior practice from the penal provisions of this act, unless they procure from the state board of medical examiners the proper certificate or license, as required by the statute. *The State v. Mosher*, 78 Iowa, 321.

#### CHAPTER 177, LAWS OF 1886.—

To furnish a pregnant woman a common English catheter, manufactured, designed and intended for the purpose of drawing water from the male bladder, and stating to her that she could produce an abortion by using it, and giving her directions how to use it, is not a crime under section one of this chapter because the statute contemplates only instruments designed by the manufacturer for the unlawful purpose, and not instruments designed for a lawful purpose, though given, and sometimes used for an unlawful one. *The State v. Forsythe*, 78 Iowa, 546.

#### CONSTITUTION U. S., AMENDMENTS 4 AND 14.—

#### CONSTITUTION OF IOWA, SECS. 8 AND 9, BILL OF RIGHTS AND ARTICLE 3.

The statute providing for the destruction of liquors found in a place adjudged to be a nuisance, and for the removal and sale of the furniture, fixtures, etc., does not violate the 4th and 14th amendments to the constitution of the United States, nor sections 8 and 9 of article 1, nor article 3, of the constitution of Iowa, on the ground that it attempts to forfeit private property by legislative enactment; nor on the ground that it authorizes such forfeiture in a criminal action against the owner without giving him his day in court in an action against the property; because the forfeiture contemplated by the statute is determined only by the judgment of a court of competent jurisdiction, in a proper case for the abatement of the nuisance and the punishment of the offender, after due and regular notice. The action being against the place as well as against the person. *Craig v. Warmueller & Ende et al.*, 78 Iowa, 548.

#### CHAPTER 55, TITLE XXV OF CODE.—

Neither the district attorney, nor the board of supervisors, has any power to remit fines directly, nor to do so indirectly by the satisfaction of the judgments therefor, for a less sum than the fines imposed, even though such compromise may be desirable from a pecuniary point of view; and such satisfaction is no bar to the arrest of the de-

fendant upon executions issued upon such judgments, even the satisfaction is not formally set aside. *McKay v. Woodruff, Sheriff*, 77 Iowa, 413.

#### CONSTITUTION, ARTICLE 6, SECTION 1.—

This act providing that grand juries, in counties having a population of sixteen thousand, or less, shall consist of five persons, is not in conflict with section six, article one, of the state constitution, which requires that "all laws of a general nature shall have a uniform operation," etc.; especially since the third constitutional amendment gives the legislature power to fix the number of grand jurors at from five to fifteen. *The State v. Standley*, 75 Iowa, 215.

#### ARTICLE 3, SECTION 29.—

Defendants were brewers, obtained a permit in November, 1885, to manufacture and sell intoxicating liquors for mechanical, medicinal, culinary and sacramental purposes only, for one year from date. *Held* that their right to sell for medicinal purposes was taken away on the 8th day of April, 1886, when chapter 83, Laws of 1886, went into effect, whereby the right to sell such liquors for medicinal purposes was vested exclusively in registered pharmacists; the effect of said chapter being to repeal by implication, so much of section 1526 of the Code, as allowed others than registered pharmacists to sell such liquors for medicinal purposes. And *held further* that, such construction of said chapter, entitled, "An act to amend chapter 75, etc., relating to the practice of pharmacy," does not make it repugnant to section 29 of article 3 of the state constitution, providing that "every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title." Although section 1526 is not referred to in the title of the act as one of the statutes to be amended thereby. *The State v. Aulman et al.*, 75 Iowa, 624. See, also, *The State v. Satts*, 77 Id., 183.

#### ARTICLE 1, SECTION 9.—

Chapter 3 of title 18 of the Code, providing proceedings auxiliary to execution, for the purpose of discovering the property of the execution debtor, is not repugnant to the constitution, in

providing for the imprisonment for contempt of persons disobeying the order of the court, judge, or referee therein, without trial by jury. *Marriage v. Woodruff*, 77 Iowa, 291.

The provision of chapter 42, Laws of 1886, that when the grand jury is composed of five members, an indictment may be found by four, and when composed of seven by the concurrence of five, *held* not unconstitutional on the ground that it authorizes an indictment by less than the smallest number of which the grand jury could be composed, which was not allowed by the common law, and the constitution before the adoption of the amendment to the constitution relating to grand juries. *The State v. Satts*, 77 Id., 183.

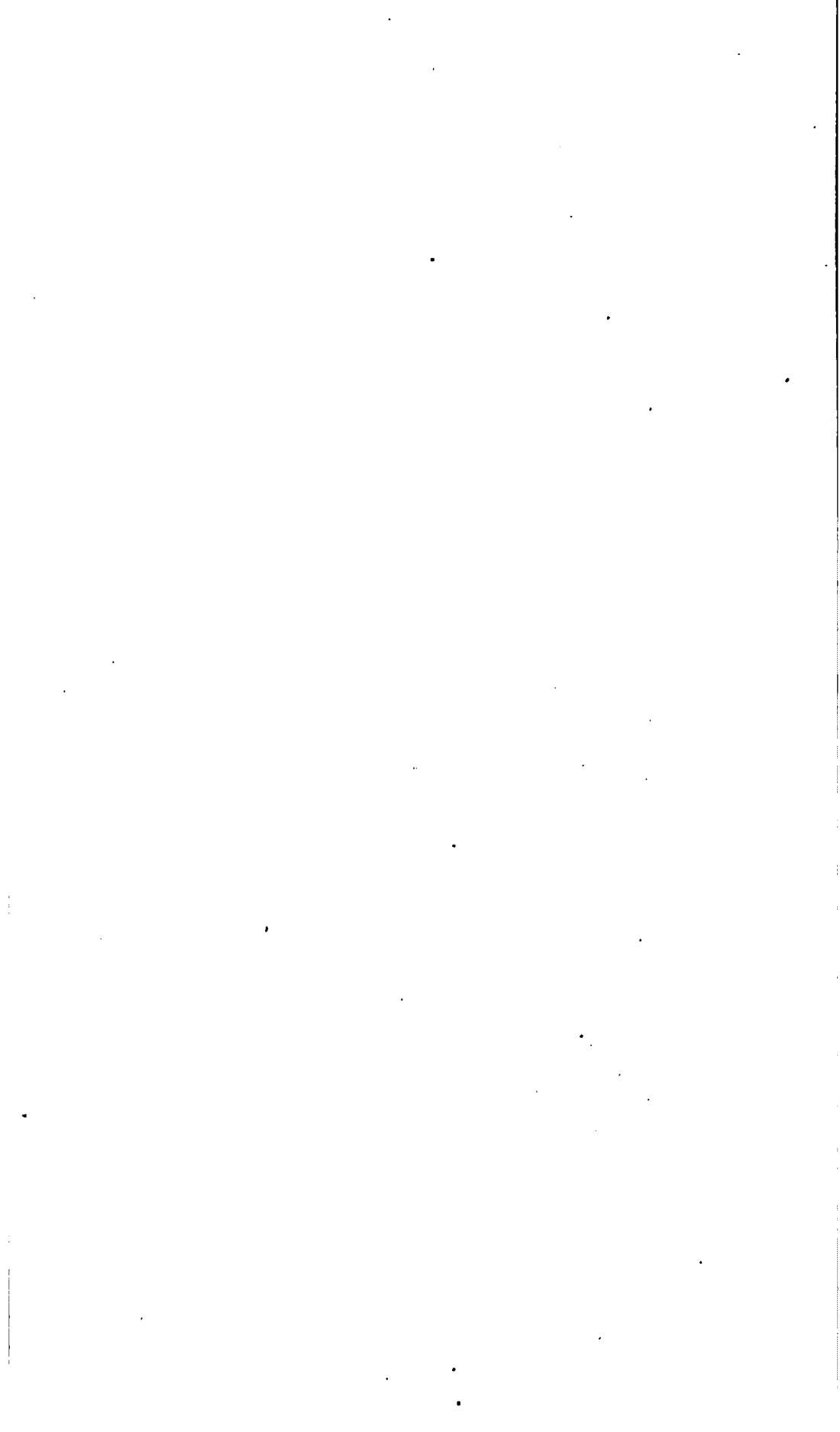
#### PARDONING POWER.—

Neither the district attorney nor the board of supervisors has any power to remit fines directly, nor do so indirectly by the satisfaction of the judgments therefor for a less sum than the fines imposed, even though such compromise may be desirable from a pecuniary point of view; and such satisfaction is no bar to the arrest of the defendant, upon executions issued upon the judgments, even though the satisfactions are not set aside. *McKay v. Woodruff, Sheriff*, 77 Iowa, 413.

#### JURY TRIAL.—

The constitutional right to a trial by a jury composed of twelve persons is not violated by section 16, chap. 143, laws of 1876, as amended by section 6, chapter 24, laws of 1882, providing that the jury for the trial of causes in the superior court shall consist of six qualified jurors, unless one of the parties demands a jury of twelve; but the party making such demand, to entitle him to a trial by twelve, must deposit with the clerk an amount sufficient to pay the additional expense caused thereby. *Conners v. The B., C. R. & N. R'y Co.*, 74 Iowa, 383. See, also, *Adas v. Zangs*, 41 Id., 536; *Steel v. Central Iowa R'y Co.*, 43 Id., 109.

Chapter 3 of title 18 of the Code, providing proceedings auxiliary to the execution, for the purpose of discovering the property of the execution defendant, is not repugnant to the constitution in that it provides for the imprisonment for contempt of persons disobeying the order of the court. *Id.*









# ACTS AND RESOLUTIONS

PASSED AT THE

REGULAR SESSION

OF THE

## Twenty-Third General Assembly

OF THE

STATE OF IOWA,

BEGUN JANUARY 13, AND ENDED APRIL 15, 1890.

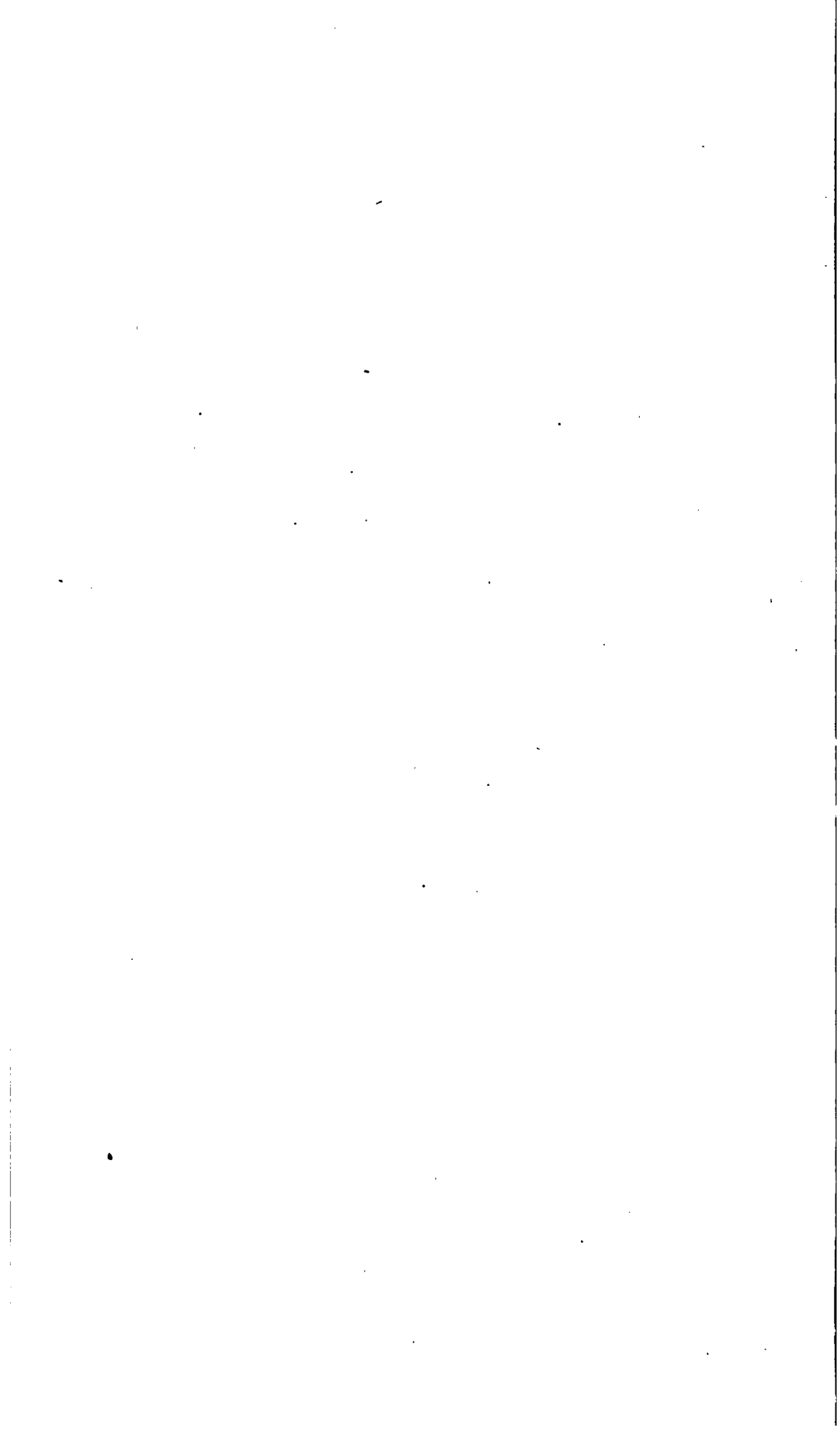
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1890.



# STATE GOVERNMENT, 1890.

*List of State Officers, Judges of the Supreme, District, and Superior Courts, and Members and Officers of the General Assembly.*

## EXECUTIVE DEPARTMENT.

NAME.	POSITION.	COUNTY FROM WHICH ORIGINALLY CHOSEN.
Horace Boies.....	Governor.....	Black Hawk.
A. N. Poyneer.....	Lieutenant-Governor.....	Tama.
J. T. Hamilton.....	Speaker House of Representatives.....	Linn.
Frank D. Jackson.....	Secretary of State.....	Butler.
C. S. Byrkit.....	Deputy Secretary of State.....	Appanoose.
James A. Lyons.....	Auditor of State.....	Guthrie.
D. F. McCarthy.....	Deputy Auditor of State.....	Mitchell.
Voltaire P. Twombly.....	Treasurer of State.....	Van Buren.
John Whitten.....	Deputy Treasurer of State.....	Van Buren.
Henry Sabin.....	Superintendent of Public Instruction.....	Clinton.
Ira C. Kling.....	Deputy Supt. of Public Instruction.....	Cerro Gordo.
†George H. Ragsdale.....	State Printer.....	Plymouth.
†Otto Nelson.....	State Binder.....	Polk.
*George Greene.....	Adjutant-General.....	Linn.
*Mrs. Mary H. Miller.....	State Librarian.....	Polk.
*J. R. Sovereign.....	Commissioner of Labor Statistics.....	Cass.
*James J. Dunn.....	Inspector of Illuminating Oils.....	Dubuque.
*R. K. Soper.....	Fish Commissioner.....	Emmet.
*M. Stalker.....	State Veterinary Surgeon.....	Keokuk.
*Augustus C. Tupper.....	Dairy Commissioner.....	Jones.
*Prof. L. G. Weld.....	Superintendent Weights and Measures.....	Johnson.
Peter A. Dey.....	{ Railroad Commissioners.....	Johnson.
Spencer Smith.....		Pottawattamie.
Frank T. Campbell.....	{	Jasper.
W. W. Ainsworth.....		Polk.
P. W. Lewellen.....	Sec'y Board of Railroad Commissioners.....	Page.
Dr. J. F. Kennedy.....	President State Board of Health.....	Polk.
*H. K. Snider.....	Secretary State Board of Health.....	Poweshiek.
*John H. Pickett.....	{ Commissioners of Pharmacy.....	Story.
*J. H. Harrison.....		Scott.
C. A. Weaver.....	Secretary Commissioners of Pharmacy.....	Polk.
*Thomas Binks.....	{	Wapello.
*James Gildroy.....		Keokuk.
*Morgan G. Thomas.....		Mahaska.
*C. D. Ham.....	State Mine Inspectors.....	Dubuque.
*W. L. Carpenter.....	Private Secretary to the Governor.....	Polk.
	Custodian of Public Property.....	Polk.

\* Appointed by the Governor.

† Elected by the Legislature.

## JUDICIAL DEPARTMENT.

## SUPREME COURT.

NAME.	POSITION.	COUNTY FROM WHICH CHOSEN.	POST-OFFICE ADDRESS.
James H. Rothrock.....	Chief Justice.....	Linn.....	Cedar Rapids.
Joseph M. Beck.....	Judge.....	Lee.....	Ft. Madison.
Gifford S. Robinson.....	Judge.....	Buena Vista.....	Storm Lake.
Charles T. Granger.....	Judge.....	Allamakee.....	Waukon.
Josiah Given.....	Judge.....	Polk.....	Des Moines.
John Y. Stone.....	Attorney-General..	Mills.....	Glenwood.
Gilbert B. Pray.....	Clerk.....	Hamilton.....	Des Moines.
Christopher T. Jones.....	Deputy Clerk.....	Washington.....	Des Moines.
Ezra C. Ebersole.....	Reporter.....	Tama.....	Toledo.

## DISTRICT COURTS.

District.	NAME OF JUDGE.	COUNTY FROM WHICH CHOSEN.	POST-OFFICE ADDRESS.
1	J. M. Casey.....	Lee.....	Ft. Madison.
	C. H. Phelps.....	Des Moines.....	Burlington.
2	H. C. Traverse.....	Davis.....	Bloomfield.
	Dell Stuart.....	Lucas.....	Chariton.
	Charles D. Leggett.....	Jefferson.....	Fairfield.
3	John W. Harvey.....	Decatur.....	Leon.
	R. C. Henry.....	Ringgold.....	Mt. Ayr.
4	Charles H. Lewis.....	Cherokee.....	Cherokee.
	George W. Wakefield.....	Woodbury.....	Sioux City.
	Scott M. Ladd.....	O'Brien.....	Sheldon.
5	J. H. Henderson.....	Warren.....	Indianola.
	O. B. Ayers.....	Marion.....	Knoxville.
	A. W. Wilkinson.....	Madison.....	Winterset.
6	J. Kelley Johnson.....	Mahaska.....	Oskalossa.
	David Ryan.....	Jasper.....	Newton.
	W. B. Lewis.....	Poweshiek.....	Montezuma.
7	C. M. Waterman.....	Scott.....	Davenport.
	W. F. Brannan.....	Muscatine.....	Muscatine.
	Andrew Howat.....	Clinton.....	Clinton.
8	S. H. Fairall.....	Johnson.....	Iowa City.
9	W. H. Conrad.....	Polk.....	Des Moines.
	Marcus Kavanagh, Jr.....	Polk.....	Des Moines.
	Charles A. Bishop.....	Polk.....	Des Moines.
10	C. F. Couch.....	Black Hawk.....	Waterloo.
	J. J. Ney.....	Buchanan.....	Independence.
	D. J. Linehan.....	Dubuque.....	Dubuque.

# STATE GOVERNMENT.

v

## DISTRICT COURT—CONTINUED.

District.	NAME OF JUDGE.	COUNTY FROM WHICH CHOSEN.	POST-OFFICE ADDRESS.
11	D. R. Hindman.....	Boone.....	Boone.
	John L. Stevens.....	Story.....	Ames.
	S. M. Weaver.....	Hardin.....	Iowa Falls.
12	George W. Ruddick.....	Bremer.....	Waverly.
	John C. Sherwin.....	Cerro Gordo.....	Mason City.
13	L. O. Hatch.....	Clayton.....	McGregor.
	W. A. Hoyt.....	Fayette.....	Fayette.
14	George H. Carr.....	Palo Alto.....	Emmetsburg.
	Lot Thomas.....	Buena Vista.....	Storm Lake.
15	A. B. Thornell.....	Fremont.....	Sidney.
	George Carson.....	Pottawattamie.....	Council Bluffs.
	H. E. Deemer.....	Montgomery.....	Red Oak.
	N. W. Macy.....	Shelby.....	Harlan.
16	J. P. Conner.....	Crawford.....	Denison.
	J. H. Macumber.....	Ida.....	Ida Grove.
17	L. G. Kinne.....	Tama.....	Toledo.
18	S. D. Giffen.....	Linn.....	Marion.
	J. H. Preston.....	Linn.....	Cedar Rapids.

## SUPERIOR COURTS.

John T. Stoneman.....	Linn.....	Cedar Rapids.
J. E. F. McGee.....	Pottawattamie.....	Council Bluffs.
S. R. Davis.....	Union.....	Creston.
Henry Banks, Jr.....	Lee.....	Keokuk.

# TWENTY-THIRD GENERAL ASSEMBLY

OF THE

# STATE OF IOWA.

## SENATE.

District.	COUNTIES COMPOSING DISTRICT.	SENATORS.	POST-OFFICE ADDRESS.
42	Winneshiek, Howard.....	Bailey, A. K. ....	Decorah.
18	Wapello .....	Ballingall, P. G. ....	Ottumwa.
11	Warren, Clarke .....	Barnett, Jas. H. ....	Indianola.
49	Lyon, Osceola, Sioux, O'Brien....	Barrett, O. M. ....	Sheldon.
36	Clayton .....	Bayless, F. D. ....	Elkader.
24	Cedar, Jones.....	Bills, E. B. ....	Durant.
34	Harrison, Monona, Crawford.....	Bolter, L. R. ....	Logan.
48	Hancock, Franklin, Cerro Gordo..	Brower, N. V. ....	Garner.
17	Audubon, Dallas, Guthrie .....	Caldwell, T. J. ....	Adel.
15	Marion, Monroe.....	Cassatt, Ed. R. ....	Pella.
18	Cass, Shelby .....	Cleveland, W. F. ....	Harlan.
41	Mitchell, Worth, Winnebago .....	Clyde, J. F. ....	Osage.
31	Boone, Story.....	Davidson, D. B. ....	Madrid.
9	Des Moines.....	Dodge, W. W. ....	Burlington.
4	Lucas, Wayne.....	Dungan, Warren S. ....	Chariton.
29	Jasper .....	Engle, Perry.....	Newton.
6	Adams, Taylor .....	Finn, Geo. L. ....	Bedford.
47	Dickinson, Emmet, Clay, Palo Alto, Kossuth .....	Funk, A. B. ....	Spirit Lake.
80	Polk .....	Gatch, C. H. ....	Des Moines.
20	Muscatine, Louisa.....	Gobble, John M. ....	Muscatine.
19	Pottawattamie .....	Groneweg, Wm. ....	Council Bluffs.
36	Butler, Bremer .....	Hanchett, L. S. ....	Waverly.
5	Union, Ringgold, Decatur .....	Harsh, J. B. ....	Creston.
23	Jackson .....	Kegler, A. G. ....	Bellevue.
25	Iowa, Johnson .....	Kelly, M. J. ....	Williamsburg.
1	Lee .....	Kent, Wm. G. ....	Ft. Madison.
32	Woodbury .....	Lawrence, J. S. ....	Sioux City.
50	Buena Vista, Humboldt, Pocahontas .....	Mack, Edgar E. ....	Storm Lake.
40	Allamakee, Fayette.....	Mattoon, L. B. ....	Elgin.
14	Mahaska .....	McCoy, Ben. ....	Oskaloosa.
27	Calhoun, Webster.....	McVey, J. D. ....	Lake City.



## SENATE—CONTINUED.

District.	COUNTIES COMPOSING DISTRICT.	SENATORS.	POST-OFFICE ADDRESS.
46	Cherokee, Ida, Plymouth.....	Meservey, A. F.....	Cherokee.
28	Marshall.....	Mills, Wm. D.....	Marshalltown.
45	Tama, Benton.....	Mosnatt, J. J.....	Belle Plaine.
88	Grundy, Black Hawk.....	Parrott, Matt.....	Waterloo.
7	Fremont, Page.....	Perkins, G. W.....	Farragut.
16	Adair, Madison.....	Price, Richard.....	Winterset.
44	Floyd, Chickasaw.....	Reiniger, Rob't G.....	Charles City.
48	Greene, Carroll, Sac.....	Rich, Thomas.....	Glidden.
21	Scott.....	Schmidt, Wm. O.....	Davenport.
33	Delaware, Buchanan.....	Seeds, Ed. P.....	Manchester.
35	Dubuque.....	Shields, James A.....	Dubuque.
26	Linn.....	Smith, J. H.....	Cedar Rapids.
37	Wright, Hardin, Hamilton.....	Smith, Wm. C.....	Eagle Grove.
12	Poweshiek, Keokuk.....	Stewart, Joel.....	Grinnell.
8	Appanoose, Davis.....	Taylor, Wm. H.....	Bloomfield.
2	Jefferson, Van Buren.....	Vale, B. R.....	Bonaparte.
8	Montgomery, Mills.....	Weidman, Thos.....	Red Oak.
22	Clinton.....	Wolfe, P. B.....	De Witt.
10	Washington, Henry.....	Woolson, John S.....	Mt. Pleasant.

## OFFICERS OF THE SENATE.

*President*—A. N. Poyneer, Lieutenant-Governor, Montour, Tama county.

*President pro tempore*—A. F. Meservey, Cherokee, Cherokee county.

*Secretary*—W. R. Cochran, Bedford, Taylor county.

*First Assistant Secretary*—W. F. Carlton, Spirit Lake, Dickinson county.

*Second Assistant Secretary*—Charles Beverly, Jefferson, Greene county.

*Engrossing Clerk*—Nannie J. Stull, Keosauqua, Van Buren county.

*Enrolling Clerk*—Lou. E. Young, Sioux City, Woodbury county.

*Sergeant-at-Arms*—Peter Melendy, Cedar Falls, Black Hawk county.

*Postmistress*—Maud Murray, Winterset, Madison county.

## HOUSE OF REPRESENTATIVES.

District.	COUNTIES COMPOSING DISTRICT.	REPRESENTATIVES.	POST-OFFICE ADDRESS.
71	Fayette	Addie, Andrew	Brush Creek.
6	Decatur	Arnold, G. P.	Garden Grove.
75	Wright	Austin, J. F.	Clarion.
19	Jefferson	Ball, Geo. W.	Fairfield.
24	Keokuk	Beem, J. C.	What Cheer.
86	Cerro Gordo	Blythe, James E.	Mason City.
31	Pottawattamie	Briggs, Riley W.	Carson.
7	Ringgold	Brown, Wm.	Tingley.
16	Lucas	Byers, Harvey L.	Lucas.
67	Buchanan	Chamberlin, Wm. H.	Independence.
11	Mills	Chantry, A. J.	Malvern.
63	Hamilton	Chase, Daniel C.	Webster City.
58	Woodbury	Clarke, Willis G.	Sioux City.
76	Humboldt	Coyle, D. F.	Humboldt.
91	Howard	Cutting, Chas. D.	Riceville.
56	Crawford	Davie, Wm. A.	Dunlap.
89	Allamakee	Dayton, John F.	Waukon.
80	Plymouth	Dent, Wm. H.	Le Mars.
78	Buena Vista	Dobson, G. L.	Newell.
64	Hardin	Dolph, John.	Eldora.
51	Marshall	Eckles, Charles.	Marshalltown.
47	Jones	Eilers, Gerhard.	Monticello.
65	Grundy	Ellis, P. B.	Grundy Center.
10	Fremont	Estes, F. M.	Sidney.
39	Poweshiek	Ewart, Mat.	Ewart.
44	Cedar	Felkner, Wm. J.	Downey.
9	Page	Field, S. E.	Shenandoah.
45	Clinton	Gardiner, Geo. S.	Lyons.
23	Washington	Gardner, Samuel C.	Lexington.
87	Floyd	Gates, John.	Marble Rock.
70	Clayton	Gilbert, Geo. L.	Monona.
48	Linn	Gitchell, Chas. G.	Walker.
88	Chickasaw	Glatly, Wm.	Lawler.
59	Ida	Graeser, Bernard.	Battle Creek.
48	Linn	Hamilton, Jno. T.	Cedar Rapids.
45	Clinton	Hart, Ed.	Wheatland.
54	Greene	Head, Albert.	Jefferson.
28	Marion	Hendershot, I. B.	Otley.
43	Scott	Hipwell, Chas. G.	Davenport.
61	Calhoun	Hobbs, Edgar L.	Manson.
40	Iowa	Holbrook, N. B.	Marengo.
23	Louisa	Holiday, J. F.	Morning Sun.
1	Lee	Hornish, J. P.	Keokuk.
55	Carroll	Horton, Oliver.	Glidden.
81	Sioux	Hospers, Henry.	Orange City.
3	Davis	Hotchkiss, L. D.	Bloomfield.
25	Mahaska	Jewell, Andrew J.	Oskaloosa.
90	Winneshiek	Jewell, Jacob.	Decorah.
93	Worth	Jewett, Chas. F.	Polo Station.
72	Bremer	Johnston, J. M.	Sumner.
69	Dubuque	Johnston, Thos. W.	Dubuque.
69	Dubuque	Knoll, F. M.	Sageville.
15	Clarke	Kyte, F. M.	Osceola.

## HOUSE OF REPRESENTATIVES—CONTINUED.

District.	COUNTIES COMPOSING DISTRICT.	REPRESENTATIVES.	POST-OFFICE ADDRESS.
37	Polk .....	Lane, B. B. ....	Maxwell.
85	Hancock and Winnebago .....	Law, John .....	Forest City.
41	Johnson .....	Letovsky, J. M. Barta .....	Iowa City.
5	Wayne .....	Lewis, L. W. ....	Seymour.
74	Franklin .....	Luke, John W. ....	Hampton.
84	Kossuth .....	Lund, C. L. ....	Algona.
28	Madison .....	Mack, J. H. ....	Macksburg.
43	Scott .....	Marti, Christopher .....	Long Grove.
52	Story .....	McCarthy, C. G. ....	Nevada.
29	Adair .....	McDermid, Peter .....	Fontanelle.
83	Palo Alto, Emmet and Dickinson .....	McFarland, W. M. ....	Estherville.
32	Harrison .....	McGavren, J. K. ....	Missouri Valley.
77	Pocahontas and Clay .....	Mercer, James .....	Fonda.
49	Benton .....	Mitchell, Lewis A. ....	Vinton.
94	Osceola and Lyon .....	Monk, J. W. ....	George.
50	Tama .....	Morison, James .....	Traer.
14	Union .....	Morrow, W. W. ....	Afton.
46	Jackson .....	Nemmers, N. B. ....	La Motte.
68	Delaware .....	Oakman, Wm. C. ....	Uniontown.
8	Taylor .....	Paschal, C. M. ....	New Market.
79	Cherokee .....	Potter, John F. ....	Quimby.
38	Jasper .....	Powers, Samuel B. ....	Kellogg.
42	Muscataine .....	Richman, Irving B. ....	Muscataine.
57	Monona .....	Roe, F. F. ....	Castana.
33	Shelby .....	Roundy, W. ....	Manteno.
13	Adams .....	Russell, Ed. C. ....	Corning.
35	Guthrie .....	Shipley, Ira R. ....	Yale.
53	Boone .....	Smith, Allan .....	Boone.
60	Sac .....	Smith, Asa B. ....	Odeboldt.
21	Des Moines .....	Smith, Ellison .....	Danville.
92	Mitchell .....	Smith, James A. ....	Osage.
18	Wapello .....	Smith, James J. ....	Ottumwa.
73	Butler .....	Soesbe, S. W. ....	Green.
20	Henry .....	Steele, Samuel L. ....	Mt. Pleasant.
37	Polk .....	Stewart, Wm. J. ....	Grimes.
2	Van Buren .....	Tade, W. A. ....	Bonaparte.
36	Dallas .....	Thornburg, T. A. ....	Linden.
66	Black Hawk .....	Townsend, Edward .....	Cedar Falls.
27	Warren .....	Van Gilder, S. J. ....	Milo.
4	Appanoose .....	Walden, M. M. ....	Centerville.
34	Audubon .....	Walker, Wm. ....	Exira.
31	Pottawattamie .....	Ware, Wm. H. ....	Council Bluffs.
30	Cass .....	Wilson, Silas .....	Atlantic.
62	Webster .....	Woods, Isaac L. ....	Ft. Dodge.
82	O'Brien .....	Wyman, Herbert B. ....	Sheldon.
12	Montgomery .....	Yergey, John W. ....	Sciola.
17	Monroe .....	Young, Josiah T. ....	Albia.

## COMMISSIONERS IN OTHER STATES—CONTINUED.

## MASSACHUSETTS.

NAME.	POST-OFFICE.	DATE OF TAK- ING EFFECT OF COMMISSION.	DATE OF EXPIRATION OF COMMISSION.
James G. Harris.....	Boston.....	Feb. 7, 1888	Feb. 7, 1891
Edward J. Jones.....	Boston.....	Feb. 13, 1888	Feb. 13, 1891
Samuel Jennison.....	Boston.....	June 27, 1888	June 27, 1891
Daniel B. Whittier.....	Boston.....	Dec. 7, 1888	Dec. 7, 1891
Charles Hall Adams.....	Boston.....	Feb. 14, 1889	Feb. 14, 1892
John L. Coffin.....	Boston.....	April, 3, 1889	April 3, 1892
Augustine H. Read.....	Boston.....	April 11, 1890	April 11, 1893

## MISSOURI.

Augustis L. Abbott.....	St. Louis.....	Sept. 8, 1888	Sept. 8, 1891
C. D. Greene, Jr.....	St. Louis.....	Dec. 7, 1888	Dec. 7, 1891
George S. Grover.....	St. Louis.....	June 22, 1889	June 22, 1892
Gilbert Elliott.....	St. Louis.....	Feb. 26, 1890	Feb. 26, 1893

## NEW YORK.

Simon Sternheimer.....	New York.....	July 25, 1887	July 25, 1890
Alexander H. Nones.....	New York.....	Aug. 20, 1887	Aug. 20, 1890
Charles H. Hooper.....	New York.....	Aug. 20, 1887	Aug. 20, 1890
Henry F. Giere.....	New York.....	Oct. 1, 1887	Oct. 1, 1890
Thomas B. Clifford.....	New York.....	Nov. 1, 1887	Nov. 1, 1890
George H. Corey.....	New York.....	Dec. 1, 1887	Dec. 1, 1890
Eleazar Jackson.....	New York.....	Dec. 12, 1887	Dec. 12, 1890
Frank W. Fullerton.....	New York.....	Feb. 10, 1888	Feb. 10, 1891
John A. Hillery.....	New York.....	Feb. 14, 1888	Feb. 14, 1891
Thomas W. Folsom.....	New York.....	April 13, 1888	April 13, 1891
Charles Taylor.....	New York.....	May 1, 1888	May 1, 1891
S. A. Emanuel.....	New York.....	May 25, 1888	May 25, 1891
Monroe Crannell.....	Albany.....	Aug. 3, 1888	Aug. 3, 1891
Ella F. Brame.....	New York.....	Aug. 10, 1888	Aug. 10, 1891
Charles Nettleton.....	New York.....	Aug. 18, 1888	Aug. 18, 1891
Charles L. Lunt.....	New York.....	Feb. 16, 1889	Feb. 16, 1892
Edwin T. Corey.....	New York.....	March 12, 1889	March 12, 1892
Frederick A. Burnham.....	New York.....	April 13, 1889	April 13, 1892
Wm. F. Lett.....	Brooklyn.....	April 23, 1889	April 23, 1892
Joseph B. Brame.....	New York.....	May 13, 1889	May 13, 1892
Emil Frenkell.....	New York.....	June 4, 1889	June 4, 1892
Charles Edgar Mills.....	New York.....	June 7, 1889	June 7, 1892
Albert H. Osborne.....	Brooklyn.....	July 2, 1889	July 2, 1892
Elias Lewis.....	Steuben.....	Sept. 14, 1889	Sept. 14, 1892
Walter L. S. Langerman.....	New York.....	Nov. 20, 1889	Nov. 20, 1892
Wm. Johnson.....	Buffalo.....	Jan. 17, 1890	Jan. 17, 1893
Rufus K. McHarg.....	New York.....	Feb. 11, 1890	Feb. 11, 1893
George H. Taylor.....	New York.....	April 14, 1890	April 14, 1893
Thomas Kilvert.....	New York.....	May 5, 1890	May 5, 1893

## NORTH CAROLINA.

J. F. Miller.....	Bethama.....	April 25, 1888	April 25, 1891
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## OHIO.

Lipman Levy.....	Cincinnati.....	Dec. 2, 1887	Dec. 2, 1890
Gabriel Netter.....	Cincinnati.....	March 5, 1888	March 5, 1891
Jos. T. Harrison.....	Cincinnati.....	Oct. 20, 1888	Oct. 20, 1891

## COMMISSIONERS IN OTHER STATES—CONTINUED.

## OREGON.

NAME.	POST-OFFICE.	DATE OF TAK- ING EFFECT OF COMMISSION.	DATE OF EXPIRATION OF COMMISSION.
Eugene D. White.....	Portland .....	Jan. 2, 1888	Jan. 2, 1891

## PENNSYLVANIA.

Albert L. Wilson.....	Philadelphia.....	June 24, 1887	June 24, 1890
Edward H. Cloud.....	Philadelphia.....	Dec. 1, 1887	Dec. 1, 1890
Sam'l L. Taylor.....	Philadelphia.....	July 26, 1888	July 26, 1891
J. H. Wheeler.....	Philadelphia.....	Aug. 17, 1888	Aug. 17, 1891
Wm. F. Robb.....	Pittsburg .....	Sept. 25, 1888	Sept. 25, 1891
Theodore D. Rand.....	Philadelphia.....	Dec. 29, 1888	Dec. 29, 1891
John Sparhawk.....	Philadelphia.....	Jan. 14, 1889	Jan. 14, 1892
Edwin Shippen.....	Philadelphia.....	Jan. 14, 1889	Jan. 14, 1892
Wm. Jenks Tell.....	Philadelphia.....	March 12, 1889	March 12, 1892
Kinley J. Tener.....	Philadelphia.....	June 14, 1889	June 14, 1892
Chas. W. Sparhawk.....	Philadelphia.....	June 21, 1889	June 21, 1892
Thomas J. Hunt.....	Philadelphia.....	Dec. 16, 1889	Dec. 16, 1892
Alex. Ramsey.....	Philadelphia.....	Dec. 30, 1889	Dec. 30, 1892
George W. Hunt.....	Philadelphia.....	March 26, 1890	March 20, 1893

## RHODE ISLAND.

Gilman E. Jopp.....	Providence.....	Oct. 7, 1889	Oct. 7, 1892
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## VIRGINIA.

Wm. A. Hester.....	Hallfax C. H.....	April 11, 1890	April 11, 1893
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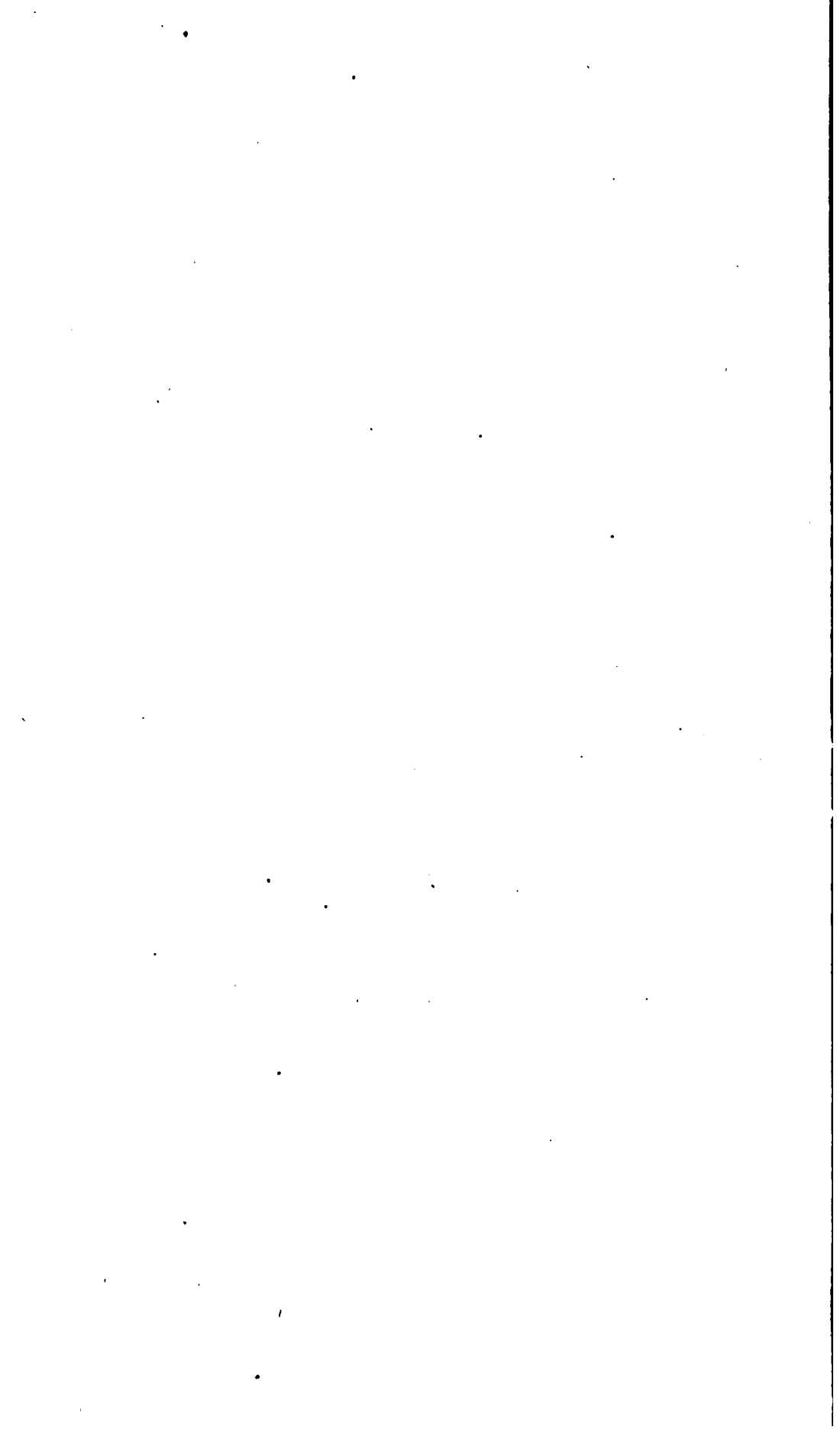
PART I.

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GENERAL LAWS.

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LAWS  
OF THE  
TWENTY-THIRD GENERAL ASSEMBLY  
OF THE  
STATE OF IOWA.

PASSED AT THE REGULAR SESSION THEREOF, AT DES MOINES, THE CAPITAL OF THE STATE, BEGUN ON THE THIRTEENTH DAY OF JANUARY, AND ENDED ON THE FIFTEENTH DAY OF APRIL,  
A. D. 1890, IN THE FORTY-FOURTH  
YEAR OF THE STATE.

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PART I—GENERAL LAWS.

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CHAPTER I.

EXTENSION OF CITY LIMITS.

AN ACT to extend the Limits of Cities and for Other Purposes Inci- S. F. 172.  
dent Thereto.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the boundaries of all cities in this state, which had, by the state census of 1885, a population of thirty thousand or more, are hereby extended two and one half miles in each direction, from the present boundaries of said cities. Such extension being so made, as to leave the boundaries

Boundaries of  
certain cities  
extended.

hereby created in a perfected rectangle; that all the territory embraced within said extended boundaries, whether the same is contained in cities, incorporated towns or otherwise, shall be and become a part of the city and subject to its jurisdiction and authority; and that the corporate character of any annexed territory within the extended boundaries herein specified, shall cease and determine; provided, that if any one of such outside boundary lines, as extended by this act, shall come within two miles of a county line, such boundary line on such side shall extend only one and one half miles beyond the present boundary line of such city; provided, further, that nothing herein contained shall affect the rights of existing creditors, or present boundaries or existing conditions of school districts.

County lines.

Territory annexed exempt from former city debt.

SEC. 2. That all present indebtedness of each city, the boundaries of which are extended by this act, shall be paid by the city as it existed before the passage of this act; that none of the real estate or property embraced within the annexed territory, as created hereby, shall ever be subjected, in any way, to the payment of any part of said indebtedness, but the same shall be paid by a tax to be levied by the city authorities exclusively upon property subject to taxation within the city, as it existed prior to the passage hereof. That the indebtedness, if any, of each city or incorporated town, lying within the limits of the annexed territory shall be paid by such city or incorporated town; and the city council is hereby authorized and it is hereby made its duty to provide for the levy of taxes upon the property subject to taxation within the limits of such city or incorporated town, for the payment of the indebtedness of such city or incorporated town, and to continue such tax from year to year so long as the same shall be necessary for the payment of such indebtedness, and in no event shall property subject to taxation outside of the limits of such city or incorporated town be subjected to any tax for the payment of the present indebtedness thereof. Provided, however, that if any such cities or incorporated towns included within such annexed territory, now own any real estate, its present fair market value shall be credited upon its debt, and the amount of such credit shall be assumed and paid by the city as extended by the provisions of this act, and all property belonging to all incorporated cities or towns affected by this act, shall become the property of the city as enlarged hereby.

Ten acre lots in certain cases not taxable for city purposes.

SEC. 3. No lands included within said extended limits of such city, which shall not have been laid off into lots of ten acres or less, or which shall not subsequently be divided into parcels of ten acres or less, by the extension of streets and alleys or otherwise, and which shall also in good faith be occupied and used for agricultural or horticultural purposes, shall be taxable for any city purpose, except that they may be sub-

jected to a road tax to the same extent as though they were outside the said extended limits, and which said road tax shall be paid into the city treasury.

Sec. 4. That, for the purpose of reorganizing the wards of said cities, the boundaries of which are extended by this act, the governor shall appoint six persons in each of such cities, and residents thereof respectively, three from each of the two principal political parties; who are hereby constituted commissioners for the purpose of re-districting such cities respectively into wards; said commissioners shall meet as a board, within six days from the taking effect of this act, having given at least three days' notice in one or more of the daily newspapers published in said city or cities, of the time and place of their meeting, and shall hear the arguments and suggestions of all who may desire to appear before them, as to the proper boundaries of the new wards, and after hearing such arguments, to such an extent as such commissioners may determine, they shall lay off the said city or cities, whose boundaries are hereby extended, into the same number of wards, as the city or cities may now have, with such boundaries as they shall prescribe; but said wards shall be laid off in a rectangular form as nearly as practicable, and making, so far as practicable, boundaries conform to the center of streets and with straight lines and so as to give each ward, as nearly as practicable, an equal population; said commissioners shall file and have recorded, the original order defining the boundaries of said wards, with the clerk of the district court of the county wherein the city is situate, and a copy or duplicate thereof, with the clerk of the city council, which he shall record. They shall also within the ten days after the appointment, for the purpose of holding the first election, hereinafter provided for, divide said wards into voting precincts, and appoint registers in each voting precinct to prepare and revise the lists of voters, using so far as applicable present registration and poll lists from which to make said lists; and they shall for that purpose sit on each week day for one week previous to said election. And said commissioners shall also appoint judges of election, and designate polling places in each voting precinct.

Reorganizing  
wards.

Voting pre-  
cincts.

Sec. 5. In all cities affected by this act the regular municipal election shall be held on the first Monday in April, in the year 1890, and in each alternate year thereafter. At such election there shall be elected all elective officers for such terms and in such manner as now provided by law for cities of the first class. Said officers shall qualify within the time and in the manner now provided by law, and the terms of office of all officers in office prior to said first election in all such cities or towns shall cease and determine upon the organization of the new city council so elected.

Election date.

Repealing  
clause.

SEC. 6. All acts and parts of acts inconsistent with this act are hereby repealed. Provided that nothing in this act shall be construed to effect pending litigation concerning the acts of the council of North Des Moines in regard to street pavement or any other litigation in existence at the time of the passage of this act.

Publication.

SEC. 7. This act, being deemed of immediate importance, shall take effect and be in force from and after the date upon which publication thereof is made in the daily Iowa State Register and in the daily Des Moines Leader, newspapers published at Des Moines, Iowa, the provision of section thirty-three of the Code to the contrary notwithstanding.

Approved March 13, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* March 14, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 2.

### BRIDGE FUND NOT APPLICABLE TO CERTAIN CITIES.

S. F. 113.

AN ACT to amend Chapter 16 laws of the Twenty-second General Assembly entitled: "An Act Granting Additional Powers to certain Cities of the First Class and to cities organized under Special Charters and Cities of the Second Class having over 7,000 inhabitants."

*Be it enacted by the General Assembly of the State of Iowa:*

Bridge fund  
not appli-  
cable to cities  
organized  
1887-90.

SECTION 1. That Section One (1) of Chapter 16 laws of the 22 General Assembly be and the same is hereby amended by adding after the last word in the last line thereof the following: And provided further that so much of this chapter as refers to the Bridge Fund, shall not apply to first class cities organized under the general incorporation laws of this state during the years between 1887 and 1890; nor to second class cities having a population of less than 10,000 by the census of 1885, nor to cities acting under Special Charters and having a population of less than 4000 by the census of 1885.

Approved April 11, 1890.

## CHAPTER 3.

## ASSESSMENT DISTRICTS IN CITIES OF FIRST CLASS.

AN ACT Conferring Additional Powers Upon certain Cities of the S. F. 381.  
First Class in Respect to Assessors.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the City Council of all cities of the first class which had by the State Census of 1885 a population of thirty thousand or more, shall have the power at any time to divide such cities, irrespective of township lines, into as many assessment districts as shall be necessary to insure the performance of the work of assessment within the time required by law, and one assessor shall be elected by the electors of the entire city for each of the assessment districts so fixed by the City Council at the regular municipal election hereafter to be held in such cities, as now provided by law. Cities divided irrespective of townships.

SEC. 2. The City Council in such cities shall also have the power to fill vacancies that may occur, or that may now exist in the office of assessor in any assessment district now or hereafter created; and if any of the said districts as now or hereafter fixed by the City Council shall be found to be without an assessor, the City Council may appoint an assessor for such district, or districts, having the qualifications now provided by law, which appointee, after having qualified, shall perform all of the duties of such assessor until his successor is elected and qualified under existing laws. Vacancies in assessment districts filled.

SEC. 3. This act being deemed of immediate importance, shall take effect from and after its publication in the daily Iowa State Register, and Des Moines Leader, newspapers published at Des Moines the provisions of section 33 of the Code to the contrary notwithstanding. Publication.

Approved March 28, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 1, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 4.

## ISSUING AND PAYMENT OF BONDS—CITIES OF FIRST-CLASS.

H. F. 28.

AN ACT to Authorize Certain Cities of the First Class to Issue Bonds and to Provide for Their Payment Principal and Interest.

*Be it enacted by the General Assembly of the State of Iowa:*

Cities organized since January 1885 may issue bonds.

SECTION 1. That Cities of the first Class organized as such under the general incorporation laws since January 1st A. D. 1885 shall have power and authority to issue, as may be ordered by the City Council, bonds for the purpose of funding, or refunding any subsisting legal indebtedness of said corporations outstanding at the date of the final passage of this act.

Interest.

SEC. 2. That all bonds issued under and by virtue of the provisions of this Act, shall draw a rate of interest not exceeding Six percentum per annum, payable annually or Semi-annually, and shall be issued in denominations of not more than One Thousand Dollars each; and having not more than thirty years to run, with principal and interest payable at such place as the City Council shall by resolution in ordering the issue of said Bonds, direct and provide.

Denomination.

Time.

Resolution by city council to specify purpose of bonds.

SEC. 3. That all bonds issued under the provisions of this act, shall be issued pursuant to and in conformity with a resolution adopted by the City Council, which said resolution shall specify the purpose for which said bonds are to be issued, the rate of interest they shall bear, and whether payable Annually or Semi-Annually, the place where said principal and interest shall be payable, and when said Bonds shall become due and payable, and such other provisions in reference to said Bonds as to said City Council shall seem expedient and proper, and not inconsistent with the provisions of this act; which Resolution shall constitute a contract between the said City and the purchasers or holders of said Bonds, and said Resolution shall be entered of record upon the minutes of the proceedings of the City Council, and printed upon the back of the bonds to be issued.

Sale of the bonds.

SEC. 4. That all bonds issued under the provisions of this act shall be sold to the highest bidder for cash, under the direction of the city council, and said bonds shall not be sold for less than their face value and accrued interest, and the proceeds of the sale of such bonds shall be applied and exclusively used for the purposes for which said bonds are issued.



SEC. 5. Said bonds shall be signed by the mayor and attested by the auditor or clerk, as the case may be, with the seal of the city affixed, and numbered consecutively; and the interest coupons attached thereto shall be signed by the auditor or clerk, as the case may be, and when said bonds have been so executed as aforesaid, they shall be delivered to the treasurer, who shall register the same in a book provided for that purpose, which register shall show the number of said bonds, their date, date of sale, amount, date of maturity, and the name and address of the purchaser; And the treasurer shall thereupon certify upon the back of said bonds as follows:—"This Bond duly and properly registered in my office this . . . Day of . . . , . . . , . . . City Treasurer." and the treasurer shall after such registration, deliver said bonds to the purchaser thereof, as shall be directed and ordered by the City Council.

Authority of  
bonds.

Registered by  
treasurer.

SEC. 6. The City Council of all cities issuing bonds under and by virtue of the provisions of this act, shall cause to be levied each year upon all the taxable property of said city, in addition to the levy for other purposes a sum sufficient to pay the interest on bonds outstanding, issued under the provisions of this act, to accrue before the next annual levy.

Levy of ad-  
ditional tax  
to pay inter-  
est.

SEC. 7. The city council of all cities issuing bonds under and by virtue of the provisions of this act, shall cause to be levied upon the taxable property of said city in addition to the levy for all other purposes as provided by law, a tax for the purpose of creating a fund for the payment of said bonds; which said levy shall be made at such time and in such manner that the fund to be derived therefrom shall be available and sufficient to pay said bonds at their maturity; and in accordance with the terms and provisions of the resolution of the city council under which said bonds are issued.

Levy of addi-  
tional tax to  
pay principal.

SEC. 8. That if the city council of any city which shall issue bonds under the provisions of this act, shall fail to make the levy necessary to pay the interest on said bonds, or for the payment of said bonds at maturity, in compliance with the resolution under which said bonds are issued, and any of said bonds or the interest coupons shall have been presented for payment and payment thereof refused, the owner of said bonds may in addition to any other remedies he may have in law or in equity, if he so elects, file the same together with all unpaid coupons with the Auditor of State, taking his receipt therefor, and the same shall be fully registered in the Auditor's office; and the Executive Council at their next session as a board of equalization, at the time of the levy of the State tax, and at each annual session thereafter, shall declare a levy upon the taxable property of said city, of a sufficient rate to realize the amount then due or to become due on said bonds, prior to the next levy, which shall be collected the same as the state

Failure to  
make levy to  
pay principal  
or interest.

Unpaid bonds  
filed with Au-  
ditor of State.

tax, and paid into the State Treasurer; and placed to the credit of such city for the payment of said bonds and interest, and shall be paid to the persons entitled thereto upon the warrants drawn by the State Auditor, as shown by the bonds registered in his office, and when so paid the bonds and interest coupons shall be cancelled by the State Auditor, and returned by him to the Treasurer of the City issuing the same, who shall receipt to him therefor.

Payment by  
State Audi-  
tor.

Publication.

SEC. 9. This Act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader newspapers published at Des Moines, Iowa.

Approved March 25, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* March 28th and in the *Des Moines Leader* March 29th 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 5.

### SPECIAL TAX FOR GRADING STREETS.

S. F. 277.

AN ACT Authorizing, in certain cities, a special tax for the grading of streets.

*Be it enacted by the General Assembly of the State of Iowa:*

Levy of ad-  
ditional tax  
to create  
street grad-  
ing fund.

SECTION 1. That all cities of the first class incorporated under the general incorporation laws of the State of Iowa, whose population according to the census of 1875 was not less than Nineteen Thousand, are hereby authorized to levy in addition to the taxes which they are now empowered to levy, a special tax not exceeding three mills on the dollar on the assessed valuation of all the property in said City for the purpose of creating a fund for the grading of streets, and known as the grading fund.

Use restricted

SEC. 2. The money raised by the tax hereby authorized to be levied shall not be used for any other purpose than that hereby contemplated.

May antici-  
pate tax and  
borrow.

SEC. 3. It shall be competent for any city authorized by this act to levy such tax, to anticipate the collection thereof by borrowing money and pledging such tax for a period of not more than five years, and no tax shall be pledged until the expiration of said period whether levied or not, for the payment of the money so borrowed.

SEC. 4. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines Iowa.

Approved April 10, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 16, and in the *Des Moines Leader* April 15, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 6.

### CHANGE OF WATER COURSE THROUGH CITIES.

AN ACT authorizing cities to deepen, widen, straighter, wall-up, cover, fill, alter, change or divert from its natural channel, and to conduct the same in artificial channels or into or through covered drains or sewers, to be constructed for the purpose, any water course or any part thereof, within the corporate limits of said cities, and to provide the manner in which the same shall be done, and to authorize the levy and collection of special tax, and the levy and collection of special assessments to defray the cost and expenses thereof. S. F. 144.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That any city of the first class, of the state of Iowa, organized as such under the general corporation laws since the 1st day of January, A. D. 1885, shall have power to deepen, widen, straighten, wall-up, fill-up, cover, alter or change the channel of any water course, or any part thereof, flowing through the corporate limits of said city. Also to build and construct artificial channels, covered drains or sewers sufficient to carry the water theretofore flowing in any such water course, and to divert any such water course from its natural bed, channel or course, and to conduct the same into or through any such artificial channel, covered drain or sewer so constructed, and to fill up the channel of any such water course, the waters of which have been so diverted and changed.

SEC. 2. When any such city shall desire to avail itself of the powers hereinbefore granted, and the city council shall determine by resolution or otherwise to exercise any of such powers, they shall direct the city engineer to make the proper plans and specifications for the doing of such work and to prepare an estimate of the cost thereof.

SEC. 3. If said council on further examination and consideration of said plans and specifications, and of the expenses necessary to be incurred therein, shall still deem it advisable

Power to deepen, widen straighten or change granted.

City engineer directed to make plans and specifications.

Special election may be called.

that any such work be done as proposed and contemplated, they shall call a special election in said city to determine whether said work shall be done, and also the question of raising or levying a special tax in addition to all other taxes now provided for by law for the purpose of paying the expenses thereof.

Council may  
extend time  
for collection.

Provided if the city council shall determine that the estimated cost of said work is greater than should be levied or collected in a single year, they may determine what proportion of the same shall be levied and collected each year and during what years the same shall be levied and collected. And the city council shall provide by ordinance or resolution the manner in which the voting of said special tax shall be submitted to the electors of said city.

Result of  
election if  
favorable.

SEC. 4. If at such election, the majority of the votes cast shall be in favor of doing said work and in favor of levying of said special tax the city council shall order the city engineer to make a survey of said stream or any portion thereof, so proposed to be widened, deepened, straightened, walled up, filled up, altered, changed or diverted, as the case may be; said plat or survey to show the condition, position, location, boundaries and course of said stream at the time of platting of said town site, as near as possible, and also its present condition, location, and course, and any changes that have occurred in the natural course of the stream since the platting of said town site, and said plat shall also show all the lots or tracts of land by their platted or legal description abutting on said original or present channels; also the names of all owners of said lots and lands so abutting on said stream, and the city engineer shall file said plat in the office of the city clerk and shall keep and retain a duplicate thereof in his office.

Five commis-  
sioners ap-  
pointed.

SEC. 5. After said survey is made and filed, the city council shall appoint five commissioners, who shall be resident freeholders of said city, and not interested in any property abutting on said stream, so intended to be widened, changed, altered, walled up, filled up, straightened or diverted, who shall be sworn to faithfully and impartially perform the duties herein, or that may be required of them either by this act or any ordinance passed in pursuance hereof. The said commissioners so appointed shall have authority to proceed and determine what lot or lots, or lands abutting on said stream will be benefited or damaged, if any, by the doing of said work, and the amount of such benefit or damages, if any, as the case may be, which will accrue to or be sustained by each and every such lot or lots or parts of lots, or parcels of lands and the owners thereof, shall make report, in writing, of their findings and determination. In determining any question as to whether any benefits accrue to, or damages are sustained by such lot or lots or parcels of land, or owners thereof

Duty of com-  
missioners.

To report in  
writing.

the said commissioners shall consider the amount of land reclaimed or lost, and the expense that will be incurred to the owners of said property, in the doing of said work, and the advantages, if any, accruing from the removal of the easement of said water course, and any other matter that said commissioners may deem proper to be considered in determining said question.

Provided, That no damages shall be awarded for the cost of the filling of said channel. Said commissioners shall give notice of the time and place of their meetings to determine what lot or lots and lands are so benefited or damaged, as the case may be, by publication thereof, at least five days successively, prior thereto, in some newspaper in general circulation in said city, and for the purpose of enabling them to determine, the same, may take evidence and listen to and receive any statement which any owner of property may see fit to make in reference thereto. After said commissioners shall so make their finding and determination to the city council, the said city council may approve, reject or modify the same.

Time and place of commissioners' meeting.

Hearing evidence.

Provided, That notice of the hearing before the said city council of said report of said commissioners shall be given by publication in a newspaper of general circulation in said city for five successive days, which last publication shall be ten days before such hearing. And if after said council shall hear said matter, they shall conclude to reject said report, they shall resubmit the matter of the determination of said benefits and damages to new commissioners, who shall proceed in the same manner as said original commissioners. If said city council shall approve or modify said finding of said commissioners they shall assess the amount of said benefits so found and determined against said abutting lot or lots or lands, and the said channel so to be filled up or reclaimed. Any person aggrieved by the action of the city council in making said assessments, shall have the right of appeal to the district court of the county in which said city is located, provided said appeal is taken within twenty days from said assessment, and shall also have the right to review said action of the city council in said district court, in the manner now provided by law.

Notice of hearing to be published.

Parties aggrieved.

Appeal.

Sec. 6. If such stream or any part thereof is proposed to be diverted from its course, and conducted through another or different channel, or through any covered drain or sewer, the city council shall have power to order said stream or any part thereof, thus abandoned, as a water course, to be filled up and if the same or any part thereof is not filled up by the owner or owners of said stream within such time as the city may by ordinance or resolution provide, the city council may proceed to let the work of filling said stream or any part thereof by

May order abandoned channel filled.

Contract to fill let by council.	contract, and the city council shall have power to assess the cost of filling up the remainder of the channel of said stream against said property abutting on said stream including that reclaimed therefrom, and against the owners thereof, in proportion to the number of cubic yards of fill required and made upon, against and in front of each of said lots or tracts, and the city council shall provide by ordinance or resolution, the manner of ascertainment of said cost and adopting and making said assessments the notice to be given to said owners of the time and place of making the same. And said city may provide by ordinance when said special assessments for
Assessments when due and payable.	benefits and for the expense of filling said old channel shall become due and payable, and whether in one payment or in installments and the rate of interest not exceeding six per cent per annum, said deferred payments shall draw, and may provide for the issue of improvement bonds, to be a lien on said property, and payable from the funds to be derived from said special assessments, all as provided in chapter 20, of the laws of the twentieth general assembly of Iowa, and acts amendatory thereof.
Assessment levied when work is completed.	SEC. 7. Such special assessments shall not be levied by the city council until said work shall be completed, they shall become delinquent at such time after the levy thereof as the city council may provide, shall constitute a lien against the lots and lands against which they may be assessed from the date of the resolution making the assessment, shall draw interest at
Interest.	a rate not exceeding six per cent per annum, and may be enforced against said lots and lands and the owners thereof in any manner provided by law or the ordinances of said city.
Delinquent assessment.	The assessments when delinquent may be certified to the county auditor and by him placed on the tax books of the county wherein said city is situated, and the same shall be collected and paid over in the manner provided by law for the collection of state and county taxes, and said city is hereby
Sale of property.	authorized to become a purchaser at any sale made by the county treasurer for any such delinquent special assessments, and shall be entitled, if the same shall remain unpaid as by law provided, to receive a treasurer's tax deed for said property so sold and thereafter may sell and convey the same in any manner they may deem best and proper.
Relation of streets and alleys.	SEC. 8. That all streets and alleys intersecting said old channel or stream opposite each other, shall be considered as projected from each side thereof and meeting in the center of said stream in such a manner as to make a continuous street or alley across the same, and if such street or alley is shown upon the present recorded plats as terminating on one side of said stream, the same shall be projected to the center thereof, and the expenses of filling all such streets and alleys shall be borne and paid by the city.

SEC. 9. If the title to the natural bed and banks of any stream or any portion thereof, after the same shall be diverted from its natural course and conducted through another channel or through any covered drain or sewer is in the public, or is in the corporation for the use of the public, then the said city shall have power to fill up the said channel so owned by the public, and pay the expenses thereof, and shall have power to sell and dispose of the same in any manner the city council may deem proper.

Title when vested in the public.

SEC. 10. Said cities are also hereby authorized to condemn and appropriate so much private property as shall be necessary to carry into effect any and all of the provisions granted or conferred by this act. When it shall be necessary for any such city to enter upon and condemn private property for any of the purposes herein enumerated, the proceedings to condemn the same and the compensation to be paid therefor shall be determined in the manner provided by sections 476 and 477 of chapter 10, of title 4 of the Code of 1873.

Private property condemned.

SEC. 11. After the report of the commissioners provided in section 5 hereof to the city council and the final action thereon by the city council as hereinbefore provided, the city council shall have authority to order said work of constructing said new drain, sewer or channel, or part thereof, to be done as provided and to levy said special taxes to pay the costs and expenses thereof. They shall have power to authorize different portions of said work to be done in different years successively, and in such case, shall levy only such portion of said special tax each year as that portion of said work ordered done in any one year bears to the whole of said work proposed to be done.

Work may be authorized on report of commissioners.

SEC. 12. The cost and expense of doing any of the work authorized by this act (except the cost of filling any old channel, to be assessed against abutting property hereinbefore provided), the compensation to be paid for private property condemned and appropriated therefor, and the damages which any person may sustain by reason thereof, or by reason of the change of said old channel as hereinbefore provided, shall be paid out of special tax hereby authorized to be levied; the levy and collection of special assessments for benefits upon lots and the lands abutting upon said old water course, as hereinbefore specified, and the special assessments, if any, which the city may make against any property adjacent to the street or alley on which said new sewer may be located and also from the proceeds of any sales as herein provided of said portion of said water course from which the water shall have been diverted and the title to which may be vested in the public, or in the corporation for the benefit of the public, and also by appropriations from the general funds of said city available for said purpose.

Payment of cost and expenses.

Sewer used  
by city.

SEC. 13. In case the new sewer as herein authorized, shall be constructed along any street or alley and shall be allowed by the city to be used as a sanitary or storm water sewer along the line thereof, then and in that case the city council shall have power to assess to the lots or lands adjacent to the line of such sewer, a portion of the cost of such sewer, not exceeding, however, in any event, the sum of two dollars per lineal foot of sewer, and if such assessment is made, the same shall be assessed and levied against adjacent property in the same manner as is now or hereafter may be provided by law, and the ordinances of any such city in which such sewer is constructed for the construction of sewers and the assessments of the costs thereof.

A portion of  
cost assessed.

Collection of  
tax antici-  
pated.

SEC. 14. Said cities shall have authority in anticipation of the collection of said tax, to borrow money for the purpose of doing said work, and may issue its bonds therefor and shall have authority to provide by ordinance the manner of the issuing of the same, provided that the sums so borrowed by said city shall not exceed in any one year the total amount of said special tax actually levied at the time when any such loan shall be made.

Publication.

SEC. 15. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers printed and published in the city of Des Moines, Iowa, said publication to be made without expense to the state.

This bill having remained with the governor three days (Sunday excepted), the General Assembly being in session, has become a law this 18th day of April, 1890.

## CHAPTER 7.

### REMOVAL OF SNOW AND ICE FROM SIDEWALKS.

S. F. 252. AN ACT to Amend Chapter 16 of the Acts of the Twenty Second General Assembly. Relating to Improvements of and Granting Additional Powers to cities of the First and Second Class.

*Be it enacted by the General Assembly of the State of Iowa:*

Provisions  
extended to  
cities of sec-  
ond class.

SECTION 1. That Section 1 Chapter 16 of the acts of the Twenty Second General Assembly, relating to the removal of snow and ice from sidewalks in cities organized under special charters, and cities of the First Class, and cities of the Second class, having over Seven Thousand inhabitants be



amended by inserting the after the words "Period of Fifteen hours" in the Seventeenth line of said Section the words "Provided that the provisions hereof, relating to the removal of snow and ice from sidewalks, shall extend to and include all cities of the second class."

Approved April 15, 1890.

## CHAPTER 8.

### FIRE DEPARTMENTS.

AN ACT to establish and maintain a Fire Department in Cities of S. F. 133. the second class.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That any city of the second class may levy a tax of not more than one mill on the dollar, in addition to the maximum tax now authorized by law, for the purpose of maintaining a Fire Department, and the money so raised shall constitute a fire fund and shall be applied to no other purpose. Tax of 1 mill authorized.

SEC. 2. The City Council shall provide by ordinance, the manner in which disbursements shall be made for the purchase of fire apparatus and services rendered by members of the Fire Department while engaged at any fire said bills to be audited and paid in the same manner as other bills, by the City Council. Manner of disbursement.

Approved April 10, 1890.

## CHAPTER 9.

### IMPROVEMENT OF STREETS.

AN ACT to Amend Chapter 20 of the Acts of the Twentieth General Assembly of Iowa, by Including Within the Provisions thereof Certain Cities of the Second Class. H. F. 134.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Chapter 20 of the Acts of the Twentieth General Assembly of Iowa be and the same is hereby amended by inserting after the figures "1881" and before the word "shall" in the second line of Section one thereof, Cities of second class included.

the words "and cities of the second class having a population of more than ten thousand inhabitants according to the census of 1885" and by inserting after the word "first" and before the word "class" in the second line of Section Six of said Chapter the words "and second".

Publication.

SEC. 2. This Act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader newspapers published at Des Moines, Iowa.

Approved April 5, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 10, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 10.

### CONSTRUCTION OF SEWERS.

H. F. 216.

AN ACT to Extend to Cities of the Second Class Having More Than 3,000 Population the Provisions of Chapter 162. Acts of the 17th General Assembly.

*Be it enacted by the General Assembly of the State of Iowa:*

Cities of the  
second class  
included.

SECTION 1. Of Chapter 162, of the Acts of the 17th General Assembly is hereby amended, by inserting after the word "Class" in line 1, of Section 1, the words "and cities of the Second class having a population of three thousand and upwards according to the last preceding State or national census".

Approved April 30, 1890.

## CHAPTER 11.

## STREET RAILWAYS.

AN ACT conferring upon cities and Incorporated Towns certain additional powers relating to the construction of street railways and to define the motive power thereof. S. F. 325.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. All cities and incorporated towns, including cities acting under Special charters, shall have the power to authorize or forbid the construction of street railways, within their limits, and may define the motive power by which the cars thereon shall be propelled, including animal—electricity, steam, or other power, whether now known or hereafter utilized. May authorize or forbid construction. Motive power.

SEC. 2. All ordinances or resolutions of such cities or incorporated towns heretofore enacted, granting to any person or company the right to propel its cars by electricity are hereby declared legal and valid. Provided that nothing in this act shall *effect* [affect] present or pending litigation or any vested rights. Certain rights legalized.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader newspapers published at Des Moines Iowa. Publication.

Approved April 24, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 30, 1890, and the *Des Moines Leader* April 29, 1890.  
FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 12.

## FUNDING CITY INDEBTEDNESS.

H. F. 55. AN ACT to Amend Section One (1) of Chapter Seventeen (17), Laws of the Twenty Second General Assembly.

*Be it enacted by the General Assembly of the State of Iowa:*

Census of 1885  
stricken out.

SECTION 1. That Section One (1) of Chapter Seventeen (17) of the Laws of the Twenty Second General Assembly be amended by striking out the words "census of 1885 in line 3 of said Section 1, Chapter 17, and inserting in lieu thereof the words, "last preceding census of the United States or of the State of Iowa."

Approved April 1st, 1890.

## CHAPTER 13.

## ISSUE OF WATER WORKS BONDS.

S. F. 260. AN ACT to repeal section one of Chapter Ten of the Laws of the Twenty Second General Assembly, and to enact a substitute therefor.

*Be it enacted by the Genesal Assembly of the State of Iowa:*

Part repealed SECTION 1. That section number one of chapter number ten of the laws of the 22nd General Assembly be and the same is hereby repealed, and the following enacted in lieu thereof:

Substitute.

Section 1. In all cases when a city of the second class, or an incorporated town, has determined, or hereafter may determine, to erect water works, to be owned and operated by the city or town, as provided for in section 471 of the Code, it shall be lawful for such city or town to issue its bonds to procure the money for such purpose to an amount not exceeding five per cent. upon the taxable property of such city or town, as shown by the last regular assessment thereof prior to the issuance of such bonds; but in no case shall the aggregate indebtedness of such city or town be increased by the issuance of such bonds,

Limit of  
bonds 5 per  
cent.

Aggregate in-  
debtedness.

beyond the limit of indebtedness fixed by the constitution of the state; and no money procured upon the issue of such bonds shall be used for any other purpose than the erection of such water works. No such bond shall bear greater rate than six per cent. interest, nor shall be drawn to run more than twenty years.

Interest.

SEC. 2. This act being deemed of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines Iowa.

Publication.

Approved March 28, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 2, and *Des Moines Leader* April 1, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 14.

### PAVING, CURBING AND SEWER CONTRACTS.

AN ACT Making further provisions with respect to contracts by cities organized under special charters for paving and curbing streets, and the construction of sewers and the making and collection by such cities of assessments and the issuance of bonds or certificates by such cities to pay for such improvements.

H. F. 75.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That all Cities in this State organized and existing under Special Charter, shall have all the powers and be subject to the provisions of this act.

Special charter cities.

SEC. 2. When the Council of any such City shall direct the paving and curbing of any street or streets, or the construction of any sewers, such Council or the Board of Public Works in case such Board shall exist, shall make and enter into contracts for furnishing materials, and for the curbing paving surface with any composition patented or otherwise or sewerage as the case may be, either for the entire work in one contract or parts thereof in separate and specified sections as to them may seem best.

Contract for material.

SEC. 3. All such contracts shall be made by the Council or the Board of Public Works when such Board shall exist, in the name of the City, and shall be made with the lowest bidder or bidders upon sealed proposals after public notice for not less than ten days in at least two newspapers of said City, which notice shall state as nearly as practicable the extent of

Contracts—how made.

the work, the kind of materials to be furnished, when the work shall be done, and at what time the proposals shall be acted upon.

Contractors' bond.

SEC. 4. Each contractor shall be required to give bond to the city with sureties to be approved by the Council, or by the Board of Public Works where such board shall exist, for the faithful performance of the contract, and the Council of such Board shall have power to institute suit in the name of the City to enforce all such contracts.

Engineer—duty of.

SEC. 5. It shall be the duty of the City Engineer to furnish the Council or Board of Public Works in case such Board shall exist, with proper grades and lines, and see that the work is done in accordance with the ordinances and regulations of the City, with respect to said grades and lines.

Provisions for payment of costs.

SEC. 6. For the purpose of providing for the payment of the cost and expenses of any such improvement or improvements, the Council or Board of Public Works in case such Board shall exist, shall be authorized from time to time as the work progresses, to make requisitions upon the Mayor of the City, for the issue of bonds of the City in such sums as shall be deemed best, and it shall be the duty of the Mayor to make and execute bonds accordingly in the name of the City, to an amount not exceeding the amount of the contract price of any such improvement and the incidentals attending the same. Said bonds shall bear the name of the place or places improved, and shall be signed by the mayor and countersigned by the City Clerk, or City recorder as the case may be and sealed with the corporation seal of the City, and shall all bear the same date and be payable seven years after date, and be redeemable at any time at the option of the city and shall bear interest at the rate of not exceeding six per cent per annum, payable semi annually.

Bonds to issue.

Registration of bonds.

SEC. 7. When such bonds shall have been issued by the Mayor and sealed with the corporation seal of the city, they shall be delivered to the City Clerk or city recorder as the case may be, who shall register them in a book to be kept for that purpose and countersigned and then delivered to the Committee or person authorized to negotiate the same, taking receipt therefor.

Sale of bonds.

SEC. 8. Said Committee or person authorized to negotiate said bonds, shall negotiate the same in such manner as they, or he may deem best and for such prices as may be obtainable for the same not less the par, and shall pay all moneys received therefrom to the treasurer of the city, and report to the city clerk or city recorder as the case may be the number of bonds sold, and the amount received therefor, and before delivering the same to the purchaser said bonds shall be countersigned by the person or Committee authorized to negotiate the same.

SEC. 9. All moneys received by the City Treasurer from the sale of said bonds shall be kept by him in a separate fund, and paid out on requisition of the Council accompanied by affidavit of the City Engineer, that work has been done or material furnished to the amount of said requisition, and that it is required for the payment of the same, and all moneys received by said treasurer shall be kept in the same manner and subject to all the regulations regarding other money of the city, except he shall keep a separate account of same and all interest received upon the same shall be credited to such fund.

Fund, sale of bonds.

SEC. 10. When any such improvement shall have been completed, it shall be the duty of the Council to ascertain the entire cost of the improvement and also what portion of such cost, may be by law assessable on adjacent property and the portion of such cost so assessable, shall then be assessed as provided by law, or by ordinance of such city upon the property fronting, or abutting on said improvement. Whenever any street railway may have been constructed and shall remain upon any street which the Council may direct to be paved, at the time when such direction shall be given; and when the owner of such street railway may be bound to pave any portion of said street by any action of the city under Section 1 of Chapter 16 of the acts of the 22nd General Assembly, or by virtue of the provisions or conditions of any ordinance of the City under which said street railway may have been constructed, or may be maintained, and if the owner shall fail or refuse to comply with the order of the Council to do such paving, then the portion of the cost of paving such street, assessable upon such street railway, shall be ascertained, and shall be assessed against such street railway.

Cost of improvement assessed to abutting property.

Street railways in interest.

SEC. 11. The Council shall cause a plat to be made and filed with the City Clerk or city recorder as the case may be for Public inspection of the place or places on which such improvement shall be made showing the separate lots or parcels of ground, subject to assessment for such improvement, (and the names as far as practicable of the several owners, and the amount to be assessed against each lot or piece of ground, and if such improvement shall be the paving of any street, said plat shall also show any and all street railway tracks thereon, and the amount, if any, to be assessed against such street railway, and shall after the making and filing of said plat as aforesaid, cause to be given ten days public notice in two daily news papers, published in such city that such plat is on file in the office, of the City Clerk, or city recorder as the case may be for the inspection of any person or company interested therein, and that any such person or company having any objection to the same or the tax proposed to be assessed thereby, shall file with the said City Clerk, or city recorder as the case may be his or their objections in writing, at or before the next

Plat of territory improved.

Hearing objections.

Payable in installments with interest.

Assessments on interest a lien.

Assessment may be paid at any time.

meeting of such Council, after the publication of such notice, that such Council at such meeting, or as soon thereafter as practicable and after hearing and deciding upon any objection so filed, if any, and after making all necessary corrections in the assessment as proposed by said plat, shall assess and levy as a special tax upon the property of each owner, liable to special assessments as aforesaid, its just and true proportion according to law, and according to said assessment proposed by said plat as corrected and approved of the amount to be specially assessed for any such improvement, said assessment shall be duly entered on the proper tax books of such city, and shall be payable at the office of the City Collector of said city, or other officer authorized to collect city taxes in seven equal installments with interest at the rate of six per cent per annum, from date of the assessment upon the unpaid portion thereof, the first of which with interest on the whole amount at six percent per annum shall be payable on and after the date of such assessment, as aforesaid, and the others annually, after the date of such assessment and said assessment shall be collected like other special taxes, as may be provided by the ordinance of such city.

SEC. 12. Said assessment with interest accruing thereon, shall be a lien upon the property abutting upon the street or streets on which any said improvement is made, or upon such improvement from the commencement of the work, and shall remain a lien until fully paid, and shall have precedence over all other liens except ordinary taxes, and shall not be divested by any judicial sale, provided that such lien shall be limited to the lots or lands bounding or abutting on such street or streets, or on such improvement and not exceeding in depth therefrom 150 feet. Any assessment against any street railway for the paving of any street shall be at first and paramount lien upon the entire track of said street railway in the limits of the city making such assessments.

SEC. 13. The owner of any property against which an assessment shall have been made for the cost of any such improvement, shall have the right to pay the same in full, with interest thereon at six percent per annum, from the time said assessment was made, or after having paid one or more of said seven installments, and interest, he may at any time pay in full the balance of his assessments remaining unpaid, with interest thereon at six percent per annum, from the time when the preceding payment becomes due, and such payment in full shall satisfy and discharge the lien upon said property, and any owner of such property who shall divide the same so that the feet front on any such improvement are divided into separate lots or parcels may discharge the lien in like manner upon any one, or more of such lots or parcels by payment of the amount unpaid thereon calculated, by the ratio of feet front



of such lot or lots or parcel or parcels to the feet front of the whole lot. If any assessment shall have been made against any street railway for the paying of any street, the owner of said street railway shall have the same rights as are hereinbefore provided to pay in installments, or to pay in full, the assessment against said street railway; but no part of the line of said street railway shall be released from the lien for any portion of any unpaid assessment which may have been made against it for paving any street as aforesaid.

Same rights to street railways.

SEC. 14. All moneys received from assessments shall be appropriated to the payment of the interest or payment and redemption of the bonds, or of the certificates hereinafter provided for as the case may be, that shall be issued for such improvements, and if any interest shall become due on any of said bonds, when there is no fund to pay the same, the Council shall be authorized to make a temporary loan for the payment thereof.

Use of money received.

SEC. 15. If by reason of the prohibition contained in Sec. 3, Article 11, of the Constitution of this State, it shall at any time be unlawful for any such city to issue bonds as by this act, provided or for any other reason or reasons at the discretion of the council it shall be lawful for such city to provide by ordinance for the issuance of certificates to contractors, who under contract with the city, shall have constructed any such improvement in payment therefor, each of which certificates shall state the amount or amounts of one or more of the assessments, made against an owner or owners, and lot or lots, or street railway, on account of and for payment of the cost of any such improvement, and shall transfer to the contractor and his assigns all of the right and interest of such city to, in and with respect to every such assessment, and shall authorize such contractor and his assigns, to receive, sue for, collect or have collected every such assessment, embraced in any such certificate by, or through any of the methods provided by law, for the collection of assessments for local improvements including the provision of this act.

Cases prohibited by constitution.

SEC. 16. Whenever the owner or owners of any lot or lots, or any street railway, the assessment or assessments against which is or are embraced in any such certificate, shall severally promise and agree in writing endorsed on such certificate, that in consideration of having the right to pay his or their assessment or respective assessments in installments, they will not make any objection of illegality or irregularity as to their respective assessments, and will pay the same with interest thereon, at such rate not exceeding six per cent per annum, as shall by ordinance or resolution of the City Council of such city be prescribed and required, he or they shall have the benefit and be subject to all the provisions of this act authorizing the payment of assessments in annual installments,

Agreement in writing to pay.

relating to the lien and collection and payment of assessments so far as applicable.

Failure to  
promise in  
writing.

Must pay in  
full.

Mistakes.

Owners must  
petition.

Parts of  
street.

Repealing  
clause.

Publication.

SEC. 17. Any owner of any lot or lots, or any street railway assessed for payment of cost of any such improvement who will not promise and agree in writing as provided by Sec. 16, hereof shall be required to pay his assessment in full when made, and the same shall be collectible by or through any of the methods provided by law for the collection of assessments for local improvements including the provisions of this act.

SEC. 18. Any mistake in the description of the property, or in the name of the owner shall not vitiate the lien.

SEC. 19. The Council of any such city shall not have the right to authorize any improvement under this act, unless the owners of a majority of the feet front of the property abutting upon the street or streets to be improved, or any such improvement shall petition therefor, or unless the same shall be voted for by three fourths of the members of the Council.

SEC. 20. Any part of any street may be improved under this act, as well as an entire street.

SEC. 21. All acts and parts of acts in conflict with this act are hereby repealed provided nothing herein contained shall be construed as prohibiting or preventing such cities from making special assessments to pay for the construction of sewers upon adjacent property, according to area or from paying for such construction by any method of assessment, or any combination of methods now provided by law.

SEC. 22. This act being deemed of immediate importance shall be in force and effect, from and after its publication in the Iowa State Register, and Des Moines Leader, Newspapers published in Des Moines, Iowa.

Approved April 10, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 18, and the *Des Moines Leader* April 18, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 15.

## SPECIAL TAXES FOR IMPROVEMENT OF STREETS.

AN ACT Entitling Person Paying Special Taxes Assessed upon Real Estate for the Improvement of Streets in Cities Existing under Special Charters having a population of 20,000 under the Census of 1885 to be credited with the amount of such special tax so paid upon any general Road or Street Tax charged against them on account of same Real-Estate. H. F. 76.

*Be it enacted, by the General Assembly of the State of Iowa:*

SECTION 1. That in all cities, existing under special charters, having a population of more than 20,000 under the census of 1885 whenever any real-estate may by ordinance be assessed with any special tax for the improvement of streets, then such real-estate, so specially assessed, and the special assessment upon which shall be paid, shall after such payment, be exempted from taxation for any general road or street tax which might thereafter be assessed against it for any year or years, so long as the amount of such general road or street tax against such property would not exceed the amount of such special tax: and to the amount of such special tax paid as aforesaid, such general road or street tax shall be considered as fully paid, satisfied and discharged. Certain property exempt from general road tax.

Approved April 30, 1890.

## CHAPTER 16.

## COMPENSATION OF MAYORS.

AN ACT to grant cities under special charter the power to fix the compensation of their mayors, and to legalize compensation heretofore paid to the mayors of such cities. S. F. 388.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That cities incorporated under special charters are hereby granted the power to fix the compensation of their Mayors by ordinance of their respective City Councils, as follows:—In Cities of Ten Thousand population, such compensation shall not exceed Five Hundred (\$500.00) Dollars. In Cities Cities may fix compensation of Mayors.

Amount limited to population.

of more than Ten Thousand and up to Fifteen Thousand population, according to the last preceding census, such compensation shall not exceed Seven Hundred and Fifty (\$7.50) Dollars. And in Cities of more than Fifteen Thousand and up to Twenty Thousand population, according to the last preceding census, such compensation shall not exceed One Thousand (\$1,000.0) Dollars per-annum. And for Cities over twenty thousand not to exceed \$1,500.00 per-annum, which amount shall be in full compensation of all services of such Mayor of every kind and character whatsoever connected with his official duties.

Certain payments legalized.

SEC. 2. That in all cases where any such City has heretofore by ordinance or resolution of its City Council paid its Mayor compensation either as such Mayor or as Chief of Police of said City or otherwise, such payment is hereby legalized and made valid.

Publication.

SEC. 3. This Act being deemed of immediate importance, shall take effect and be in force from and after its publication in the "Iowa State Register" and "Des Moines Leader," Newspapers published at Des Moines, Iowa.

Approved March 29, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 2, and *Des Moines Leader* April 1, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 17.

### JOINT RATES ON RAILWAYS.

H. F. 37.

AN ACT to Amend Chapter 28 of the Acts of the Twenty-Second General Assembly, giving authority for the making of rates for the transportation of freight and cars over two or more lines of railroad within this state and enlarging the powers and further defining the duties of the Board of Railroad Commissioners.

*Be it enacted by the General Assembly of the State of Iowa:*

Chap. 28 acts 22 G. A. defined as to joint rates.

SECTION 1. That chapter 28 of the acts of the twenty-second general assembly be and the same hereby is amended as follows: That said chapter 28 of the acts of the twenty-second general assembly shall not be construed to prohibit the making of rates by two or more railroad companies for the transportation of property over two or more of their respective lines of railroad within this state, and a less charge by

each of said railroad companies for its portion of such joint shipment than it charges for a shipment for the same distance wholly over its own line within the state, shall not be considered a violation of said chapter 28 of the acts of the twenty-second general assembly, and shall not render such railroad company liable to any of the penalties of said act, but the provisions of this section shall not be construed to permit railway companies, establishing joint rates, to make by such joint rates any unjust discrimination between the different shipping points or stations upon their respective lines between which joint rates are established, and any such unjust discrimination shall be punished in the manner and by the penalties provided by Chapter 28 of the acts of the 22nd General Assembly.

Charges may be reduced on joint rates.

Unjust discrimination between points forbidden.

SEC. 2. All railway companies doing business in this state shall, upon the demand of any person or persons interested establish reasonable joint through rates for the transportation of freight between points upon their respective lines within this state, and shall receive and transport freight and cars over such route or routes as the shipper shall direct. Car load lots shall be transferred without unloading from the cars in which such shipments were first made, unless such unloading in other cars shall be done without charge therefor to the shipper or receiver of such car load lots, and such transfer be made without unreasonable delay and less than car load lots shall be transferred into the connecting railway's cars at cost, which shall be included in and made a part of the joint rate adopted by such railway companies or established as provided by this act.

Demand for reasonable joint through rates.

Cost of transfer.

When shipments of freight to be transported between different points within this state are required to be carried by two or more railway companies operating connecting lines, such railway companies shall transport the same at reasonable through rates and shall at all times, give the same facilities and accommodations to local or state traffic as they give to inter-state traffic over their lines of road.

The same accommodations to local as to inter-state traffic.

SEC. 3. In the event that said railway companies fail to establish through joint rates or fail to establish and charge reasonable rates for such through shipments, it shall be the duty of the board of railroad commissioners and they are hereby directed, upon the application of any person or persons interested, to establish joint rates for the shipment of freight and cars over two or more connecting lines of railroad in this state, and in the making of such rates and in changing or revising the same, they shall be governed as near as may be, by all the provisions of Chapter 28 of the acts of the twenty-second general assembly, and shall take into consideration the average of rates charged by said railway companies for shipments within this state for like distances over their

Failure of companies to establish through joint rates.

Chap. 28 acts 22 G. A. to govern commissioners in making rates.

- Commissioners' rate to take effect. respective lines, and rates charged by the railway companies operating such connecting lines for joint inter-state shipments for like distances. The rates established by the board of railroad commissioners shall go into effect within ten days after the same are promulgated by said board, and from and after that time the schedule, of such rates shall be prima facie evidence in all of the courts of this state that the joint transportation of freight and cars upon the railroads for which such schedules have been fixed.
- Railway companies interested to be notified. SEC. 4. Before the promulgation of such rates as provided in Section 3 of this act, the board of railroad commissioners shall notify the railroad companies interested in the schedule of joint rates fixed by them; and they shall give said railroad companies a reasonable time thereafter to agree upon a division of the charges provided for in such schedule, and, in the event of the failure of said railroad companies to agree upon a division and to notify the board of such agreement, the board of railroad commissioners shall, after a hearing of the companies interested, decide the same, taking into consideration the value of terminal facilities and all the circumstances of the haul, and the division so determined by the board shall in all controversies or suits between the railroad companies interested, be prima facie evidence of a just and reasonable division of such charges.
- Hearing of the companies interested. SEC. 5. Every unjust and unreasonable charge for the transportation of freight and cars over two or more railroads in this state is hereby prohibited and declared to be unlawful and each and every one of the companies making such unreasonable and unlawful charges, or otherwise violating the provisions of this act, shall be punished as provided in chapter 28 of the acts of the twenty-second general assembly for the making of unreasonable charges for the transportation of freight and cars over a single line of railroad by a single railroad company.
- Unjust, and unreasonable charges prohibited. SEC. 6. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in the city of Des Moines, Iowa.
- Punishment. Approved April 8th, 1890.
- Publication.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 16 and the *Des Moines Leader* April 12, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 18.

## AUTOMATIC COUPLERS AND BRAKES TO RAILWAY CARS.

AN ACT Requiring all railroads, corporations, companies and persons, operating a railroad and doing business in Iowa, to equip all their engines and cars with proper, efficient and safe automatic couplers and brakes, and for prescribing penalties for failure thereof. H. F. 25.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That it shall be unlawful for any corporation, company or person operating any line of railroad in this state, any car manufacturers or transportation company using or leasing cars, to put in use in this state any new cars or any cars that have been sent in to the shop or shops for general repairs, or whose draft rigging has to be repaired with a new draw bar or bars, that are not equipped with safety or automatic couplers to draw bars, such as will not necessitate the going between the ends of the cars to couple or uncouple them, but operated from the side of the car. Use of new or repaired cars without safety couplers, forbidden.

SEC. 2. That after January 1, 1895, it shall be unlawful for any corporation, company or persons operating a railroad, or any transportation company using or leasing cars of any description and used in the commerce of the country, or in the construction of railroads, to have upon any railroad in Iowa for use in the transportation of freight or passengers any car that is not equipped with such safety automatic coupler as provided for in Section one of this Act. All cars must be equipped after Jan. 1, 1895.

SEC. 3. That it shall be unlawful for any corporation, company or person operating any line of railroad in this State, to use any locomotive engine upon any railroad or in any railroad yard in this State after the First Day of January, 1892, that is not equipped with a proper and efficient power brake, commonly called a "driver brake". Locomotives must be equipped with driver brakes after Jan. 1, 1892.

SEC. 4. That it shall be unlawful for any corporation, company or person operating a line of railroad in this state, to run any train of cars after the First Day of January, 1893, that shall not have in that train a sufficient number of cars with some kind of efficient automatic or power brakes so that the engineer upon the locomotive car can control the train without requiring brakemen to go between the ends or on the top of the cars to use, as now, the common hand brake. All trains must have automatic power brakes after Jan. 1, 1893.

Companies must state in report number equipped with brakes and safety couplers.

SEC. 5. Every railroad corporation, company or person operating a railroad in this state, and every person or persons using or leasing cars in the transportation business, or in building railroads, shall, and are by this act required to include in their annual report to the state railroad commissioners the number of locomotive engines and cars used in this state and what number is equipped with automatic power brakes and what number of cars equipped with automatic safety couplers and the kind of brakes and couplers used and the number of each kind, when more than one kind is used.

Penalty for operating contrary to law.

SEC. 6. Any corporation, company or person operating a railroad in this state, and using a locomotive engine or running a train of cars or using any freight, way or other car, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than Five Hundred Dollars or not more than One Thousand Dollars, for the benefit of the school fund, for each and every offense, provided the penalties on this section shall not apply to companies in hauling cars belonging to railroads other than those of this State which are engaged in interstate traffic and any railroad employee who may be injured by the running of such engine, or train or car contrary to the provisions of this law, shall not be considered as waiving his right to recover damage by continuing in the employ of such corporation, company or person running such engine or trains or cars contrary to this law.

Rights of persons injured.

Approved April 5, 1890.

## CHAPTER 19.

### TAXES IN AID OF RAILROADS.

S. F. 206.

AN ACT to amend Sections Six (6) and Seven (7) of Chapter one hundred fifty-nine (159) of the Laws of the Twentieth General Assembly of Iowa in Relation to Taxes in Aid of Railroads.

*Be it enacted by the General Assembly of the State of Iowa:*

Sec. 6, Chap. 159, Acts 22 G. A. amended; \$18,500.

SECTION 1. That Section Six (6) of Chapter One hundred fifty-nine (159) of the Laws of the Twentieth General Assembly of Iowa be and the same is hereby amended by striking out the words "Sixteen thousand dollars" from lines twenty-eight and twenty-nine thereof, and inserting in lieu of the said words stricken out the words "Eighteen thousand five hundred dollars."



SEC. 2. That Section Seven (7) of said Chapter One hundred fifty-nine (159) of the Laws of the Twentieth General Assembly of Iowa be and the same is hereby amended by striking out the words "Sixteen thousand dollars" from lines six and seven thereof, and inserting in lieu of the said words stricken out the words "Eighteen thousand five hundred dollars."

Sec. 7, Chap.  
150, Acts 22 G.  
A. amended;  
\$18,500.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines Iowa.

Publication.

Approved March 21st, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* March 22 and *Des Moines Leader* March 23, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 20.

### RELATING TO FENCING RAILWAYS.

AN ACT to Amend Chapter Thirty (30) of the Laws of the Twenty-second General Assembly, and to remit certain penalties incurred thereunder. S. F. 175.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Section Two (2) of Chapter Thirty of the Acts of the 22nd General Assembly, be amended by adding thereto the following:—

The time fixed in this act for fencing railways, shall not apply to railway companies owning or operating third class or class "C" railways, as classified by the Railroad Commissioners. Such railway shall be fenced as follows; twenty-five per cent of the entire length of the road not including any fencing already done shall be fenced, as herein provided, during the year 1890, and Twenty-five per cent of such entire length each year thereafter, until the whole thereof is fenced.

Provisions  
for fencing  
Class "C"  
roads.

SEC. 2. All penalties and fines which have been heretofore incurred under said Chapter Thirty (30) by any railway company owning or operating a third class or class "C" railway, or by any officer or lessee thereof, by reason of a failure to fence according to the provisions of said Chapter Thirty (30) of the Acts of the 22nd General Assembly, are hereby released and remitted, and no suit or prosecution shall be instituted by reason of any such failure; but nothing herein contained shall be construed to exempt any such railway company, lessee or

Fines against  
"C" roads re-  
leased.

officer, from the fines and penalties provided in said act, if any such road is not fenced in compliance herewith.

Publication.

SEC. 3. This act being deemed of immediate importance, shall take effect from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 10, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 16, and the *Des Moines Leader* April 15, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 21.

### STREET RAILWAYS OVER HIGHWAYS.

S. F. 322.

AN ACT to amend Section (1) Chapter Thirty-two (32) Laws of the Eighteenth General Assembly of the State of Iowa, relating to extension of street railways over highways in certain cases.

*Be it enacted by the General Assembly of the State of Iowa:*

Sec. 1, Chap.  
32, acts 18th G.  
A. amended.

SECTION 1. That Section one (1) of Chapter thirty-two of the public acts of the Eighteenth General Assembly of the State of Iowa be amended as follows, to-wit:

Operation of  
street rail-  
way over  
highway.

"Provided however, that in any county within which any such street railway company desires to operate its line of railway over any highway, of not less than sixty six feet in width, for a distance of not exceeding two miles beyond the limits of any city or incorporated town to any state institution there situated, said railway to be operated by animal power only, the Board of Supervisors of such county may grant the right to such street railway so, to operate its line over said street not exceeding two miles or less, and under such limitations, rules and regulations as said Board of Supervisors may prescribe: provided further, that said Board of Supervisors shall have the power, and such power is hereby reserved to them, to rescind, amend or modify such grant, limitations, rules and regulations at any time it may so determine."

May rescind  
right.

Publication.

This act being deemed of immediate importance shall be in force and effect from and after the date of its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 5th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 10, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 22.

## STATE CERTIFICATES AND DIPLOMAS TO TEACHERS.

AN ACT to amend Chap. 167 Laws of the Ninetee[n]th General Assembly in relation to state certificates and diplomas to teachers. S. F. 192.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Section 3 Chapter one hundred sixty-seven of the Laws of the Ninetee[n]th General Assembly be amended by adding the following words: "they shall also have power to issue state certificates and state diplomas to such graduates of any Iowa State Normal school as are shown to possess good moral character, the certificate to be issued when the graduate is proved to have had thirty-six weeks successful experience in teaching, and the diploma when five years such experience is shown." Certificates and diplomas to graduates of State Normal School.

SEC. 2. This act being deemed of immediate importance shall take effect from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published at Des Moines Iowa. Publication.

Approved March 26, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register March 28 and Des Moines Leader March 29, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 23.

## MANAGEMENT OF GENERAL SCHOOL FUND.

AN ACT to repeal sections 1, 2, 3, of Chapter 12, of the Acts of the Eighteenth General Assembly relative to the management of the Permanent School Fund and to enact substitutes therefor. S. F. 10.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. The rate of interest of all permanent school funds hereafter loaned shall be six per cent, per annum from the date of said loan. Rate of interest, 6 per cent.

SEC. 2. Interest not paid when due shall bear interest at the same rate as the principal. Unpaid interest.

School fund  
in control.  
5 per cent.

SEC. 3. After July 1, A. D. 1890, the counties having permanent school funds in control shall be charged only five per cent, instead of six per cent.

Secs. of Chap.  
12, Acts 18 G.  
A. repealed.

SEC. 4. That sections one, two, three of chapter twelve of the Acts of the Eighteenth General Assembly and all laws inconsistent with this act are hereby repealed.

Publication.

SEC. 5. This act being deemed of immediate importance shall be in force from and after its publication in the Iowa State Register and in the Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 1st, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 4, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 24.

### EMPOWERING DIRECTORS TO PURCHASE TEXT-BOOKS.

H. F. 279.

AN ACT Authorizing and Empowering the Boards of Directors of School Districts to Purchase Text Books, and Allowing the Electors of Districts and Counties to Decide the Question of Uniformity, and to provide means and Authority for Purchase of School Books and Supplies.

*Be it enacted by the General Assembly of the State of Iowa:*

Board of  
directors to  
adopt text-  
books and  
supplies.

SECTION 1. That the board of directors of each and every district, Township and Independent District in the state of Iowa is hereby authorized and empowered to adopt text-books for the teaching of all branches that are now or may hereafter be authorized to be taught in the public schools of the state, and to contract for and buy said books and any and all other necessary school supplies at said contract prices and to sell the same to the pupils of their respective districts at cost, and said money so received shall be returned to the contingent fund. That the books and supplies which are purchased under the provisions of this section shall be under the charge of the president of each Board of Directors, that he shall care therefor and receive all moneys for books sold, and he shall be responsible for all such books and moneys, and he shall give a bond in the sum of five hundred dollars with sureties to be approved by the County Board of Supervisors, to insure the faithful performance of such duties.

President of  
board to have  
charge of  
books.

Shall give  
bond.

Books paid  
for out of  
contingent  
fund.

SEC. 2. All the books and other supplies, purchased under the provisions of this act, shall be paid for out of the contingent fund, and the Board of Directors shall annually certify to

the Board of Supervisors the additional amount necessary to levy for the contingent fund of said district to pay for such books and supplies; but such additional amount shall not exceed, in any one year, the sum of one dollar for each pupil residing in the district, Township or Independent School District, and the amount so levied shall be paid out on warrants drawn for the payment of books and supplies only; but the District shall contract no debt for that purpose.

SEC. 3. In the purchasing of text-books, it shall be the duty of the Board of Directors or the County Board of Education to take into consideration the books then in use in the respective districts, and they may buy such additional number of said books as may, from time to time, become necessary to supply their schools, and they may arrange on equitable terms for exchange of books in use for new books adopted.

Considerations in the purchase of books.

SEC. 4. If at any time the publishers of such books as shall have been adopted by any Board of Directors or County Board of Education, shall neglect or refuse to furnish such books when ordered by said Board in accordance with the provisions of this act, at the very lowest price, either contract or wholesale, that such books are furnished any other district or state board, or were furnished to any other district or state board in the year 1889, then said Board of Directors or County Board of Education may, and it is hereby made their duty to bring suit upon the bond given them by the contracting publisher.

Duty of board in case of failure of publishers to furnish.

SEC. 5. Before purchasing text-books under the provisions of this act, it shall be the duty of the Board of Directors, or County Board of Education, to advertise, by publishing a notice for three consecutive weeks in one or more newspapers published in the county; Said Notice shall state the time up to which all bids will be received, the classes and grades for which text-books and other necessary supplies are to be bought, and the approximate quantity needed; and said board shall award the contract for said text-books and supplies to any responsible bidder or bidders offering suitable text-books and supplies at the lowest prices, taking into consideration the quality of material used, illustrations, binding and all other things that go to make up a desirable text-book; and may to the end that they may be fully advised, consult the County Superintendent; or, in case of City Independent Districts, with City Superintendent or other competent persons, with reference to the selection of text-books; provided, that the board may reject any and all bids, or any part thereof, and re-advertise therefor as above provided.

Bids taken for furnishing.

Consultation as to books selected.

SEC. 6. It shall be unlawful for any board of Directors or County Board of Education, except as provided in Section 4, to displace or change any text-book that has been regularly adopted and introduced under the provisions of this act, before the expiration of five years from the date of such adop-

Books selected not to be displaced for five years; exception.

tion, unless authorized to do so by a majority of the electors present and voting at their regular annual meeting in March, due notice of said proposition to change or displace said text-books having been included in the Notice for the said regular meeting.

Samples to be deposited by bidders.

County auditor to safely keep samples for inspection.

SEC. 7. Any person or firm desiring to furnish books or supplies under this act, in any county, shall, at or before the time of filing his bid hereunder, deposit in the office of the County Auditor samples of all text-books included in his bid, accompanied with lists giving the lowest wholesale and contract price for the same. And said samples and lists shall remain in the County Auditor's office, and shall be delivered by him to his successor in office; and shall be kept by him in such safe and convenient manner as to be open at all times to the inspection of such school officers, school patrons and school teachers as may desire to examine the same and compare them with others, for the purpose of use in the public schools. The Board of Directors and County Board of Education mentioned, shall require of any person or persons with whom they contract for furnishing any books or supplies to enter into a good and sufficient bond in such sum and with such conditions and sureties as may be required by such Boards of Directors or County Board of Education for the faithful performance of any such contract.

Petition for uniform series.

Service of notice.

SEC. 8. When a petition shall have been signed by one-half the school Directors in any County, and the same shall have been filed in the office of the County Superintendent of said County, at least thirty (30) days before the annual school elections in March, asking for a uniform series of text-books in the County, then the said County Superintendent shall notify the County Auditor and the board of supervisors of such petition. Such notice shall be in writing and shall be served or delivered as soon as possible, and within fifteen (15) days after the filing of the petitions provided for herein the board of Education provided for in Section 9, shall meet and provide for the submission of the question of County uniformity.

Board of education; how constituted.

Election as to county uniformity.

SEC. 9. The County Superintendent, the county auditor and the county Board of Supervisors shall constitute a Board of Education, whose duty it shall be to arrange for a vote by the electors at the annual meeting in March, for or against county uniformity of school text-books under such rules and regulations as said Board of Education may determine. Should a majority of the electors, voting at such election; favor a uniform series of text-books for use in said County, then the County Board of Education shall meet and select the school-text-books for the entire County, and contract for the same under such rules and regulations as the said Board of Education may adopt. When a list has been so selected, they shall be used by all the public schools of said districts, and the

Board of Education may arrange for such depositories as they may deem best, and may pay for said school books out of the county funds and sell them to the school Districts at the same price as provided for in Section one (1) of this act, and the money received from said sales shall be returned to the County funds by said Board of Education monthly. The Boards of school officers who are made the judges of the school meetings, shall certify to the Board of Supervisors the full returns of the votes cast at said meetings the next day after the holding of said meetings, who shall, at their next regular meeting, proceed to canvass said votes and declare the result.

Depositories  
for county  
books.

Canvass of  
votes.

SEC. 10. The County Superintendent shall, in all cases, be Chairman of the County Board of Education, and the county auditor shall be the Secretary, and a full and complete record shall be kept of their proceedings in a book kept for that purpose in the office of the County Superintendent. A list of text-books so selected, with their contract prices, shall be reported to the State Superintendent with the regular annual report of the County Superintendent.

Chairman  
and secretary  
of county  
board of edu-  
cation.

SEC. 11. It shall be unlawful for any school Director, Teacher or member of the County Board of Education to act as agent for any school text-books or school supplies during such term of office or employment, and any school Director, Officer, Teacher or member of the County Board of Education who shall act as agent or dealer in school text-books or school supplies, during the term of such office or employment, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and pay the costs of prosecution.

Directors,  
teachers or  
member of  
the board not  
to act as  
agents.

SEC. 12. The provisions of Sections eight (8) nine (9) and ten (10) of this act shall not apply to schools located within cities or towns, nor shall the Electors of said cities or towns vote upon the question of County Uniformity, but nothing herein shall be so construed as to prevent such schools in said cities and towns from adopting and buying the books adopted by the County Board of Education at the prices fixed by them, if by a vote of the Electors they shall so decide.

Provisions  
not applic-  
able to cities.

SEC. 13. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Repealing  
clause.

Approved, May 7, 1890.

## CHAPTER 25.

## BOUNDARIES OF TOWNSHIPS.

- S. F. 429. AN ACT authorizing Boards of Supervisors in Certain Cases to change the boundaries of Townships without reference to lines of school districts. (Chap. 1 Acts 23 G. A.)

*Be it enacted by the General Assembly of the State of Iowa:*

Changes as  
provided in  
Chap. 1 acts  
23 G. A.

Board of  
Supervisors  
has power to  
change  
boundaries.

Proviso.

Conflicting  
acts repealed.

SECTION 1. That where the boundaries of any city have been changed as provided by Chapter one of the Acts of the 23rd General Assembly of the State of Iowa, entitled an act to extend the limits of cities, and for other purposes incident thereto. The Board of Supervisors of the County in which such city is situated shall have power to change the boundary lines of Townships so as to make such lines conform to the boundaries of such city, and to make such other changes in Township lines and the number of Townships as they may deem necessary. Providing nothing herein contained shall affect the present boundaries or existing conditions of school districts.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved April 17th, 1890.

## CHAPTER 26.

## COUNTY INDEBTEDNESS.

- H. F. 94. AN ACT To Amend Sections 289 and 290 of the Code of 1873, as amended by Chap. 91 Laws of the Twenty-Second General Assembly of the State of Iowa, Relating to the Bonding of County Indebtedness.

*Be it enacted by the General Assembly of the State of Iowa:*

Jan. 1888  
stricken  
April 1890  
inserted.

SECTION 1. That section 289 of the Code of 1873 as amended by Chap. 91 of the Acts of the Twenty-Second General Assembly be and the same is hereby amended as follows: Strike out of the second line of said section the words "the first day of January 1888;" and insert in lieu thereof the words "the first day of April 1890."



SEC. 2. Strike out of the sixth line of Section 290 as amended by Chapter 91 Laws of the Twenty-Second General Assembly, the words "on the first day of January 1888" and insert in lieu thereof, the words "on the first day of April 1890." Code Sec. 290 amended.

SEC. 3. This act being deemed of immediate importance, shall take effect and be in force from and after its publication, in the Iowa State Register and the Des Moines Leader, newspapers published at Des Moines Iowa. Publication.

Approved, April 5, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 8, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 27.

### COMPENSATION FOR USE OF PLACE FOR HOLDING ELECTION.

AN ACT To amend Section 391, Title 4, Chapter 9 of the code in relation to places of election and compensation for the use thereof. S. F. 195.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That section 391, title 4, chapter 9 be and the same is hereby amended by inserting after the word "held" in the second line of said section the following: "And the board of supervisors shall allow a reasonable compensation for the use thereof". Compensation for use of election place.

Approved May 1st, 1890.

## CHAPTER 28.

### PUNISHMENT OF POOLS, TRUSTS, COMBINATIONS, ETC.

AN ACT for the punishment of Pools, Trusts, Combinations and Conspiracies, and as to evidence in such cases. H. F. 174.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. If any corporation organized under the laws of this or any other state or country, for transacting or conducting any kind of business in this state, or any partnership or Combination to fix price of merchandise.

Guilty of conspiracy. Punishment.	individual or other association of persons whosoever, shall create, enter into, or become a member of, or a party to, any trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any person or association of persons, to regulate or fix the price of any article of merchandise or commodity, or shall enter into, become a member of or party to any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, mined, produced or sold in this state, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to indictment and punishment as provided in this act.
Trust certificates forbidden.	<p>SEC. 2. It shall not be lawful for any corporation to issue or to own trust certificates, or for any corporation, agent, officer or employes, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees, with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article.</p>
Trustees in certain cases forbidden.	<p>SEC. 3. If a corporation or a company, firm or association, shall be found guilty of a violation of this act, it shall be punished by a fine of not less than one per cent of the capital stock of such corporation or amount invested in such company, firm or association, and not to exceed twenty per cent of such capital stock or amount invested. Any president, manager, director or other officer or agent or receiver of any corporation, company, firm or association, or any member of any company, firm or association, or any individual, found guilty of a violation of the first section of this act, shall be punished by a fine of not less than five hundred dollars, nor to exceed five thousand dollars, and in addition thereto may be imprisoned in the county jail not to exceed one year.</p>
Punishment for violation by officers of company.	<p>SEC. 4. Any contract or agreement in violation of any provisions of the preceding sections of this act shall be absolutely void.</p>
Contracts void.	<p>SEC. 5. Any purchaser of any article or commodity from any individual, company or corporation transacting business contrary to any provisions of the preceding sections of this act shall not be liable for the price or payment of such article or commodity, and may plead this act as a defense to any suit for such price or payment.</p>
Purchaser not liable for price of articles purchased from combine.	

SEC. 6. Any corporation created or organized by or under the law of this state which shall violate any provision of the preceding sections of this act shall thereby forfeit its corporate right and franchises, and its corporate existence shall thereupon cease and determine as provided in this section and it shall be the duty of the secretary of state, after the passage of this act, to address to the president, secretary or treasurer of each incorporated company doing business in this state, a letter of inquiry as to whether the said corporation has merged all or any part of its business or interest in or with any trust, combination or association of persons or stockholders as named in the preceding provisions of this act, and to require an answer, under oath, of the president, secretary, treasurer or any director of said company; a form of affidavit prescribed by the secretary of state shall be enclosed in said letters of inquiry, and on refusal to make oath in answer to said inquiry, the secretary of state shall immediately cause a certified statement of the facts to be filed in the office of the Attorney General, of the state who shall proceed, or direct such proceedings by any county attorney in the state, to commence an action in the District Court of any County in the State of competent jurisdiction, when said proceedings are instituted they shall be conducted as ordinary law actions triable by Court or Jury on the final decision of the same—should the defendant be found guilty of a violation of any of the provisions of this act, said Court shall render a judgment and order a revocation of the charter of said company as a penalty for the violation, or violation for which the said company shall be found guilty, and the Secretary of State shall make publication of such revocation in four newspapers in general circulation in the four largest cities of the State.

Corporate right forfeited by violation of act.

Letters of inquiry from Sec'y State.

Answer required under oath.

Statement filed with Att'y General.

Charter revoked if found guilty.

Revocation published.

SEC. 7. It shall be the duty of the Secretary of State upon satisfactory evidence (evidence) that any company or association of persons duly incorporated and operating under the laws of this State have entered into any trust, combination or association as provided in the preceding provisions of this act, to give notice to such corporation that unless they withdraw from and sever all business connection with said trust, combination or association, their charter will be revoked at the expiration of thirty days from date of such notice.

Notice to members of combinations to withdraw.

SEC. 8. It shall be the duty of the prosecuting attorneys in their respective jurisdictions, and the attorney general, to enforce the foregoing provisions of this act, and any prosecuting attorney, or the attorney general, securing a conviction under the provisions of this act, shall be entitled, in addition to such fee or salary as by law he is allowed for such prosecution, to one-fifth of the fine recovered. When the attorney general and prosecuting attorney act in conjunction in the prosecution of any case, under the provisions of this act, they

Prosecuting Attorney and Attorney General to enforce this law.

One-fifth of fine recovered.

One-fourth of shall be entitled to one-fourth of the fine recovered which they shall divide equally between them, where there is no agreement to the contrary, and it shall be the duty of the grand jury to inquire into and ascertain if there exists any pools, trusts, combinations within their respective counties.

Duty of Grand Jury. SEC. 9. Chapter 84, Acts of the 22d General Assembly and all acts or parts of acts in conflict with the provisions of this act, are hereby repealed.

Repealing clause. SEC. 10. Whereas, great injustice is being done to the people of this state by the formation of trusts and trust companies, therefore an emergency exists, and this Act shall take effect and be in force from and after its passage and publication, as required by law, in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines, Iowa.

Publication. Approved May 6, 1890.

I hereby certify that the foregoing Act was published in the *Iowa State Register* and *Des Moines Leader*, May 14, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 29.

### WEATHER AND CROP SERVICE.

H. F. 166. AN ACT To repeal Chapter 45 of the laws of the Seventeenth General Assembly and to enact a substitute therefor, to establish a Weather and Crop Service and for the collection and dissemination of Crop Statistics and meteorological data.

*Be it enacted by the General Assembly of the State of Iowa:*

Chap. 45 Acts 17 G. A. repealed. SECTION 1. That chapter 45 of the laws of the Seventeenth General Assembly be and the same hereby is repealed, and the following enacted in lieu thereof.

Weather and crop service under direction of Ag'l Society. SEC. 2. That there be and hereby is established in the State of Iowa, under the supervision of the Board of Directors of the State Agricultural Society, a weather and crop service, cooperating with the Signal Service of United States, for the purpose of collecting crop statistics and meteorological data, and more widely disseminating the weather forecasts and storm and frost warnings, for the benefit of producers and shippers of perishable products, and to promote a general knowledge of meteorological science and the climatology of the State.

Objects. SEC. 3. That the central station of said weather and crop service shall be in the city of Des Moines under the charge of

Location of central station.

a Director and an Assistant Director, the said Director to be appointed by the Governor for a term of two years upon the recommendation of said Board of Directors of the State Agricultural Society; and the Assistant Director to be an officer of the United States Signal Service who may be detailed for that purpose by the Chief Signal Officer at Washington, D. C.

SEC. 4. That the said Director cooperating with the Secretary of the State Agricultural Society shall establish volunteer stations throughout the State, to the number of one or more in each county, and shall appoint observers thereat. And the said Director shall supervise said volunteer stations, receive reports therefrom of meteorological events and crop conditions, tabulate the same for permanent record, and shall issue weekly weather crop bulletins during the season from April 1st to October 1st; and he shall also edit and cause to be published at the office of the State Printer a Monthly Weather and Crop Review, containing meteorological and agricultural matter of public interest and educational value. And it shall be the duty of the State Printer to issue copies of said Review to the number of 1000 for distribution from the office of the said Agricultural Society; and the Directors of said Society may in their discretion cause to be published a larger number of copies to be delivered to subscribers at a price sufficient to defray the expense of publishing the same, the proceeds to be expended for that purpose only.

SEC. 5. That the said director shall also compile an annual report, addressed to the Governor, to be printed and bound in the office of the State Printer in such number as the Executive Council may direct; said report to contain a complete review and summary of the results of the years' labors and observations.

SEC. 6. That there is hereby appropriated out of any money in the treasury, not otherwise appropriated, the sum of two thousand and five hundred dollars per year for the period of two years, or such portion thereof as may be necessary to carry into effect the provisions of this act, to be drawn and expended upon the order of the President and Secretary of the said Agricultural Society; provided, however, that the salary of the said Director shall not exceed the sum of fifteen hundred dollars per year.

SEC. 7. That this act being deemed of immediate importance shall take effect on and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in the City of Des Moines, Iowa.

Approved April 24, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 26, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 30.

## ADDITIONAL JUSTICES OF THE PEACE.

S. F. 301.

AN ACT relating to certain additional justices of the peace and constables, legalizing their official acts, and the official acts of canvassing boards with reference thereto. (Sec. 590, Code).

Justices and constables provided by Code.

WHEREAS Section 590 of the Code of Iowa provides for the election of two justices of the peace and two constables in each township, and Section 592 provides that one or two additional justices of the peace, and one or two additional constables may be elected in each township if the trustees so direct by posting up notices of the same at least ten days before election, and

Notice given but once.

WHEREAS, by many township trustees, and others, the so giving of notice of the election of such additional officers has been construed to mean that such notice was required only for the first election of such additional justices of the peace and constables, and not for any subsequent election of such additional officers, and

Officers acting where no notice was given.

WHEREAS there have been and are now throughout the State, many acting additional justices of the peace and constables; in townships where no such notice as required by said Section 592 was given, and where such additional officers were declared elected, and duly qualified in their said offices, and acted therein, and many such are still so acting therein, as such additional justices of the peace and constables, wherein the rights and remedies of the people have been affected and involved, and—

Doubts as to legality of official acts.

WHEREAS doubts have arisen as to the legality of the "official" acts of such additional justices of the peace and constables, so elected and qualified and as to the legality of the election and official title of such additional justices of the peace and constables who are still acting as such, therefore:

*Be it enacted by the General Assembly of the State of Iowa:*

Acts of canvassing boards.

SECTION 1. That the acts of the several county and township canvassing boards within the state in canvassing the votes cast for additional justices of the peace and additional constables, and in declaring the results in said cases wherein there had been no previous notice as provided for in Section 592 of the Code be and the same are legalized and given the same force and validity as if the provisions of law in reference to previous notice had all been fully and strictly complied with in

Acts of officers while acting legalized.

each particular instances; and the official acts of all persons who qualified and acted in an official capacity as additional justices of the peace or additional constables in pursuance of the declaration of the canvassing board as hereinbefore alleged are hereby legalized and given the same force and validity as if the provisions of law in reference to previous notice had all been strictly complied with at the time of the election.

Sec. 2. This act being deemed of immediate importance shall take effect from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines Iowa. Publication.

Approved April 17, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 22, and *Des Moines Leader* April 23, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 31.

### DRAWING MONEY FROM STATE TREASURY.

AN ACT Relating to the drawing of monies (moneys) from the State Treasury. H. F. 306.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That all monies (moneys) now appropriated or that may hereafter be appropriated by general law or by special or general act of the Legislature shall be drawn in accordance with the act making such appropriation, provided that in no case shall such monies (moneys) or any portion thereof be drawn before the same is needed for use within thirty days from the date of the requisition. Money must be drawn in accordance with act.

Sec. 2. The treasurer of the several state institutions shall draw the whole or any part of any special or extraordinary appropriation for their respective institutions in accordance with the act making such appropriation provided that in no case shall the whole or any part of such appropriation be drawn until such sum or sums shall be needed for use within thirty days from the date of the requisition for the purpose of which said appropriation was made. State institutions governed.

Sec. 3. Any treasurer of any state institution having drawn or that may hereafter draw from the state treasury a larger sum of money than is needed for use within thirty days from the date of the requisition for the purpose for which such appropriation was made shall forthwith refund such sum or sums to the state treasury. Overdrafts to be refunded.

Certificate of  
amount in  
hands, re-  
quired.

Statement to  
be embodied  
in report,

Publication.

SEC. 4. The treasurer or other officer of any state institutions authorized to draw any appropriation made by the General Assembly shall forward with the requisition for the same a certified statement of the amount of funds then in his hands and the sum or sums required for expenditure as provided by the act making such appropriation within thirty days from the time of making such requisition and such treasurer or other officer shall in the printed report made by the board or other body in charge of such institution to the Governor or General Assembly make a verified statement showing the dates and sums drawn by such requisitions and the total amount of such money actually paid out by him for each month of the biennial period.

SEC. 5. This act being deemed of immediate importance shall be in force and effect from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 15, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 26 and *Des Moines Leader* April 30 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 32.

### ISSUING BONDS BY COUNTIES.

S. F. 377.

AN ACT to amend Section 312 of the code in relation to issuing bonds by counties in certain cases.

*Be it enacted by the General Assembly of the State of Iowa:*

Sec. 312  
amended.

SECTION 1. That Section 312 of the code, be and is hereby amended by adding thereto after the word "years" in the fourth line therein the following:

Rate of levy  
to pay debt  
in Twenty-  
five years.

"Provided." That in Counties having a population of forty thousand or over and where it is proposed to expend One Hundred Thousand Dollars, or over, the rate of levy shall be such as to pay the debt in not exceeding Twenty five years.

Bonds due at  
different  
periods.

SEC. 2. In issuing Bonds for such indebtedness when voted, the Board of Supervisors may cause portions of said bonds to become due at different definite periods. But none of such bonds so issued shall be due and payable in less than Five or more than Twenty Five years from date.

Repealing  
clause.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.



SEC. 4. This act being deemed of immediate importance Publication.  
shall take effect and be in force from and after its publication  
in the Iowa State Register and the Des Moines Leader and  
the Dubuque Herald; Newspaper of general circulation in  
this State.

Approved April 24, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 29, *Des Moines Leader* and *Dubuque Herald* May 8, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 33.

### INSURANCE.

AN ACT to prevent discrimination in Life Insurance.

H. F. 407.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That no life insurance company doing business Individual discrimination prohibited.  
in Iowa shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectations of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract it makes; nor shall any such company or any agent thereof make any contract of insurance or agreement as to such contract, other than is plainly expressed in the policy issued thereon; nor shall any such company or agent pay or allow, or offer to pay or allow, as inducement to insurance any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement whatever not specified in the policy contract of insurance. Advantages not named in policy prohibited.

SEC. 2. Every corporation or officer or agent thereof who shall willfully violate any of the provisions of this act, shall be fined in any sum not exceeding five hundred dollars (\$500) to be recovered by action in the name of the State and on collection paid into the county Treasury for the benefit of the common school fund, and a revocation of the license for three years. Penalty for violation.

SEC. 3. This act being deemed of immediate importance Publication.  
shall be in force from and after its publication in the *Leader* and *Register*, newspapers published in Des Moines, Iowa.

Approved April 17, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 24; and the *Des Moines Leader* April , 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 34.

## PRESERVATION OF FISH.

S. F. 51.

AN ACT for the Protection and Preservation of Fish and Repealing Sections 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11 of Chapter 50 Acts of the 15th General Assembly, Chapter 70 Acts of the 16th General Assembly, Sections 3, 5, 6, 7 and 8 of Chapter 80 Acts of the 17th General Assembly, Chapter 92 Acts of the 18th General Assembly and Chapter 9, Acts of the 20th General Assembly.

*Be it enacted by the General Assembly of the State of Iowa:*

Parts of Chap.  
50 acts 15 G.  
A., Chap. 70  
acts 16 G. A.,  
Chap. 80 acts  
17 G. A., Chap.  
92 acts 18 G. A.  
Chap. 9 acts  
20 G. A. re-  
pealed.

SECTION 1. That Sections 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11 of Chapter 50 of the Acts of the 15th General Assembly, Chapter 70, Acts of the 16th General Assembly, Sections 3, 5, 6, 7 and 8 of Chapter 80 Acts of the 17th General Assembly, Chapter 92 Acts of the 18th General Assembly, and Chapter 9 Acts of the 20th General Assembly, be and the same are hereby repealed and the following enacted in lieu thereof.

Unlawful to  
take fish ex-  
cept by hook  
and line.

SEC. 2. It shall be unlawful for any person to take from any of the waters of the state any fish in any manner except by hook and line; except that it shall be lawful for any person to take minnows for bait with a seine that does not exceed five yards in length. Also that it shall be lawful to take buffalo and suckers by spearing between the First day of Nov and the First day of March following. The word minnows as used herein does not include or apply to young bass, pike, crappies, trout, salmon, or fry of any game fish, either native or foreign; and all such fish, either young or adult, so taken, shall be immediately returned to the waters from whence taken. It shall be lawful for the state fish commissioner to take from any of the public waters in any manner any fish for the purpose of propagation or restocking other waters.

Spearing.

Returned to  
waters.

Salmon,  
trout, bass,  
pike, crappies  
time forbid-  
den.

SEC. 3. It shall be unlawful for any person to catch or take from any of the waters of the state any salmon or trout between the first day of November and the first day of April following, or any bass, pike crappies or any other game fish between the first day of Nov. and the 15th day of May following in each year, in any manner whatsoever.

Unlawful to  
buy, sell or  
offer for sale.

SEC. 4. It shall be unlawful for any person, company or corporation to buy, sell or offer for sale or have in his or their possession for sale or transportation any fish which shall have been taken in violation of sections 2 and 3 of this act.

Violation  
fined \$10 to \$50.

SEC. 5. Any person found guilty of a violation of the preceding sections of this act shall upon conviction before any justice of the peace, mayor of any incorporated town or city

or any court of record within the county in which such offense is committed, be fined not less than ten nor more than fifty Dollars and stand committed until such fine and costs are paid.

Sec. 6. No person shall place, erect or cause to be placed or erected, in or across any of the rivers, creeks, lakes, or ponds or any outlets or inlets thereto any trot line, seine, net, weir, trap, dam or other obstruction in such manner as to hinder or obstruct the free passage of fish up down or through such water course for the purpose of taking or catching fish unless the same be done under the supervision of the fish commissioner, except minnows as provided in Section 2 of this Act.

Trot lines, traps or obstructions unlawful.

Sec. 7. No person shall place in any of the waters of the state any lime, ashes, drug, or medicated bait or shoot any gun or use any dynamite, gun cotton, giant powder or other explosive or any electrical machine or device with the intent thereby to kill, injure, poison, stupify or catch fish.

Use of drugs, explosives, etc., unlawful.

Sec. 8. Any person found guilty of a violation of Sections six or seven of this act shall, upon conviction before any justice of the peace, Mayor of any incorporated town or city, or any court of record in the county in which such offense is committed, be fined not less than twenty-five dollars nor more than one hundred dollars, and stand committed until such fine is paid. And any seine, net, trap or other device used in violation of Section Six or Seven of this act may be seized and destroyed by order of the court before whom such action may be brought.

Violation fined \$5 to \$100.

Device used seized and destroyed.

Sec. 9. In all prosecutions under Sections 2, 3, 4, 5 and 13 of this act the person filing the information shall be entitled to a fee of five dollars which shall be taxed as costs against the person, company or corporation so convicted, and in all prosecutions under Sections 6, 7, and 8 of this act the persons filing the information shall be entitled to a fee of ten dollars, which shall be taxed as costs, as above provided, but in no case shall the fee of the informant be paid out of the county treasury. Any fish found in the possession of any person, company or corporation taken in violation of the preceding sections shall be seized and sold for the purpose of paying the costs in the case.

Fee to Informant under sections 2, 3, 4, 5, 13.

Fee to Informant under sections 6, 7, 8.

Sec. 10. Persons raising or propagating fish on their own premises or owning premises on which there are waters having no natural outlet or inlet through which such waters may become stocked or replenished with fish from public waters, shall absolutely own such fish as they may contain, and any person taking or attempting to take any fish therefrom without the consent of the owner or his agent shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than twenty-five dollars, or imprisoned in the county jail not more than thirty

Fish on owner's premises.

Penalty for trespass.

days and shall be liable to the owner of the fish in damages, in double the amount of damages sustained, the same to be recovered in civil action before any court having jurisdiction over the same.

Certain rivers excluded.

SEC. 11. Nothing herein contained shall be held to apply to fishing in the Mississippi the Missouri or the Big Sioux rivers nor so much of the Des Moines river as forms the boundary between the states of Missouri and Iowa.

Enforcement by Commissioner.

SEC. 12. It shall be the duty of the fish commissioner to see that the provisions of this act are enforced and for that purpose he shall have the right to call to his assistance any prosecuting attorney to prosecute all violations of this act in the county where such violations occur.

Opinion of Atty. Gen'l.

When requested by the Fish Commissioner, the Attorney General shall give his opinion in writing upon all questions of law pertaining to his office. Nothing in this act shall be construed as prohibiting any citizen from instituting legal proceedings for the enforcement of any provision hereof.

Unlawful to fish in stocked stream.

SEC. 13. It shall be unlawful for any person to fish for or catch in any manner any fish in any stream in this State which has been stocked with breeding trout—one or two years old—by this State or the United States Fish Commission for one year from date of said stocking, provided notice of said stocking is posted by authority of the State Fish Commissioner whenever a public highway crosses such stream.

Notice posted.

Penalty.

Any violation of this section shall be subject to the penalties prescribed in section 5 of this act.

Repealing clause.

SEC. 14. All Acts or parts of acts, inconsistent or in conflict herewith are hereby repealed.

Publication.

SEC. 15. This act being deemed of immediate importance shall be in force and take effect from and after its publication in the "Iowa State Register" and "Des Moines Leader" newspapers published in Des Moines, Iowa.

Approved April 1st, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 4, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 35.

## SALE OF INTOXICATING LIQUORS.

AN ACT to provide for and regulate the keeping and sale of intoxicating liquors for lawful purposes, and to repeal sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of Chapter 71 Laws of the Twenty-second General Assembly. S. F. 414.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of Chapter 71 laws of the Twenty-Second General Assembly, be and the same are hereby repealed, and the following enacted in lieu thereof. Sections of Chap. 71, acts 22nd G. A.

SEC. 2. That after this act takes effect no person shall manufacture for sale, sell, keep for sale, give away, exchange, barter or dispense any intoxicating liquor, for any purpose whatever, otherwise than is provided in this act. Persons holding permits, as herein provided, shall be authorized to sell and dispense intoxicating liquors for pharmaceutical and medical purposes, and alcohol for specified chemical mechanical purposes, and wine for sacramental purposes and to sell to registered pharmacists and manufacturers of proprietary medicines, for use in compounding medicines, and to permit-holders for use and resale by them, for the purposes authorized by this act, but for no other purposes whatever; and all permits must be procured, as hereinafter provided, from the district court of the proper county at any term thereof after this act takes effect, and a permit to buy and sell intoxicating liquors, when so procured shall continue in force until revoked according to law. Traffic forbidden except to holders of permits. Provided further that this section shall not be construed to prevent licensed physicians from dispensing in good faith such liquors as medicine to patients actually sick and under their treatment at the time of such dispensing. Permits, how procured. Provided further that in case of death or other disability of any Registered Pharmacist the administrator Guardian or legal Representative of such Pharmacist may continue such business subject to the provisions of this act through the Agency of any Reputable Registered Pharmacist conditioned upon their being first obtained the approval of the district court or clerk thereof provided further that before entering upon such duties such party or person shall file with the clerk of said court a bond as herein provided to be approved by the clerk of said court. Physicians not prevented from dispensing. May be continued by Representative. Bond.

Application  
for permit.  
Publication.

Name, pur-  
pose and loca-  
tion of appli-  
cant.

Copy served  
on Co. Atty.

Application  
filed with  
clerk of court  
10 days before  
term.

Must be a  
citizen of  
Iowa and reg-  
istered phar-  
macist.

Statements in  
application.

As to revoked  
permits.

SEC. 3. Notice of an application for a permit must be published for three consecutive weeks in a newspaper regularly published and printed in the English language, and of general circulation in the city or town where the applicant proposes to keep and sell intoxicating liquors, or if there be no newspaper regularly published in such city or town such publication shall be made in one of the official papers of the county, the last of which publication shall be not less than ten days nor more than twenty days before the first day of the term; and state the name of the applicant, with the firm name under which he is doing business, the purpose of the application, the particular location or the place where the applicant proposes to keep and sell liquors, and that the petition provided for in the next section, will be on file in the clerks office, at least ten days before the first day of the term, naming it, when the application will be made, and a copy thereof shall be served personally upon the county attorney in the same manner and time as required for service of original notices in the district court.

SEC. 4. Applications for permits shall be made by petition signed and sworn to by the applicant and filed in the office of the clerk of the district court of the proper county at least ten days before the first day of the term, which petition shall state the applicant's name, place of residence, in what business he is then engaged, and in what business he has been engaged for two years previous to filing the petition; the place, particularly describing it, where the business of buying and selling liquor is to be conducted; that he is a citizen of the United States and of the State of Iowa; that he is a registered pharmacist and now is, and for the last six months has been lawfully conducting a pharmacy in the township or town wherein he proposes to sell intoxicating liquors under the permit applied for, and as the proprietor of such pharmacy, that he has not been adjudged guilty of violating the law relating to intoxicating liquors within the last year next preceding his application; and is not the keeper of a hotel, eating house, saloon, restaurant or place of public amusement; that he is not addicted to the use of intoxicating liquors as a beverage and that he desires a permit to purchase, keep and sell such liquors for lawful purposes only. And every applicant who has at any time taken out a permit under this act which said permit has been revoked shall if he again apply for a permit, file with such application the further statement under oath, that he has not within the last two years next preceding his application, been knowingly engaged employed or interested in the unlawful manufacture, sale or keeping for sale of intoxicating liquors.

"*Provided further*, when a pharmacist has procured a permit, and by reason of the expiration of his lease, or for any

other good reason he desires to change his locality to another place in the same township, town, or ward, the court may grant to him on his petition, the right to continue business under his permit in the same township, town or ward, in which the permit is granted."

Change in location.

SEC. 5. This permit shall issue only on condition that the applicant shall execute to the State of Iowa a bond in the penal sum of one thousand dollars with good and sufficient sureties to be approved by the Clerk of the Court, conditioned that he will well and truly observe and obey the laws of Iowa, now or hereafter in force, in relation to the sale of intoxicating liquors, that he will pay all fines, penalties, damages and costs that may be assessed or recovered against him for a violation of such laws during the term for which said permit is granted. The said bond shall be deposited with the county auditor, and suit shall be brought thereon at any time by the county attorney, or any person for whose benefit the same is given, and in case the conditions thereof or any of them shall be violated, the principals and sureties therein, shall be jointly and severally liable for all civil damages, costs and judgments, that may be obtained against the principal in any civil action brought by a wife, child, parent, guardian, employer or other person, under the provisions of section fifteen hundred and fifty-six, fifteen hundred and fifty-seven and fifteen hundred and fifty-eight of the Code of Iowa, as the same is amended and now in force, and section twelve, chapter sixty-six, acts of the Twenty-first General Assembly of the State of Iowa. The clear proceeds of all other money collected for breaches of such bond shall go to the school fund of the county. Said bond shall be approved by the clerk of the district court under the rules and laws applicable to the approval of official bonds. If at any time the sureties or any of them on said bond shall become insolvent or be deemed insufficient by the clerk of the District Court said clerk shall require a new bond to be executed within a time to be fixed by him, and a failure of the person holding such permit to execute such new and sufficient bond within the time fixed by said clerk therefor shall cause said permit to become null and void. If the application for the permit is granted it shall not issue until the applicant shall make and subscribe an oath before the clerk, which shall be indorsed upon the bond to the effect and tenor following:

Condition of issue.

Bond \$1,000.

Bond deposited with Auditor.

Use of bond.

Money collected on breach of bond.

Approval of bond.

New bond may be required.

Failure to give new bond.

Form of oath.

"I . . . . ., do solemnly swear (or affirm) that I will well and truly perform all and singular the conditions of the within bond, and keep and perform the trust confided in me to purchase, keep and sell intoxicating liquors. I will not sell, give or furnish to any person any intoxicating liquors otherwise than as provided by law, and, especially, I will not sell or furnish any intoxicating liquors to any person who is

Customer must be personally known.

Returns.

Returns.

Clerk shall issue permit.

Court shall hear applicant on first day of term.

Hearing prevented.

Remonstrance or objection.

Moral qualifications.

In case application is resisted.

not known to me personally, or duly identified; nor to any minor, intoxicated person or persons who are in the habit of becoming intoxicated; and I will make true, full and accurate returns of all certificates and requests made to or received by me as required by law; and said returns shall show every sale and delivery of such liquors, made by or for me during the months embraced therein, and the true signature to every request received and granted; and such returns shall show all the intoxicating liquors sold or delivered to any and every person as returned."

Upon taking said oath and filing bond as hereinbefore provided, the clerk shall issue to him a permit authorizing him to keep and sell intoxicating liquors as in this act provided; and every permit so granted, shall specify, the building, giving the street and number, or location in which intoxicating liquors may be sold by virtue of the same, and the length of time the same shall be in force.

SEC. 6. No application for a permit shall be considered or acted upon by the court until the requisite notice has been given and petition filed as provided by this act and each is in form and substance such as required. On the first day of the term, having ascertained that the application is properly presented the court shall proceed to hear the application, unless objection thereto be made, in which case the court shall appoint a day during the term, but not later, when the same shall be heard; and in doing so shall consider the convenience of the court, and the interested parties and their council so far as the state of the business and the necessities of the case will permit.

If unavoidable causes prevent a hearing during the regular time allotted to the term, the same shall be heard and disposed of in vacation by the judge as soon as practicable thereafter. The county attorney or other council or any five citizens may in person or by council appear and resist the application. Any remonstrance or objection thereto must be in writing and filed on or before noon of the first day of the said term or by such later time as may be fixed by the court, and before the date fixed for hearing and such remonstrance shall state specifically the objection thereto. And whether resisted or objection be made or not the court shall not grant the permit until it shall first be made to appear by competent evidence that the applicant is possessed of the character and qualifications requisite, is worthy of confidence and to receive the trust and will be likely to execute the same with fidelity; and that the statements made in his application are all and singular true, and, considering the population of the locality and the reasonable necessities and convenience of the people such permit is proper. If the application is resisted the court or Judge shall hear controversy upon the petitions,



remonstrances and objections, and the evidence offered and grant or refuse such permit, as the public good may require.

If there be more than one permit applied for in the same locality they shall all be heard at the same time, unless for good cause otherwise directed, and the court may grant or refuse any or all of the applications as will best subserve the public interest.

More than one applicant in same locality.

Sec. 7. Permits granted under this act shall be deemed trusts reposed in the recipients thereof, and may be revoked upon sufficient showing, by order of the court or judge thereof. Complaint may be presented at any time to the district court, or one of the judges thereof, which shall be in writing and signed and sworn to by three citizens of the county in which the permit was granted, and a copy of such complaint shall, with a notice in writing of the time and place of hearing be served on the accused, five days before the hearing, and if the complaint is sufficient, and the accused appear and deny the same, the court or judge shall proceed without delay, unless continued for cause to hear and determine the controversy, but if continued or appealed at the instance of the permit-holder, his permit to buy and sell liquors may in the discretion of the court be suspended pending the controversy. The complainant and accused may be heard in person or by council or both, and submit such proofs as may be offered by the parties; and if it shall appear upon such hearing, that the accused has in any way abused the trust or that liquors are sold by the accused or his employes in violation of law or if it shall appear that any liquor has been sold or dispensed unlawfully or has been unlawfully obtained at said place from the holder of the permit or any employee assisting therein, or that he has in any proceeding civil or criminal, since receiving his permit, been adjudged guilty of violating any of the provisions of this act or the acts for the suppression of intemperance, the court or judge shall by order revoke and set aside the permit; the papers and order in such case shall be immediately returned to and filed by the clerk of the court, if heard by the judge and the order entered of record as if made in court, and if in this or any other proceeding, civil or criminal, it shall be adjudged by the court or judge that any registered pharmacist, proprietor or clerk who has been guilty of violating this act or the act for the suppression of intemperance and amendments thereto, by unlawfully manufacturing, selling, giving away or unlawfully keeping with intent to sell intoxicating liquors, such adjudication may in the discretion of the Commissioners of Pharmacy, if such violations are thereafter repeated, work a forfeiture of his certificate of registration. It shall be the duty of the clerk to forward to the Commissioners of Pharmacy such transcripts without charge therefor, as soon as practicable after final judgment or order.

Permits deemed trusts.

Complaints heard by court.

Permit may be suspended.

Permit may be revoked.

Action entered of record.

Forfeiture of registration certificate.

Permits may  
be granted to  
others not  
pharmacists.

Usual pro-  
ceedings.

Papers filed  
by clerk of  
court.

Costs in the  
case.

Fees.

Witnesses'  
mileage.

Certificate by  
purchaser.  
Contents.

Request may  
be refused.

Purchaser  
must be  
known to  
seller.

SEC. 8. Registered pharmacists who show themselves to be fit persons and who comply with all the requirements of this act, may be granted permits, and in any township where there is a registered pharmacist conducting a pharmacy and no pharmacist obtains a permit, if found necessary the court may grant a permit to one discreet person in such township not a pharmacist, but having all other qualifications requisite under this act, upon like notice and proceedings as pertain to permitted pharmacists and subject to the same liabilities, duties, obligations and penalties.

SEC. 9. The clerk of the court granting the permit shall preserve as a part of the record and files of his office all petitions, bonds and other papers pertaining to the granting or revocation of permits and keep suitable books in which bonds and permits shall be recorded. The books shall be furnished by the county like other public records. Whether said permit be granted or refused the applicant shall pay the costs incurred in the case, and when granted he shall make payment before any permit issue, except the court may tax the cost of any witnesses summoned by private persons resisting said application, and the fees for serving such subpoenas to such persons when it is shown that such witnesses were summoned maliciously, or without probable cause to believe their evidence material. A fee of one dollar and fifty cents shall be taxed for the filing of the petition and one dollar for entering the order of the court approving bond and granting said application, and witnesses shall be entitled to mileage and per diem as in other cases. And fees for serving notices and subpoenas shall be the same as in other cases in the district court.

SEC. 10. Before selling or delivering any intoxicating liquors to any person, a request must be printed or written, dated of the true date, stating the applicant is not a minor, and the residence of the signer, for whom and whose use the liquor is required, the amount and kind required, the actual purpose for which the request is made and for what use desired, and his or her true name and residence, and, where numbered, by street and number, if in a city, and that neither the applicant nor the person for whose use requested habitually uses intoxicating liquors as a beverage, and the request shall be signed by the applicant by his own true name and signature, and attested by the permit-holder who receives and fills the request by his own true name and signature in his own hand writing. But the request shall be refused, notwithstanding the statement made, unless the permit-holder has reason to believe said statement to be true, and in no case unless the permit-holder filling it personally knows the person applying, that he is not a minor, that he is not intoxicated, and that he is not in the habit of using intoxicating liquors as a beverage; or, if the applicant is not so personally known to

the permit-holder, before filling the said order or delivering the liquor he shall require identification, and the statement of a reliable and trustworthy person, of good character and habits, known personally to him, that the applicant is not a minor, and is not in the habit of using intoxicating liquors as a beverage, and is worthy of credit as to the truthfulness of the statements in the application, and this statement shall be signed by the witness in his own true name and handwriting, stating his residence correctly.

May require  
identification.

SEC. 11. On or before the 15th of January, March, May, July, September, and November of each year each permit holder shall make full returns to the county auditor of all requests filled by him and his clerks during the two preceding months and accompany the same with a written or printed oath duly taken and subscribed before the county auditor or notary public, which shall be in the following form, to-wit:

Bi-monthly  
returns to Co.  
Auditor.

"I . . . . ., being duly sworn, on oath state that the requests for, liquors herewith returned are all that were received and filled at my pharmacy (or place of business) under my permit during the months of . . . . ., 18. . . . ; that I have carefully preserved the same and that they were filled up, signed and attested at the date shown thereon, as provided by law; that said requests were filled by delivering the quantity and kind of liquors required and that no liquors have been sold or dispensed under color of my permit during said months except as shown by the requests herewith returned and that I have faithfully observed and complied with the conditions of my bond and oath taken by me thereon endorsed and with all the laws relating to any duties in the premises."

Oath, form of.

Faithful  
observance.

Every permit holder shall keep strict account of all liquors purchased or procured by him in a book kept for that purpose which shall be subject at all times to the inspection of the Commissioners of Pharmacy and the county attorney, any grand juror Sheriff or Justice of the Peace of the county and such book shall show of whom such liquors were purchased or procured, the amount and kind of liquors purchased or procured, the date of receipt and amount sold also the amount on hand of each kind for each two months, such book shall be produced by the party keeping the same, to be used as evidence on the trial of any prosecution against him or against liquors alleged to have been seized from him or his house, on notice duly served that the same will be required as evidence; and at the same time he returns requests to the county auditor he shall file a statement of such account with such auditor except that the items of sales need not be embraced therein, but the aggregate amount of each kind shall be, and such statement shall be verified, before the county auditor or a notary public. All forms necessary to carry out the provis-

Strict ac-  
count of pur-  
chases to be  
kept.

Items of book  
account.

Necessary  
forms to be  
provided.

ions of this act not otherwise provided for shall be as may be provided by the Commissioners of Pharmacy.

Permit holder  
or clerk.

SEC. 12. Every permit holder or his clerk under this act, shall be subject to all the penalties, forfeitures and judgments and may be prosecuted by all the proceedings and actions criminal and civil, and whether at law or in equity provided for or authorized by the laws now or hereinafter in force for any violation of this act, and the act for the suppression of intemperance and any law regulating the sale of intoxicating liquors and by any or all of such proceedings applicable to complaints against such permit holder; and the permit shall not shield any person who abuses the trust imposed by it or violates the laws aforesaid, and in case of conviction in any proceeding civil or criminal all the liquors in possession of the permit holder may by order of the court be destroyed.

Permits not a  
shield.

On conviction  
liquor to be  
destroyed.

On the trial of any action or proceeding against any person for manufacturing, selling, giving away or keeping with intent to sell intoxicating liquors in violation of law, or for any failure to comply with the conditions or duties imposed by this act, the requests for liquors and returns made to the auditor as herein required, the quantity and kinds of liquors sold or kept, purchased or disposed of, the purpose for which liquors were obtained by or from him and for which they were used, the character and habits of sobriety or otherwise, shall be competent evidence and may be considered so far as applicable to the particular case with any other recognized, competent and material facts and circumstances bearing on the issues involved in determining the ultimate facts. In any suit, prosecution or proceeding for violations of this act or the acts for the suppression of intemperance, and acts amendatory thereof, the court may compel the production in evidence of any books or papers required by this act to be kept, and may compel any permit holder, his clerk or any person who has purchased liquors of either of them to appear and give evidence, and the claim that any such testimony or evidence will tend to criminate the person giving such evidence shall not excuse such person or witness from testifying or producing such books or papers in evidence; but such oral evidence shall not be used against such person or witness, on the trial of any criminal proceeding against him. Any number of distinct violations of this act may be charged in one indictment or information in different counts and all tried in the same action, the jury specifying the counts, if any, on which the defendant is found guilty.

Failure to re-  
port to Audi-  
tor.

Evidence.

Books in evi-  
dence.

Tendency to  
criminate no  
excuse.

All counts  
tried in one  
action.

May be pur-  
chased for  
compound.

SEC. 13. Registered pharmacists, conducting pharmacies and not holding permits, and manufacturers of proprietary medicines are hereby authorized to purchase of permit holders intoxicating liquors (not including malt) for the purpose of compounding medicines, tinctures and extracts that cannot be

used as a beverage. Such purchasers, shall keep a record of uses to which the same are devoted, giving the kind and quantity so used.

Purchaser must keep record.

And on or before the 15th day of January, March, May, July, September, and November of each year they shall make and file with the county auditor sworn reports for the two preceding calendar months, giving full and true statements of the quantity and kinds of such liquors purchased and used, the uses to which the same have been devoted. The Commissioners of Pharmacy are hereby empowered to make such further rules and regulations with respect to the purchase, use and keeping of such liquors as they may deem proper for the prevention of the abuses of the trusts reposed in such purchasers, and if the said registered pharmacist sell, barter, give away, exchange or in any manner dispose of said liquors, or use the same for any purpose other than authorized in this section he shall, upon conviction before any district court thereof, be liable to all the penalties, prosecutions and proceedings at law or in equity provided against persons selling without a permit, and upon any such conviction the clerk of the district court shall within ten days after said judgment or order transmit to the Commissioners of Pharmacy the certified record thereof, upon receipt of which the Commission may strike his name from the list of pharmacists and cancel his certificate. Provided, that nothing herein contained shall be construed to authorize the manufacture or sale of any preparation or compound under any name, form or device, which may be used as a beverage and which is intoxicating in its character.

Bi-monthly report to Co. Auditor.

Pharmacy Com. may make rules.

Penalty for violation.

Certificate may be cancelled.

SEC. 14. Every permit-holder is hereby authorized to ship to registered pharmacists and manufacturers of proprietary medicines, intoxicating liquors to be used by them for the purposes authorized by this act.

Permit holder may ship.

And all railway transportation and express companies, and other common carriers, are authorized to receive and transport the same upon presentation of a certificate from the Clerk of the District Court of the county where the permit-holder resides, that such person is permitted to ship intoxicating liquors, under the provision of this act.

Common carriers authorized to transport.

SEC. 15. A permit-holder may employ one or more registered pharmacists as clerks, to sell intoxicating liquors in conformity to the permit and provisions of this act, but in such case the acts of his clerks in conducting the business shall be deemed the acts of the permit-holder who shall be liable therefor as if he had personally done the acts, and in making returns the verification of such requests as may have been received, attested and filled by a clerk must be made by such clerk, and the clerk who transacted any of the business under the permit must join in the general oath required of the

Acts of clerks deemed acts of principal.

Clerk must join in oath.

employer so far as relates to his own connection therewith. If for any cause a registered pharmacist who holds a permit shall cease to hold a valid and subsisting certificate of registration or renewal thereof his permit shall thereby be forfeited and be null and void.

Old permits  
expire Jan.  
1891.

SEC. 16. Any person holding a permit in force when this act takes effect may continue to purchase, keep and sell intoxicating liquors (according to law) for the time provided in such permit, unless sooner revoked. But all such permits shall expire not later than January 1st, 1891.

Convictions.

SEC. 17. If any person shall be convicted of violating any of the provisions of this act or acts regulating the practice of pharmacy or any acts for the suppression of intemperance, or amendments thereto by reason of a prosecution by the Commissioners of Pharmacy, the clear proceeds of all fines so imposed and collected shall be paid into the county treasury of the proper county for the use of the school fund, and the Commissioners of Pharmacy shall be entitled to draw from the state treasury an amount not exceeding 50 per cent of the amount of the fines so collected, to be used solely in prosecutions instituted by them for failure to comply with the provisions of this act or of the acts regulating the practice of pharmacy. And the court or clerk thereof before whom any prosecution is instituted and prosecuted by the Commissioners of Pharmacy shall certify to the Auditor of State, all cases in which they have appeared as prosecutors, either in person or by their attorney, and the amount of fines imposed and collected in such cases. And the Commissioners of Pharmacy shall have the power to revoke the certificate of registration of pharmacists for repeated violation of this act. Said amount to be drawn from time to time upon the warrants of the State Auditor, which shall issue for the payment of expenses actually incurred in said prosecution after said expenses shall have been audited by the Executive Council.

Fines paid to  
Co. Treas.

Pharmacy  
Com. may  
draw 50 per  
cent of fines.

Phar. Com.  
may revoke  
certificate.

False state-  
ments to ob-  
tain liquors.

Penalty.

False oath by  
permit hold-  
er.

SEC. 18. If any person shall make any false or fictitious signature or sign any name other than his or her own to any paper required to be signed by this act or make any false statement in any paper or application signed to procure liquors under this act, the person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty (20) dollars nor more than one hundred (100) dollars and cost of prosecution, and shall be committed until said fine and costs are paid, or be imprisoned not less than ten nor more than thirty days. If any permit-holder or his clerk shall make false oath touching any matter required to be sworn to under the provisions of this act, the person so offending shall upon conviction thereof be punished as provided by law for perjury. If any person holding a permit under this law shall purchase or procure any

intoxicating liquor otherwise than authorized by this act, or make any false return to the county auditor, or use any request for liquors for more than one sale, in any of such cases he shall be deemed guilty of a misdemeanor, and upon conviction punished accordingly. False returns to Co. Auditor.

SEC. 19. Nothing in this act shall be construed to abate any action or proceeding now pending in any court in this State for a violation of the provisions of the sections hereby repealed, or to operate to bar any prosecutions hereafter brought for any such violations committed prior to the passage and taking effect of this act. Proceedings already begun not abated.

SEC. 20. The Superior Courts of this State and the Judges and Clerks thereof shall have and exercise the same powers and duties as are in this act specified for district Courts their Judges and Clerks as to granting and revoking permits. Superior Courts have jurisdiction.

SEC. 21. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines, Iowa. Publication.

Approved April 18, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 23, and *Des Moines Leader* April 22, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 36.

### PHARMACISTS REGISTERED WITHOUT EXAMINATION.

AN ACT to amend section one of chapter one hundred and thirty seven (137) Acts of the nineteenth (19th) general assembly relating to pharmacists registered without examination. S. F. 313.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION ONE (1). That section one (1) of chapter one hundred and thirty seven (137) Acts of the 19th General Assembly be amended by inserting after the word "examination" in the fifth (5th) line the words "shall not" and by striking out the words "who has thus forfeited his registration" in the ninth (9th) line and by striking out the word "is" in the tenth (10th) line and inserting in lieu thereof "will not be."

Certain pharmacists do not forfeit registration when parting with business.

Approved April 15, 1890.

## CHAPTER 37.

## ELECTION OF COUNTY AUDITOR.

S. F. 7. AN ACT to amend Sec. 589 of the Code in reference to the election of County Auditor.

*Be it enacted by the General Assembly of the State of Iowa:*

Elections same  
year as Re-  
corder of  
Deeds.

SECTION 1. That Sec. 589 of the Code, be amended as follows by inserting after the word deeds in 3rd line of said sec the words "And County Auditor" and by striking out of same in said section—after the word year—the words "An Auditor."

Auditors  
elected in  
1889 hold until  
Jan. 1893.

SEC. 2. All county auditors elected in the year 1889 shall hold their office until the first Monday in January A. D. 1893 or until their successors are duly elected and qualified, such successors shall be elected in the year 1892 and each even numbered year thereafter.

New bond to  
be filed in 1892  
for one year.

SEC. 3. It shall be the duty of the County Auditor of each County to present at the regular January meeting in 1892 of the Board of Supervisors of his County, a good and sufficient bond, in such penal sum and with such conditions as are now prescribed by law for the official bond of such Auditor, which said bond shall be the official bond of said Auditor for the year 1892 and shall be subject to approval as now provided by law for the approval of bonds of County Auditors.

Failure to  
bond creates  
a vacancy.

And in case any County Auditor shall fail to furnish such bond as in this Section required to be presented and approved, such failure shall create a vacancy in the office of such County Auditor in his County for the year 1892, and such vacancy shall thereupon be filled as now provided by law for filling vacancies in said office.

Approved April 5, 1890.



## CHAPTER 38.

## CONVEYANCE OF REAL PROPERTY UNDER FOREIGN WILLS.

AN ACT to legalize conveyances of real property by executors or trustees under foreign wills. H. F. 348.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. All conveyances of real property which have heretofore been executed by executors or trustees under foreign wills and which were thus executed prior to the expiration of three months after the recording of a duly authenticated copy of the will, original record of appointment, qualification and bond, as required by Chapter 162 Acts of the Eighteenth General Assembly, are hereby legalized and declared as valid and effectual in law as though the provisions of said chapter had been strictly followed provided that the proper proof of authority shall have actually been a matter of record in the county where the real property is situated at the time the conveyance was executed or shall have been made a matter of record prior to the passage of this act.

Conveyances under foreign wills under certain circumstances legalized.

Proof of authority.

Approved, April 15th, 1890.

## CHAPTER 39.

## ASSESSMENT OF CAPITAL STOCK OF BANKING ASSOCIATIONS.

AN ACT to provide for assessment for taxation of the shares of capital stock of Banking Associations organized under the general incorporation laws of this State. S. F. 38.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. All shares of the capital stock of banking associations organized under the general incorporation laws of this state known as state or commercial banks, shall be assessed to such banks in the city or town wherein located, and not to the individual shareholders.

Shares to be assessed to bank.

Approved April 10th, 1890.

## CHAPTER 40.

## LEGAL RATE OF INTEREST.

S. F. 88. AN ACT to amend Section 2077, Code of Iowa, relating to Interest.

*Be it enacted by the General Assembly of the State of Iowa:*

Legal rate  
changed from  
10 to 8 per  
cent.

SECTION 1. That sub-division 7 of section 2077, Code of Iowa, be and the same is hereby amended by striking out the words "ten cents" in line four of said sub-division, and inserting in lieu thereof the words "eight cents."

Approved March 21st 1890.

## CHAPTER 41.

## BOARDING PRISONERS,—SHERIFF'S FEES.

S. F. 105. AN ACT to amend section seventeen, chapter ninety-four, laws of the Nineteenth General Assembly.

*Be it enacted by the General Assembly of the State of Iowa:*

Not more  
than 50 cts.  
fixed.

SECTION 1. That Sec. 17, Chap. 94, Laws of the 19th General Assembly be amended by striking out of the second line the word "less" and inserting the word "more."

Approved March 28th 1890.

## CHAPTER 42.

## GUARDIANS FOR HABITUAL DRUNKARDS.

AN ACT to amend Section 2272 of the Code of 1873, and to provide H. F. 78.  
for appointing guardians of the person of habitual drunkards, and  
for the custody, restraint, and confinement of habitual drunkards,  
and their reformation, under orders of the district court, or the  
judge thereof; and for terminating such guardianship.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Section 2272 of the Code of 1873 be, and the same hereby is amended by adding thereto the following: Such court may also appoint the guardian of the property of an habitual drunkard as the guardian of his person. If the person adjudged to be an habitual drunkard has no property, the court may appoint a guardian of his person.

Guardian of  
property to  
be guardian  
of person.

SEC. 2. The District Court, or any Judge thereof, may, from time to time, enter such orders as may be necessary, authorizing the guardian of the person of such habitual drunkard to confine and restrain him in such manner and in such place within this State as may, by the Court or Judge, be considered best for the purpose of preventing such drunkard from using intoxicating liquors, and as may tend to his reformation. Such orders may be modified, changed or vacated by such court, or any Judge thereof until the guardianship shall be terminated as hereinafter provided. Such person shall, at all reasonable times, have the right to confer with his attorney; and he may, at any time, apply to the District Court, or any Judge thereof, for the modification or vacation of any existing order as to his confinement and restraint. Any application for the entry or modification or vacation of any order relative to such confinement or restraint, made by the guardian or his ward, shall be heard upon such notice to the other party as the said court or Judge may direct.

Order for re-  
straint may  
be issued.

Application  
for modifica-  
tion of order.

SEC. 3. At any time not less than six months after the appointment of such guardian, the person adjudged to be an habitual drunkard may apply to the District Court, or any Judge thereof, by petition in the Guardianship proceedings, alleging that he has reformed, and is no longer an habitual drunkard, and asking that the guardianship may be termin-

Application  
for termina-  
tion of guar-  
dianship.

ated. Notice of such petition shall be served upon the guardian in such manner and for such length of time as the Court or Judge may direct, requiring the guardian to answer such petition at or before a time to be fixed in said notice. If the guardian shall file an answer denying the allegations of the petition, the court or Judge shall try the issue, unless the person under guardianship shall demand a Jury trial in which event the issue shall be tried in court by a jury as speedily as may be practicable. The costs of such proceeding shall be paid by the ward, unless the Court or Judge shall enter Judgment terminating the guardianship, and shall find that the guardian resisted the petition therefor without reasonable cause, in which event the court or Judge may tax the costs or any part thereof against the guardian.

Notice of denial filed.

Jury trial.

Cost when taxed to ward or guardian.

When termination is denied.

If any petition for terminating the guardianship shall be denied, no other petition shall be filed to terminate the guardianship until at least four months shall have elapsed since the denial of the former petition.

Approved May 1st, 1890.

## CHAPTER 43.

### ARREST TRIAL AND PUNISHMENT OF TRAMPS.

S. F. 60. AN ACT relating to tramps, their arrest, trial and punishment, and prescribing penalties for violation of this Act, and repealing Chapter 69, Laws of the Sixteenth General Assembly.

*Be it enacted by the General Assembly of the State of Iowa:*

Chap. 60 acts 16 G. A. repealed.

Persons having no visible calling or business deemed a tramp.

If convicted punished by imprisonment.

Intimidation.

SECTION 1. That chapter 69, laws of the sixteenth general assembly, is hereby repealed.

SEC. 2. Any male person sixteen years of age or over, who is physically able to perform manual labor, and is a vagrant within the purview of section 4130 of the code, who is wandering about practicing common begging, or is wandering about having no visible calling or business to maintain himself and unable to show reasonable efforts and in good faith to secure employment shall be deemed a tramp.

SEC. 3. Any person convicted of being a tramp shall be punished by imprisonment at hard labor in the county jail not exceeding ten days, or by imprisonment in such jail in solitary confinement not exceeding five days.

SEC. 4. Any tramp who shall watonly or maliciously, by means of violence, threats, or otherwise, put in fear any

inhabitant of this state, or who shall enter any public building, house, barn or out-building belonging to any other person, with intent to commit some unlawful act, or who shall carry any fire-arm or other dangerous weapon, or who shall indecently expose his person, or who shall be found drunk and disorderly, or shall commit any offense against the laws of this state for which no greater punishment is provided, shall, be guilty of a misdemeanor and on conviction thereof, shall be punished by imprisonment at hard labor in the county jail not exceeding thirty days, or by imprisonment in such jail in solitary confinement not exceeding ten days, nor less than three days.

Entering property of another.

Carrying fire-arms.

Exposure of person.

Penalty.

SEC. 5. If two or more tramps shall assemble or congregate together within this state, they shall be tried jointly by the court before whom they shall be brought and the justice of the peace, mayor or police magistrate shall only be entitled to fees as in proceedings for the arrest and trial of one person.

Fees where more than one are tried.

SEC. 6. The Board of Supervisors shall at their regular meeting held in June of each year fix the compensation to be allowed to the officers under this act. To the trial magistrate not exceeding two dollars and to the peace officer for all service, except making arrest, not more than one dollar and mileage as now allowed by law and for making arrest the same fee as now allowed for similar service in other cases.

Fees fixed by Boards of Supervisors.

SEC. 7. It shall be unlawful for any sheriff, or the keeper of any jail to permit any person convicted under this act to have or possess any tobacco, intoxicating liquors, sporting or illustrated newspaper, cards, or any other article of amusement or pastime, or to permit such person to be kept or fed otherwise than stated in the commitment, and any sheriff or keeper of any jail, or other person who shall in any manner knowingly violate this section, shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars, nor less than twenty-five dollars.

Duty of jail keeper.

Punished for neglect of duty.

SEC. 8. Any officer or magistrate who shall conspire with any other officer or person for the purpose of increasing the emoluments of his office, or for any other unlawful purpose, to evade the provisions of this act, or who shall, with such intent, in any manner, or by any means, encourage such tramp to remain within his bailiwick or jurisdiction, or to come within the same, shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars, and shall be committed until said fine and the costs in said trial are paid, but not to exceed thirty days.

Conspiracy to evade this act.

Punishment for same.

SEC. 9. It shall be the duty of the sheriff or keeper of any jail, under the direction of the board of supervisors, as provided in chapter 153. of the laws of the twenty-first general assembly, or as otherwise provided by law, to keep all persons sentenced to imprisonment at hard labor in such jail under

Tramps to be kept at hard labor.

Tramps may be worked on streets.

this act, at work according to law, doing such work as the board of supervisors may provide, and such sheriff or keeper is hereby authorized, and it is made his duty to appoint or detail any deputy or other police officer to guard such prisoners while at work. Or he may turn over such prisoners to the municipal authorities of any city or town, to be by them worked on the streets or at such labor as the town may provide.

Refusal to work punished.

Food.

SEC. 10. Any tramp who has been duly sentenced to hard labor under the provisions of this act, who wantonly or willfully refuses to work, shall be punished by such jailor while so refusing, by imprisonment in solitary confinement in the county jail not exceeding ten days during which time he shall be fed on bread and water; provided, that such punishment shall not exceed the time for which he is sentenced.

No compensation to be allowed hereafter for tramps board.

County officers to comply.

SEC. 11. Hereafter no sheriff or jailor shall receive, and no board of supervisors shall allow, any compensation for keeping or boarding any tramp in the jail or any other place of any county in this state, unless such tramp shall have been duly arrested or committed under the provisions of this act; provided, that the board of supervisors of each county shall have power to furnish one night's lodging only for apparently deserving persons and provided farther that all such persons who are sick or disabled, may be cared for as the necessities of the case demand. And all county officers shall comply with the requirements of the board of supervisors in relation to the persons mentioned in this section.

Approved May 3rd, 1890.

## CHAPTER 44.

### ENCOURAGEMENT OF HORTICULTURE AND FORESTRY.

S. F. 410. AN ACT to amend Chapter 25 of the laws of the Fourteenth General Assembly entitled an act for the encouragement of Horticulture and Forestry.

*Be it enacted by the General Assembly of the State of Iowa:*

Annual meetings for election of officers.

SECTION 1. That Chapter Twenty-five of the laws of the Fourteenth General Assembly be amended by striking out Article three and inserting in lieu thereof the following: "Said society shall hold its annual meeting each year for the transaction of its business at such time as may be fixed by said society, at which meeting officers shall be elected as follows: A president, vice-president, secretary, treasurer and librarian,

who shall serve one year. The society shall also elect one-half of a board of directors, the full board not to exceed twelve in number, who shall serve two years, except vacancies on the board may be filled for the unexpired term." Election of board of directors.

Approved May 3d, 1890.

## CHAPTER 45.

### ESTABLISHING LABOR DAY AS A HOLIDAY.

AN ACT to amend Section 2094 of the Code of 1878, establishing S. F. 5.  
"Labor Day" as a legal holiday.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That section 2094 of the Code of Iowa is hereby amended by inserting therein, after the words "4th day of July," the following:—"the first Monday in September, to be known as "Labor Day"; Labor Day established.

Approved April 5th 1890.

## CHAPTER 46.

### ESCAPE SHAFTS IN COAL MINES.

AN ACT to amend section 9, Chapter 21, Acts of the 20th General Assembly, as amended by Section 2, Chapter 56, Acts of the Twenty-second General Assembly, relative to escape shafts in coal mines. S. F. 185.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Section 9, Chapter 21, of the Acts of the Twentieth General Assembly, as amended by Section 2, Chapter 56, Acts of the Twenty-second General Assembly, be so amended as to read as follows: Chap. 21, acts 20 G. A., Chap. 56, acts 22 G. A. amended.

Section 9. In all mines there shall be allowed one year to make outlets as provided in Section 8, when such mine is under two hundred feet in depth, and two years when such mine is over two hundred feet in depth; but not more than twenty men shall be employed in such mine at any one time until the pro-

Time allowed to make outlets.

Number of men employed.

visions of section eight are complied with; [provided that in the case of mines over two hundred feet in depth, there shall be allowed three years on the condition that during the third year not more than ten men shall be employed in such mine at any one time and provided further, that in cases where the two years shall already have expired, a third year shall be allowed after the taking effect of this Act;] and after the expiration of the period above mentioned should said mines not have the outlets aforesaid, they shall not be operated until made to conform to the provisions of section eight. And provided further, that this act shall not apply to mines where the escape way is lost or destroyed by reason of the drawing of pillars preparatory to the abandonment of the mine; provided that not more than twenty persons shall be employed in said mine at any one time.

Abandoned  
mines.

Ten men may  
be employed  
at all times.

SEC. 2. And provided further, that ten men or less may be lawfully employed in any coal mine without reference to the provisions of this or any other act.

Approved April 17, 1890.

## CHAPTER 47.

### PROTECTION OF LABORERS.

S. F. 372.

AN ACT to protect laborers and miners for labor performed in developing and working in Coal mines, additional to Chapter 100 Acts of the 16th General Assembly and Chapter 179, Acts of the 20th General Assembly.

*Be it enacted by the General Assembly of the State of Iowa:*

Labor per-  
formed in  
opening and  
developing  
mines a lien  
upon the  
property.

SECTION 1. Every laborer or miner who shall perform labor in opening and developing any coal mine, including sinking shafts, constructing slopes, or drifts, mining coal and the like, shall have a lien upon all the property of the person, firm or corporation, owning, constructing or operating such mine, used in the construction or operation thereof, including real estate, buildings, engines, cars, mules, scales and all other personal property, for the value of such labor for the full amount thereof, upon the same terms with the same rights and to be secured and enforced as mechanics' liens are secured and enforced.



SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader newspapers published in Des Moines, Iowa. Publication.

Approved April 30th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* May 7 and the *Des Moines Leader* May 8, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 48.

### CLAIMS FOR WAGES.

AN ACT to Protect Employes and Laborers in their Claims for Wages. Sub for H. F. 274.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That hereafter, when the property of any company, corporation, firm or person shall be seized upon by any process of any court of this State; or when their business shall be suspended by the action of creditors or be put into the hands of a receiver or trustee, then in all such cases, the debts owing to laborers or servants, which have accrued by reason of their labor or employment to an amount not exceeding One Hundred dollars to each employe for work or labor performed within ninety days next preceding the seizure or transfer of such property, shall be considered and treated as preferred debts and such laborers or employes shall be preferred creditors, and shall first be paid in full; and if there be not sufficient to pay them in full, then the same shall be paid to them *pro rata* after paying costs. Any such laborer or servant desiring to enforce his or her claim for wages under this Act shall present a statement under oath showing the amount due after allowing all just credits and set-offs, the kind of work for which such wages are due, and when performed, to the officer, person or court charged with such property within ten days after the seizure thereof on any execution or writ of attachment, or within thirty days after the same may have been placed in the hands of any receiver or trustee; and thereupon it shall be the duty of the person or court receiving such statement to pay the amount of such claim or claims to the person or persons entitled thereto (after first paying all costs occasioned by the seizure of such property) out of the proceeds of the sale of the property seized; *Provided* that any person interested may contest any such claim

Debts owing for labor preferred.

To be paid in full.

Statement under oath.

Receiver or trustee to pay in 30 days.

Exceptions  
filed.

or claims or any part thereof by filing exceptions thereto, supported by affidavit, with the officer having the custody of such property and thereupon the claimant shall be required to reduce his claims to judgment before some court having jurisdiction thereof, before any part thereof shall be paid.

Approved May 5th, 1890.

## CHAPTER 49.

### VACANCY IN OFFICE OF COUNTY RECORDER.

S. F. 223. AN ACT to provide for temporarily filling vacancy in the office of County Recorder.

*Be it enacted by the General Assembly of the State of Iowa:*

County Audi-  
tor to act in  
case of  
vacancy.

SECTION 1. That in case of vacancy occurring in the office of County Recorder by death or otherwise: That the County Auditor be and is hereby required to discharge the duties pertaining to said office until such vacancy shall be filled by appointment made by the Board of County Supervisors.

Publication.

SEC. 2. This act being of importance shall be in force from and after publication in the Iowa State Register and Des Moines Leader.

Approved April 1st, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 4, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 50.

### APPOINTMENT OF STATE BANK EXAMINER.

S. F. 3. AN ACT providing for the appointment of State Bank Examiners, fixing their fees and the payment of the same.

*Be it enacted by the General Assembly of the State of Iowa:*

Auditor to  
appoint Bank  
Examiners.

SECTION 1. The Auditor of State is authorized to appoint one or more bank examiners, who shall hold their office at the pleasure of the Auditor of State and who shall before entering upon their official duties, give bond with

Bond.

approved sureties in the penal sum of Two Thousand dollars, for the faithful discharge of their duties which bonds shall be made to the State of Iowa, and be filed with the Auditor of State.

SEC. 2. All banks authorized by and acting under the supervision of the Auditor of State whether saving banks or state banks, so called, organized under the general incorporation laws of this state, shall pay the expense of such examinations which shall be as follows, viz: When such examinations are made by the Auditor of State he shall receive his necessary expenses only. When made by an examiner appointed by the Auditor of State he shall receive from banks possessing a paid up capital of Fifty Thousand Dollars or under, the sum of fifteen dollars. From Banks possessing a paid up capital of more than Fifty Thousand dollars and under One Hundred Thousand dollars, the sum of Twenty dollars—From Banks possessing a paid up capital of One Hundred Thousand Dollars and under Two Hundred Thousand Dollars the sum of Twenty-Five dollars. And from Banks possessing a paid up capital of Two Hundred Thousand dollars or over the sum of Thirty dollars.

Expense to be paid by banks

Schedule of fees.

SEC. 3. This Act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines, Iowa.

Publication.

Approved April 24th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 30, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 51.

### REPORT OF COMMISSIONER OF LABOR STATISTICS.

AN ACT concerning the printing of the Biennial Report of the Commissioner of the Bureau of Labor Statistics. (Sec. 11 of Chap. 82, Acts Twenty-second General Assembly). S. F. 188.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. Section 11 of chapter 82 Acts of the Twenty-second General Assembly is hereby amended by adding to the seventeenth line after the word "copies" where said word first occurs in said seventeenth line; the following "of the report of the Bureau of Labor Statistics 6,000 copies," the effect of

Printed reports increased to 6,000.

this amendment being that there shall hereafter be six thousand copies of the biennial report of the commissioner of the bureau of labor statistics printed and distributed.

Cloth.

SEC. 2. One thousand copies of said biennial report shall be bound in cloth.

Approved April 10, 1890.

## CHAPTER 52.

### PRINTING, BINDING AND DISTRIBUTION OF PUBLIC DOCUMENTS.

S. F. 312.

AN ACT in relation to the printing, binding and distribution of public reports.

*Be it enacted by the General Assembly of the State of Iowa:*

Name and  
number of  
documents to  
be printed.

SECTION 1. There shall be printed of the various public documents the number of copies hereinafter designated, to wit; of the biennial message, twelve thousand copies; of the inaugural address, of the biennial report of the Auditor of State, of the annual report of the Auditor upon insurance, of the report of the Superintendent of public instruction, of the report of the Agricultural College, of the report of the state board of health, and of the report of the bureau of Labor statistics, six thousand copies each; of the report of the commissioners of pharmacy, five thousand copies; of the report of the railroad commissioners, five thousand copies; thirty-five hundred of which shall be bound in cloth; of the report of the Secretary of State pertaining to lands, of the reports of the state visiting committee to the hospitals for the insane, the state inspector of oils, and the examiners in dentistry three thousand copies each of the reports of the joint committees of the General Assembly to visit state institutions, twenty-five hundred copies; and of all other reports, three thousand copies, provided that of the reports which may be required by virtue of statutes hereafter enacted, the number of copies to be printed thereof shall, where not provided for by law, be fixed by the Executive Council at any number not exceeding five thousand of said reports five hundred copies each, of the biennial message, inaugural address, auditor's biennial report, the report of the superintendent of public instruction, agricultural college, state board of health, commissioners of pharmacy, secretary of state pertaining to lands, secretary of states report of criminal convictions, the Auditors annual report pertaining to insurance, and the report of the bureau of Labor statistics, shall be bound in cloth, all other reports shall be bound

Executive  
council to fix  
number of  
new reports.

Binding in  
cloth.

in paper covers, and reports of the legislative visiting and special committee shall be printed and stitched without covers. Paper covers.

SEC. 2. The Secretary of State shall make distribution of the various public documents turned over to him as follows: Distribution of the documents by Sec'y of State.

To the members of the General Assembly six thousand copies of the message, fifteen hundred copies of the report of the Auditor of state, superintendent of public instruction and Agricultural college respectively, five hundred copies of the report of the commissioners of pharmacy, five hundred copies of the report of the secretary of state pertaining to lands, seven hundred copies of the reports of the joint visiting Committee of the General Assembly to the several state institutions, five hundred copies of the reports respectively of the state visiting committee to the hospitals for the insane, the state inspectors of oils and the examiners in dentistry, one thousand copies of the report of the state board of health, five hundred copies of the report of the state Treasurer, veterinary surgeon, Weather service, and pardons respectively. Of all other reports seven hundred copies.

SEC. 3. Sec. 11 and paragraph A of section 12 Chapter 82 laws of the twenty second General Assembly are hereby repealed Part of Chap. 82, acts 22d G. A. repealed.

SEC. 4. Sec. 9 Chapter 36 acts of the nineteenth General Assembly is hereby amended by striking therefrom the word "annual" in last clause and inserting instead the word "biennial" Dentist's report biennial.

SEC. 5. Sec. 13 Chapter 52 of the acts of the twenty first General Assembly is hereby amended by striking therefrom the words "such reports shall be published with the reports of the State Agricultural Society" Report of Dairy Commissioner not published with Ag'l report.

Approved May 1st, 1890.

## CHAPTER 53.

### INDUSTRIAL HOME FOR BLIND.

AN ACT to establish an Industrial Home for Adult Blind.

H. F. 33.

*Be it enacted, by the General Assembly of the State of Iowa:*

SECTION 1. There is hereby created and established for adult blind persons residing within the State of Iowa "The Industrial Home For The Blind", and there is hereby appropriated Forty Thousand Dollars or so much thereof as may be necessary out of any money in the treasury, for the purchase of suitable Home established. \$40,000 appropriated for grounds, buildings, etc.

	grounds and buildings, or for the purchase of grounds and the construction of suitable buildings, and for furnishing and supplying said buildings and shops, as hereinafter described, with the necessary machinery and appliances for the convenient and proper use, in accordance with the provisions hereof.
Object of Home.	SEC. 2. The object of the Industrial Home For Adult Blind, shall be to provide a working home and means for the blind to earn and provide their own subsistence.
Five commissioners appointed to locate.	SEC. 3. The Governor of the State shall appoint, on or before the first day of May, 1890, a board of five commissioners of said Industrial Home, (at least one of whom shall be a woman) and not more than three members of the same political party who shall hold their offices for two years and until their successors are appointed. Said board shall select location and site for said Home, and shall superintend the construction, building, furnishing and equipping of the Home and Shops provided by this act. Three of said Commissioners, when convened for business, shall constitute a quorum for the transaction of any business.
Terms two years each.	The Board of Commissioners provided for in this act, shall determine, as soon as practicable after their appointment, the location of said Home: and, if suitable grounds be not donated for the Home, said Commissioners shall purchase a site for said Home and locate it. The Location of said Home shall be made with reference to healthfulness, shipping facilities, and accessibility to the people of the State. The compensation of commission shall be four dollars per day and necessary traveling expenses.
Quorum.	SEC. 4. All deeds conveying any lands or lots, for said Home, shall be executed to the State of Iowa, and shall convey an absolute title in fee simple to the Land so conveyed, and which conveyance shall be accompanied by an abstract of title showing such title to be perfect in the State of Iowa. When said deeds so executed and delivered, shall be deposited with the Auditor of State, who shall then draw his warrant upon the State Treasurer for the amount of the purchase price agreed to be paid therefor:
May purchase if site is not donated.	Provided, if any donations of Lands or Lots shall be tendered to the State of Iowa, in aid of said Industrial Home, and such donation or donations shall be accepted by said Commissioners, then said Commissioners shall purchase only such additional lands or lots as may be necessary to complete the Home and Shops.
Compensation of Commissioners.	SEC. 5. As soon as practicable after their appointment, said Board shall adopt plans and provide estimates and specifications for buildings to be erected. As soon as said plans estimates and specifications shall be adopted, said Board shall advertise and invite bids or proposals for the material, labor and construction of such buildings. Said advertisement shall
Deeds.	
Warrant for amount of purchase.	
Donation.	
Plans for buildings.	
Bids.	
Publication.	

be made in some newspaper of general circulation at the city or town, or in the county where said Home may be located, and such publication shall be for a period of not less than thirty days, if made in a daily newspaper and shall not be less than five publications if made in a weekly newspaper. Said Board of Commissioners shall have power to prescribe such rules and forms for making such proposals therefor as they may deem proper. All contracts shall be let to the lowest bidder complying with the terms prescribed by said Board. In all contracts which may be made by said Board, for any material to be furnished, or for any work to be done, or for any of the purposes of this act, said Board shall require of the person, company, co-partnership or corporation a good and sufficient bond, in the penal sum of double the amount of the contract price for such material, labor or other supplies. All bonds herein provided for shall be filed at the Office of the Secretary of State.

Lowest bidder.

Bond.

Filing.

SEC. 6. Said Board shall have the power to employ a competent architect, and appoint one of their own number as superintendent of construction, who shall receive such compensation as the Board may determine, not exceeding four dollars per day, and his necessary traveling expenses while engaged in actual service connected with the Home.

Architect and Sup't of construction.

Said Board of Commissioners shall personally, examine all accounts of expenditures in the construction of any and all buildings or any parts of buildings, or for machinery or equipments of the shops, and for any and all other business in and manner pertaining to the construction, furnishing, equipment of shops, or the conduct of the business of the Home, and no warrant shall be drawn upon the Treasurer of State until such account shall have been examined and audited by said board. Said board shall not advance or pay upon any contract made for material or labor or machinery or any furnishings under the provisions of this act, more than seventy-five per cent of the material, labor, machinery, furnishings and supplies at any time furnished or done, until said contract shall be fully complied with. No advance shall be made until after careful estimates of the material delivered and value of work done.

Examination by Board.

75 per cent may be paid before finish.

Estimate before advance.

SEC. 7. As soon as said buildings shall be completed and furnished as herein contemplated, said Commissioners shall notify the Governor of the State thereof, and declare the same open for admission of the eligible blind persons thereto. Thereupon the Board of Commissioners shall appoint a Superintendent and Matron of said Home, who shall receive such compensation as may be agreed upon by said Board. The salaries of the Superintendent, Matron and all employes, and all other accounts, including the wages of workmen in the Shops, shall be paid monthly from the receipts of money for sale of manufactured goods, donations and the funds appro-

Opening.

Sup't and Matron appointed.

Money received for sale of goods.

Material for manufac-  
ture. priated for each particular purpose. The Board of Commissioners shall have power to make and enforce all necessary rules and regulations for the proper management and government of the Home; for the purchase of material for the manufacture of such articles as to them may seem best for the welfare and prosperity of the workmen employed, and for the disposal of the manufactured product.

Oath. SEC. 8. Before entering upon their duties, each Commissioner provided for in this act, shall take and subscribe an oath to faithfully and impartially perform each and every duty and obligation imposed upon him (or her) by this act, and shall execute to the State of Iowa, a bond, conditioned for the faithful performance of his (or her) duty herein. Said bond shall be in the penal sum of five thousand dollars, to be approved by the executive council. Said Board shall organize by electing from their own number a president and secretary. Said Board shall keep a record of all their proceedings, which record shall be open to inspection at all times, by the Governor or any one appointed by him. Said Board shall make an annual report to the Governor, at the same time and in the same manner required of other public institutions of the State which report shall be printed and distributed as the reports of other institutions of the State.

Schedule. SEC. 9. The appropriations provided for in this act shall be as follows:—

3. For Manufactory for two hundred Workman . . .
4. Machinery for same and for steam heating for all the Buildings and Shops . . . \$20,000.
5. For Store-house for raw Material and Mfg'd products . . . 2,000.
6. For Building for men including furniture . . . 4,000.
7. For Building for Women, including dining Hall
8. for all employees, for Laundry, Machinery and furnishings . . . 4,000.
9. For out Building and Barn . . . 1,000.
10. For Purchasing Fund for Biennial period . . . 4,000.
11. For Contingent Fund for biennial period . . . 5,000.

Total . . . \$40,000.

Money how drawn.

The money herein appropriated shall be drawn upon warrants of the Auditor of State when duly certified to said Auditor by the Board of Commissioners; Provided, that the money herein appropriated shall be drawn only as the buildings shall be advanced in construction and not more than one-half of the amount herein appropriated for purchasing and contingent funds shall be drawn from the treasury, during the year 1890. Provided, further, that any remaining unexpended after the completion of the building or improvement for which the same was appropriated, may be used as far as

Money unexpended.



necessary, for any of the purposes specified in this act, subject, however, to the approval of the Executive Council.

SEC. 10. This act being deemed of immediate importance shall be in force from and after its publication in the Iowa State Register, and the Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 23, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 29 and the *Des Moines Leader* April 30 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 54.

### INDUSTRIAL SCHOOLS—GIRLS' DEPARTMENT—SUPPORT.

AN ACT to amend section 1, Chapter 92, Acts of the 19th General Assembly. H. F. 308.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Section 1, of Chapter 92, Acts of the 19th General Assembly, be, and the same is hereby amended by striking out the word ten in the third line and inserting in lieu thereof the word eleven. Support increased from \$10 to \$11.

Approved April 15, 1890.

## CHAPTER 55.

### INSTITUTION FOR DEAF AND DUMB.

AN ACT to amend sections 1695 and 1696 Chapter 7 Title XII of the Code relating to the Iowa Institution for the Deaf and Dumb. H. F. 374.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Section 1695 Chapter 7 Title XII of the Code be amended by inserting after "Clothing" in the second line the words "or transportation." Transportation furnished.

SEC. 2. That Sec. 1696 Chapter 7 Title XII of the Code be amended by inserting after the word "Clothing" in the second line the words "or transportation."

Publication. SEC. 3. This act being deemed of immediate importance shall be in force from and after its publication in the Iowa State Register, and State Leader, Newspapers published in Des Moines Iowa.

Approved April 24, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 26, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 56.

### INSTITUTION FOR FEEBLE MINDED.

S. F. 163. AN ACT to amend section Nine of Chapter Forty, Acts of the Nineteenth General Assembly in relation to the Institution for Feeble Minded Children at Glenwood.

*Be it enacted by the General Assembly of the State of Iowa:*

\$22,000 annually instead of \$11,000 for teachers and employees.

SECTION 1. That section Nine (9) of Chapter Forty of the Acts of the Nineteenth General Assembly be, and the same is hereby amended by striking out the word Eleven (11) in the twelfth line of said section and inserting the words "Twenty-two" in lieu thereof, and that the section be further amended by adding after the word "teachers" in the twelfth line the words "and other employees".

Publication.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines Iowa.

Approved April 12, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 18, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 57.

## REGULATING GOOD TIME OF PRISONER.

AN ACT to Amend Chapter 154, Laws of 18th General Assembly, H. F. 341. regulating the good time of prisoners in our Penitentiaries.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. On or after the taking effect of this act every convict who is now or who may hereafter be confined in the penitentiaries of the state of Iowa, and who shall have no infraction of the rules or regulations of the penitentiaries or laws of the State recorded against him, and who performs in a faithful manner the duties assigned to him, shall be entitled to the diminution of time from his sentence as appears in the following table, for the respective years of the sentence and pro-rata for any part of a year where the sentence is for more or less than a year, provided, that this act shall not be construed, so as to increase the good time earned by prisoners in the penitentiaries of the State prior to the act going into effect.

NUMBER OF YEARS OF SENTENCE.	GOOD TIME GRANTED.	TOTAL GOOD TIME MADE.	TIME TO BE SERVED IF FULL TIME IS MADE.	Schedule.
1st year.....	1 month.....	1 month.....	11 months.	
2d year.....	2 months.....	3 months.....	1 year and 9 months.	
3d year.....	3 months.....	6 months.....	2 years and 6 months.	
4th year.....	4 months.....	10 months.....	3 years and 2 months.	
5th year.....	5 months.....	1 year and 3 months.	3 years and 9 months.	
6th year.....	6 months.....	1 year and 9 months.	4 years and 3 months.	
7th year.....	6 months.....	2 years and 3 months.	4 years and 9 months.	
8th year.....	6 months.....	2 years and 9 months.	5 years and 3 months.	
9th year.....	6 months.....	3 years and 3 months.	5 years and 9 months.	
10th year.....	6 months.....	3 years and 9 months.	6 years and 3 months.	
11th year.....	6 months.....	4 years and 3 months.	6 years and 9 months.	
12th year.....	6 months.....	4 years and 9 months.	7 years and 3 months.	
13th year.....	6 months.....	5 years and 3 months.	7 years and 9 months.	
14th year.....	6 months.....	5 years and 9 months.	8 years and 3 months.	
15th year.....	6 months.....	6 years and 3 months.	8 years and 9 months.	
16th year.....	6 months.....	6 years and 9 months.	9 years and 3 months.	
17th year.....	6 months.....	7 years and 3 months.	9 years and 9 months.	
18th year.....	6 months.....	7 years and 9 months.	10 years and 3 months.	
19th year.....	6 months.....	8 years and 3 months.	10 years and 9 months.	
20th year.....	6 months.....	8 years and 9 months.	11 years and 3 months.	
21st year.....	6 months.....	9 years and 3 months.	11 years and 9 months.	
22d year.....	6 months.....	9 years and 9 months.	12 years and 3 months.	
23d year.....	6 months.....	10 years and 3 months.	12 years and 9 months.	
24th year.....	6 months.....	10 years and 9 months.	13 years and 3 months.	
25th year.....	6 months.....	11 years and 3 months.	13 years and 9 months.	

SEC. 2. In case any convict shall be guilty of the violation of any of the rules or laws of the penitentiaries or of the State as above provided and has become entitled to any diminution of the sentence by the provisions aforesaid he shall for the first offense forfeit, if he has made so much, two (2)

Forfeiture of good time earned.

days, for the second offense four (4) days, for the third offense eight (8) days, and for the fourth offence sixteen (16) days, and in addition thereto whatever number of days more than one that he is in punishment, shall also be forfeited; for more than four offences or for an escape or attempt to escape the warden shall have the power, with the approval of the Governor, to deprive him of any portion of or all the good time that the convict may have earned but not less than as provided for the fourth offence.

Several convictions.

SEC. 3. That whenever any convict is committed under several convictions with separate sentences they shall be construed as one continuous sentence under this law in the granting or forfeiting of good time.

Certificate of restoration from governor.

SEC. 4. The Governor shall have the right to grant any convict, that has been, now, is, or may be hereafter confined in the penitentiaries, whom he shall deem a proper person to enjoy privilege, a certificate of restoration to all his rights of citizenship, as provided by law. Although such convicts may have been guilty of an infraction of the rules and regulations of the prison. The warden upon request of the Governor, shall in case of application for such restoration furnish him a statement of the convict's deportment during his imprisonment and may at all time make such recommendations to the Governor as he shall deem proper respecting the restoration to citizenship of any convict.

SEC. 5. All acts and parts of acts in conflict with this act are hereby repealed.

Approved May 12 1890.

## CHAPTER 58.

### SUPPORT OF SOLDIERS' HOME.

S. F. 128.

An Act to amend section one, of Chapter One Hundred and Twenty One of the Laws of the Twenty Second General Assembly.

*Be it enacted by the General Assembly of the State of Iowa:*

Support fund changed from \$6000 per annum to \$1050 per month.

SECTION 1. That section one of chapter one hundred and twenty one of the laws the twenty-second General Assembly be amended as follows: Strike out of the second line of said Section one the words and figures "six thousand dollars (\$6000) per annum" and insert in lieu thereof the words and figures "ten hundred and fifty dollars (\$1,050) per month."

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SEC. 2. This act being deemed of immediate importance Publication.  
shall take effect and be in force from and after its publica-  
tion in the Iowa State Register and Des Moines Leader,  
newspapers published in Des Moines, Iowa.

Approved May 12th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* May 15, and the *Des Moines Leader* May 16, 1890.

FRANK D. JACKSON, *Secretary of State*.



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PART II.

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APPROPRIATIONS.

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## CHAPTER 59.

## IMPROVEMENT OF NEW CAPITOL GROUNDS.

AN ACT making an appropriation for the purpose of improving the grounds of the New Capitol. Sub. for  
H. F. 195.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of one hundred thousand dollars or so much thereof as may be necessary for the purpose of improving the grounds of the New Capitol. \$100,000 appro-  
priated for  
improve-  
ment.

SEC. 2. One third of the appropriation provided for in Section 1 of this act may be drawn from the Treasury and expended during the year 1890 and the balance of said one hundred thousand dollars may be drawn in two equal installments, the first on or after May 15th, 1891, and the second on or after October 15th, 1891. One-third to  
be expended  
1890.  
Balance.

SEC. 3. The money herein appropriated shall be under the control of the Executive Council. They shall appoint some competent person as Superintendent, to take charge of and superintend the work, and all payments shall be made only for work done or for material delivered, after being certified to by the Superintendent and approved by the Executive Council, and upon vouchers so certified and approved the Auditor of State shall issue a warrant in favor of the person or persons therein named. Under control  
of Executive  
Council.  
  
Superintend-  
ent.

SEC. 4. The plans adopted by the Board of Capitol Commissioners for the improvement of the ground, made by J. Weidenmann shall be followed as the general plans for improving the grounds, but the Executive Council may make such changes in the details as they may deem for the best interest of the State. Plans and  
details.

SEC. 5. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines, Iowa. Publication.

Approved April 24, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register April 26, and the Des Moines Leader April 30, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 60.

## EXPENSES OF INAUGURATION CEREMONIES.

S. F. 295. AN ACT Appropriating money to defray the expenses of the Inauguration Ceremonies.

*Be it enacted by the General Assembly of the State of Iowa:*

\$1,045.08 appropriated  
inaugural  
expenses.

SECTION 1. That there be and hereby is appropriated out of any money in the State treasury not otherwise appropriated the sum of one thousand and fortyfive dollars and eight cents or so much thereof as may be necessary to pay the expenses incurred on account of the Inauguration ceremonies. Warrants shall be drawn upon the Treasury for the sum herein appropriated in favor of the Adjutant General upon the filing of vouchers therefor with the Auditor of State.

Publication.

SEC. 2. This act being deemed of immediate importance shall be in force and effect from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in the city of Des Moines, Iowa.

Approved March 21st 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* March 22 and *Des Moines Leader* March 23 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 61.

## EXPENSES OF COMMISSIONERS TO ATTEND BEEF AND PORK COMBINE CONVENTIONS.

H. F. 417. AN ACT Appropriating \$440.70 to defray the expenses of certain members of the 22d General Assembly appointed by the Governor to attend the "Beef and Pork Combine" convention at St. Louis.

Kansas con-  
current reso-  
lution.

WHEREAS the legislature of the state of Kansas by concurrent resolution passed in 1889 requested the Governor of that State to correspond with the governors of other interested states with a view of securing joint action of such states in matters of legislation affecting an alleged "Beef and Pork Combine" or trust and

Invitation of  
Kansas Gov-  
ernor.

WHEREAS by the authority so conferred by such concurrent resolution the Governor of the State of Kansas did invite and request the governors of the various Western States to

appoint as delegates five members of the House and three members of the Senate of their respective states to meet in convention in the city of St. Louis on the 12th day of March 1889 and

WHEREAS at such convention at which thirteen Western States were represented by delegates chosen from the members of their respective General Assemblies, the following named members of the Twenty second General Assembly to-wit: Hons. J. G. Hutchinson and G. L. Finn on the part of the Senate and Hons. L. W. Lewis, A. Head, I. L. Wood and W. H. Robb on the part of the House were duly commissioned by Gov. William Larrabee of the State of Iowa, and did attend such convention as representatives of the 22 General Assembly of the State of Iowa, Therefore

Iowa delegation.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That each of said delegates be allowed the sum of \$6.00 per diem for the time actually spent in attending such convention and mileage at the rate of ten cents per mile one way and there is hereby appropriated out of the treasury from funds not otherwise appropriated the sum of Four Hundred and Forty Dollars and seventy cents (440.70) to defray such expenses incurred by the several parties to-wit:

\$440.70 appropriated.

To J. G. Hutchinson the sum of.....	\$63.90
To G. L. Finn the sum of.....	73.20
To W. H. Robb the sum of.....	75.40
To L. W. Lewis the sum of.....	68.90
To A. Head the sum of.....	78.00
To I. L. Wood the sum of.....	81.30

Schedule.

\$440.70

SEC. 2. This act being deemed of immediate importance shall be in full force and effect from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines, Iowa.

Publication.

Approved April 10th 1890.

I hereby certify that the foregoing act was published in the Iowa State Register April 16 and Des Moines Leader April 15 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 62.

## EXPENSES INVESTIGATION OF STATE UNIVERSITY.

- H. F. 436. AN ACT to appropriate a certain sum of money to pay the expenses of the Joint Committee appointed to investigate certain charges against the State University of Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

\$4,800 appropriated.

SECTION 1. That there be appropriated out of any funds in the state treasury the sum of forty-eight hundred dollars, or so much thereof as may be necessary to pay all the expenses (with six per cent interest thereon from date of certificates) connected with the investigation of the state university of Iowa, by a joint committee appointed by the 22d general assembly as is shown by vouchers now on file in the office of the auditor of state and by certificates issued by the chairman of said investigating committee.

Approved April 5, 1890.

## CHAPTER 63.

## DISCHARGED CONVICTS.

- H. F. 425. AN ACT Making an appropriation to help discharged convicts to an honest life.

*Be it enacted by the General Assembly of the State of Iowa:*

\$1,000 appropriated.

How drawn.

Vouchers.

SECTION 1. That there is hereby appropriated, out of any money in the treasury not otherwise appropriated, the sum of One Thousand Dollars, to be used to help discharged convicts to an honest life. The moneys hereby appropriated shall be drawn from the treasury in the usual manner on the order of the President and Secretary of the Iowa Prisoners' Aid Association, approved by the Executive Council. The Association shall take and preserve vouchers for all moneys expended by it, filing the same with the Governor, and making report to him, before the next regular session of the General Assembly; provided that not more than five hundred dollars of the amount herein appropriated shall be drawn during the year 1890.

Approved April 30, 1890.

## CHAPTER 64.

## HISTORICAL RECORDS.

AN ACT providing for the collection and preservation of historic records and other valuable material pertaining to the history of Iowa and making an appropriation therefor. S. F. 303.

Whereas, The Aldrich Collection of autograph letters, manuscripts and portraits, now in the State Library, is of great value to the State, and it is important that it shall be increased— Aldrich collection increased.

And Whereas, The time, labor and money, necessary to this work are more than any individual can afford to give without compensation—

And Whereas, Also, it is believed that many valuable documents, relating to the earlier days of our territory and state have been destroyed, mislaid or misplaced, or are in danger of destruction or loss—Now therefor— Early records.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there be and is hereby appropriated out of any money in the treasury not otherwise appropriated the sum of three thousand dollars, to be expended under the direction of the trustees of the state library, for the accomplishment of the work of adding to said Aldrich Collection, and that of searching for, restoring and safely preserving the papers and documents aforesaid. Said trustees of the Iowa state library shall solicit contributions to said collection, receive and properly acknowledge the receipt of the same and they shall have the power to appoint and employ all persons necessary for the work aforesaid, to fix their compensation, and do all other things necessary to the accomplishment of the purposes of this act. All accounts and expenditures under this act shall be audited by the executive council and warrants therefor drawn by the Auditor of State: Provided, that not to exceed one half the sum hereby appropriated shall be drawn during the year 1890; and that in no event shall there be more expended under this act, for the year 1890 and 1891 than the said sum of three thousand dollars. \$3,000 appropriated. Contributions solicited. One-half drawn in 1890.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published at Des Moines Iowa. Publication.

Approved April 10, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register April 16 and the Des Moines Leader April 17 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 65.

## GENERAL APPROPRIATION BILL.

H. F. 516. AN ACT to make Appropriations for the Payment of State Officers, State Expenses and other bills.

*Be it enacted by the General Assembly of the State of Iowa:*

Monthly  
salaries fixed  
by law.

SECTION 1. That there is hereby appropriated out of any money in the state treasury not otherwise appropriated, an amount sufficient to pay the salaries of the various officers whose salaries are now fixed by law, and payable from the state treasury, and the auditor of state shall draw warrants therefor in favor of the officers entitled thereto, in monthly installments, when not otherwise provided by law.

Unexpended  
money  
cover into  
treasury

SEC. 2. There is further appropriated from the state treasury for the term of two years, ending March 31, 1892, the following amounts, or so much thereof as shall be necessary, to-wit; provided that on the first day of April succeeding the meeting of the regular session of the General Assembly, all moneys appropriated hereby and remaining unexpended, belonging to the several funds hereinafter mentioned, shall be covered into the state treasury.

SEC. 3. The amounts hereinafter named, or so much thereof as may be necessary for the use of the several state officers herein designated, to enable them to procure sufficient clerical help.

Auditor.	For the use of Auditor of State eleven thousand and dollars . . . . .	(\$11,000)
Treasurer.	For the use of Treasurer of State, three thousand and dollars . . . . .	(\$3,000)
Secretary.	For the use of Secretary of State, seven thousand dollars . . . . .	(\$7,000)
Superintendent of Public Instruction.	For the use of Superintendent of Public Instruction, four thousand dollars . . . . .	(\$4,000)
Attorney-General.	For the use of Attorney-General, the sum of three thousand six hundred dollars . . . .	(\$3,600)
	And to enable him to procure legal assistance in performing the duties of his office, the sum of four thousand dollars,	(\$4,000)
Mine Inspectors.	For the use of the state mine inspectors, two thousand dollars . . . . .	(\$2,000)
Railway Commissioners.	For the use of the railroad commissioners, for, expenses, the sum of ten thousand dollars, or so much thereof as may be necessary . . . . .	(\$10,000)

*Provided*, that each of said state officers shall furnish vouchers therefor, containing the items of such expenditures, to the Auditor of State, before any warrants shall issue therefor, and the amounts thereof, and to whom paid, shall be reported to the next general assembly. Vouchers to be furnished.

SEC. 4. For the contingent expenses of the executive office, the sum of eight thousand dollars (\$8,000). Executive office.

For the payment of room rent for the governor, the sum of twelve hundred dollars (\$1200). Room rent.

And for the expenses of employing additional counsel when necessary under the provisions of sections fifty-nine (59) and sixty (60) of the code, three thousand dollars, (\$3,000) to be drawn and accounted for in the manner provided for the contingent fund. Counsel.

SEC. 5. For the payment of office janitors and mail carrier of the capitol, the sum of twenty thousand dollars (\$20,000), or so much thereof as may be necessary, to be expended under the direction of the executive council. Janitor and mail carrier.

SEC. 6 For providential contingencies, the sum of ten thousand dollars, (\$10,000) said amount to be under the control of the executive council; and all payments from said fund shall first receive its unanimous approval. Any expenditures under this section shall be reported in detail by the Auditor of State in his biennial report. Providential contingencies

SEC. 7. For the incidental expenses of the supreme court, the sum of twenty-five hundred dollars (\$2,500), or so much thereof as may be necessary. All bills for such expenses shall contain all the items thereof, which shall be certified to be correct by the chief justice of said court, before any warrant shall issue therefor. For the purpose of paying for extra clerical help in the office of the clerk of the supreme court, the sum of three thousand dollars (\$3,000) or so much thereof as may be necessary. Incidental expenses.

SEC. 8. For the purpose of paying the interest becoming due on the indebtedness of the state to the permanent school fund, the sum of forty thousand dollars, (\$40,000 or so much thereof as may be necessary. The Auditor of State shall draw warrants for the above appropriation, as said items of interest shall become due. Interest on indebtedness.

SEC. 9. To L. Harbach, for speaker's chair, gavels and tables for reporters, the sum of one hundred and 50-100 dollars (\$100.50-100). Harbach.

SEC. 10. To the members of the executive council, for extra service for the years 1890 and 1891, the sum of one thousand dollars (\$1,000) each, and warrants therefor shall be issued monthly at the end of each month. Executive council

SEC. 11. To pay for Miller's and McClain's Annotated Code, furnished members of the general assembly, to the president of the senate, and to the clerk of the house, the sum of

ten hundred and seventy-one dollars (\$1,071 for 153 copies, said money to be drawn from the treasury by the secretary of state, on warrants drawn by the auditor of state, upon vouchers duly presented to, and approved by, the secretary of state.

J. A. T. Hull. SEC. 12. To J. A. T. Hull, lieutenant-governor, as President of the Senate for forty-six days, four hundred and sixty dollars (\$460).

A. N. Poyneer. SEC. 13. To A. N. Poyneer Lieutenant-Governor, as President of the Senate, eleven hundred dollars (1100).

J. T. Hamilton. SEC. 14. To J. T. Hamilton, as Speaker of the House, the sum of five hundred and fifty dollars (\$550), which sum shall be in addition to his salary as member of the house.

B. B. Lane. SEC. 15. To B. B. Lane, as presiding officer of the House for fifteen days, at five dollars (\$5) per day, seventy-five dollars (\$75).

L. D. Hotchkiss. SEC. 16. To L. D. Hotchkiss, as temporary speaker for twenty-four days at five dollars (\$5) per day, one hundred and twenty dollars (\$120).

Chaplains. SEC. 17. To the chaplains of the Senate and House, the sum of seven hundred dollars (\$700) or so much thereof as may be necessary, warrants therefor to be drawn in favor of the persons entitled thereto, who shall be determined by the auditor of state, upon the certified statement of the President of the Senate and the Speaker of the House.

Militia. SEC. 18. For deficiency in appropriation for the years 1888 and 1889, for the purpose of carrying out the provisions of chapter 74, laws of the 18th general assembly, the sum of (\$3299 91-100), or so much thereof as may be necessary.

Temporary mail carrier. SEC. 19. To J. D. McGarrah, as temporary mail carrier, for the twenty third general assembly for forty-two days, the sum of two hundred and ten dollars (\$210).

Com. of Labor Statistics. SEC. 20. For the use of the Commissioner of Labor Statistics, the sum of one thousand dollars (\$1,000).

Sec'y Senate and Clerk  
House Index. SEC. 21. To W. B. Cochrane, secretary of the senate, and H. S. Wilcox, chief clerk of the House, for making up, writing and indexing the Journals of their respective houses, superintending the printing of the same, the sum of five hundred dollars (\$500) each. One half to be paid when the written certified original Journal is filed in the office of the secretary of state, and the balance upon certificate of the secretary of state, that the index has been completed. Warrants therefor shall be issued under the direction of the executive council.

Packing. SEC. 22. To Peter Ebling, for ninety-three days' work in preparing and shipping public documents by express, the sum of two hundred and thirty-two and 50-100 dollars (\$232.50-100.)

Packing. SEC. 23. To Alfred Holm, for ninety-three days' work in preparing and shipping public documents by express, the sum of two hundred and thirty two and 50-100 dollars, (\$232.50-100.)



SEC. 24. To Bentley & Olmsted for shoe-strings for files, Shoe-strings.  
the sum of one and twelve hundredths dollars (\$1.12-100).

SEC. 25. To the Iowa Printing Company, for six hundred Bill files.  
bill files, the sum of two hundred and ten dollars (\$210).

SEC. 26. To Redhead, Norton, Lathrop & Co., for 303 bill Files.  
files, and 270 Journal files, the sum of four hundred and two  
and seventy five one hundredths dollars (\$402.75) and for 50  
Journal and 50 Bill files, fifty-five dollars (\$55).

SEC. 27. To the Iowa Printing Company, for engraving Work on  
and Litho-Press work on rules 23rd G. A., the sum of eighty rules.  
dollars (\$80).

SEC. 28. For the Seymour district Agricultural Society, Seymour  
the sum of two hundred dollars. (\$200), as provided by sec- Ag'l Society.  
tion 1112 of the code, for fair held in 1887, warrant to be  
issued by the auditor upon certificate, properly endorsed by  
the secretary of the State Agricultural society.

SEC. 29. For decorating the Capitol on the occasion of the Decorations.  
state G. A. R. encampment, the sum of two hundred and  
sixty-four and fifty one hundredths dollars (\$264.50).

SEC. 30. To Louis Case, for bank examinations, the sum Bank exam-  
of one hundred and fifteen dollars (\$115). inations.

SEC. 31. To Wm. H. Fleming, for collecting figures for Committee  
use of Senate and House, Ways and Means and Appropria- work.  
tion Committees, from books in auditor's office, and type-  
writing of appropriation bills, the sum of twenty-five dollars  
[\$25].

SEC. 32. For expense of joint trust investigating com- Joint trust  
mittee ordered by general assembly, the sum of one hundred investigation  
and thirty dollars (\$130), warrants to issue upon vouchers committee.  
signed by E. P. Seeds, chairman.

SEC. 33. This act being deemed of immediate importance, Publication.  
shall take effect and be in force from and after its publication  
in the Iowa State Register and Des Moines Leader, news-  
papers published in Des Moines, Iowa.

April 15th, 1890.

I hereby certify that the foregoing act was published in the Iowa  
State Register and the Des Moines Leader April 17, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 66.

## HOSPITAL FOR INSANE AT CLARINDA

H. F. 273. AN ACT making appropriations for the Hospital for the Insane, at Clarinda, Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

\$180,000 appro-  
priated.

SECTION 1. That there is hereby appropriated for the Hospital for the Insane at Clarinda, Iowa out of any money in the State Treasury not otherwise appropriated, [one hundred and eighty thousand and four hundred dollars or so much thereof as may be necessary in the following sums for the following purposes, to-wit:

Schedule.

For additional wing for females.....	\$130,000
For Boiler House, Engine rooms, Electric light Rooms and Smoke Stack.....	10,000
For Furnishing New Wing for Females....	5,000
For Steam Heating, including three boilers.	9,000
For Water Closet and Bath Room annex...	8,000
For temporary Water Tanks.....	1,000
For corridors, connecting main building....	4,000
For General Repairs and Contingent Fund..	1,000
For Engines and additions to Electric Plant	4,000
For Barns.....	1,000
For Water Tanks and Pumps.....	1,000
For improvement of grounds and fences...	1,000
For Ice House and Cold Storage.....	2,500
For Sewerage.....	1,600
For Plumbing and Water Supplies .....	1,300

Total..... \$180,400

Manner of  
payment.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Treasurer of said Hospital at such times as they may deem necessary; provided, that not more than one third thereof shall be drawn in 1890 and the balance in two equal installments, the first on or after May 15th 1891, and the second on or after October 15th, 1891.

Publication.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register, and Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 24th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* May 1, and the *Des Moines Leader* April 30 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 67.

## HOSPITAL FOR INSANE INDEPENDENCE

AN ACT making appropriations for the Hospital for the Insane at H. F. 22. Independence.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated for the Iowa Hospital for the Insane at Independence, out of any money in the State Treasury, not otherwise appropriated Twenty thousand dollars or so much thereof as may be necessary in the following sums for the following purposes to-wit:

For repaid and contingent fund, six thousand dollars,	\$6,000	Schedule.
For new large brick coal-house with iron roof, three thousand dollars,.....	(3,000)	
For passenger elevator and fire escape six thousand five hundred dollars.....	(6,500)	
For Conservatory, two thousand dollars,.....	(2,000)	
For sidewalk and improvement of ground two thousand dollars,.....	(2,000)	
For tile five hundred dollars,.....	( 500)	

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Trustees of said Hospital in such sums and at such times as may be deemed necessary by said trustees; provided, that not more than one half of the amount herein appropriated shall be drawn from the treasury during the year 1890, and the balance in two equal installments the first on or after May 15th 1891, and the second on or after October 15th, 1891.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register, and the Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 24, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 26, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 68.

## HOSPITAL FOR INSANE MT PLEASANT

H. F. 139. AN ACT making appropriations for the Hospital for the Insane at Mount Pleasant, Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

\$37,100 appro-  
priation.

SECTION 1. That there is hereby appropriated for the Hospital for the Insane, at Mount Pleasant, out of any money not otherwise appropriated, thirty seven thousand one hundred dollars or so much thereof as may be necessary in the following sums, for the following purposes, to-wit:

Schedule.

For Cold Storage Building six thousand dollars (\$6,000.)  
For Chapel and Amusement Hall fifteen thousand dollars (\$15,000.)  
For General Repairs and contingent fund seven thousand dollars (\$7,000.)  
For Ice House two thousand dollars (\$2,000.)  
For Slaughter House and Piggery fifteen hundred dollars (\$1,500.)  
For Steam Engine, twenty-six hundred dollars (\$2,600.)  
For improvement of grounds and fences, one thousand dollars (\$1,000.)  
For Green-house, flowers and plants, two thousand dollars (\$2,000.)

Money how  
drawn.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Trustees of said Hospital, at such times as may be deemed necessary by said Trustees: provided, that not more than one half thereof shall be drawn during 1890, and the balance in two equal installments, the first on or after May 15th, 1891 and the second on or after October 15th, 1891.

Publication.

SEC. 3. This Act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register, and Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 16th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 22, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 69.

## PENITENTIARY AT ANAMOSA.

AN ACT making appropriations for the penitentiary at Anamosa, House file 340. Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated for the Penitentiary, at Anamosa, Iowa out of any funds in the State Treasury not otherwise appropriated thirty-eight thousand eight hundred and fifty dollars or so much thereof as may be necessary, in the following sums and for the following purposes, to-wit:

1. For the Completion of the Work on the Building for Female Convicts, .....	\$30,000.	Schedule.
2. For Repair and Contingent fund, .....	4,600.	
3. For Furniture for Hospital, .....	500.	
4. For Furnishing Warden's House, .....	150.	
5. For Transportation of Discharged Convicts, ....	1,200.	
6. For Steam Kettles and Ranges, .....	1,000.	
7. For Construction of Smoke Stack, .....	1,200.	
8. For Changing Electric Lights, .....	200.	

Total, .....\$38,850.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Warden of said penitentiary at such times and in such sums as he may deem necessary, provided, that not more than one third of said amounts shall be drawn during 1890, and the balance in two equal installments, the first on or after May 15th 1891 and the second on or after October 15th 1891.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines, Leader, newspapers published in Des Moines, Iowa.

Approved April 15th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register May 7 and Des Moines Leader May 8, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 70.

## PENITENTIARY AT FORT MADISON.

H. F. 410. AN ACT making appropriations for the penitentiary at Fort Madison, Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

\$0,700 appropriated.

SECTION 1. That there is hereby appropriated for the Penitentiary at Fort Madison, Iowa out of any funds in the State Treasury not otherwise appropriated nine thousand and seven hundred dollars, or so much thereof as may be necessary, in the following sums and for the following purposes, to-wit:

Schedule.

1. For Transportation of Convicts,.....\$2,000.
2. For Contingent and Repair Fund,..... 7,500.
3. For Furniture and Carpets,..... 200.

Money, how drawn

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Warden of said Penitentiary at such times and in such sums as he may deem necessary; provided, that not more than one half shall be drawn in 1890, and the balance in two equal installments, the first on or after May 15th 1891, and the second on or after October 15th 1891.

Publication.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 30th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* May 7 and the *Des Moines Leader* May 8, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 71.

## INDUSTRIAL SCHOOL—BOYS DEPARTMENT.

AN ACT, making appropriations for the Iowa Industrial School, Sub for  
Boys' Department, at Eldora, Iowa. H. F. 44.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated out of any <sup>\$20,850 appro-</sup> money in the treasury not otherwise appropriated, Twenty <sup>priated.</sup> thousand eight hundred and fifty dollars or so much thereof as may be necessary for the Boys' Department in the sums hereinafter named and for the purposes hereinafter mentioned:

1st. For the erection and furnishing of a Chapel seven Schedule.  
thousand five hundred dollars, (\$7,500.)

2d. For Electric Light and Boilers four thousand dollars  
(\$4,000.)

3d. For contingent and repair funds four thousand dollars  
(\$4,000.)

4th. For Sunday Suits for boys, eighteen hundred dollars  
(\$1,800.)

5th. For Chaplain Fund four hundred dollars (\$400.)

6th. For Library and School Books five hundred dollars  
(\$500.)

7th. To increase Laundry capacity and dry room and for  
laundry machinery twelve hundred and fifty dollars, (\$1200.)

8th. For bathing apparatus and heater one thousand dol-  
lars, (\$1,000.)

9th. For Band instruments and uniform four hundred dol-  
lars (\$400.)

SEC. 2. The money herein appropriated shall be drawn and <sup>Money how</sup> paid on the order of the trustees of said institution at such <sup>drawn.</sup> times as they may deem necessary, provided, that not more than one third thereof shall be drawn during 1890 and the balance in two equal installments the first on or after May 15th 1891, and the second on or after October 15th 1891.

SEC. 3. This act being deemed of immediate importance <sup>Publication.</sup> shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 30th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register May 7 and Des Moines Leader May 8 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 72.

## INDUSTRIAL SCHOOL—GIRLS DEPARTMENT.

Sub. for.  
H. F. 297.

AN ACT making appropriations for the Iowa Industrial School, Girls' Department, at Mitchelville, Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

\$18,125 appro-  
priated.

SECTION 1. That there is hereby appropriated for the Iowa Industrial School, Girls' Department, at Mitchelville, Iowa out of any money in the State Treasury not otherwise appropriated eighteen thousand one hundred and twenty-five dollars or so much thereof as may be necessary, in the following sums for the following purposes, to-wit:

Schedule.

- |   |         |
|---|---------|
| 1. For Finishing New Building and Furnishing Hospital,..... | \$ 750. |
| 2. For Painting and Repairs,.....                           | 1,000.  |
| 3. For Furniture, Carpet and Kitchen Stoves, .....          | 1,000.  |
| 4. For Library and School Books,.....                       | 300.    |
| 5. For Fencing and Drainage,.....                           | 500.    |
| 6. For Chaplain's Fund, .....                               | 300.    |
| 7. For Erection of Hennerly,.....                           | 250.    |
| 8. For Sunday Suits,.....                                   | 500.    |
| 9. For Winter Wraps, .....                                  | 300.    |
| 10. For Farming Implements, .....                           | 200.    |
| 11. For Team, Harness and Carriage,.....                    | 400.    |
| 12. For Contingent Fund,.....                               | 2,500.  |
| 13. For Additional Building,.....                           | 10,000. |
| 14. For Window Screens, .....                               | 125.    |

Total ..... \$18,125.

Money how  
drawn.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Trustees of said Institution and at such times and in such sums as they may deem necessary; provided, that not more than one half of said appropriation shall be drawn during 1890, and the balance in two equal installments the first on or after May 15th 1891 and the second on or after October 15th 1891.

Publication.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 30th 1890.

I hereby certify that the foregoing act was published in the Iowa State Register May 7 and the Des Moines Leader May 8, 1890.

FRANK D. JACKSON. *Secretary of State.*



## CHAPTER 73.

## BENEDICT HOME

AN ACT making an appropriation for Benedict Home at Des Moines, Iowa. Sub. for. H. F. 197.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. There is hereby appropriated for the support of Benedict Home at Des Moines, Iowa out of any money in the State Treasury not otherwise appropriated the sum of six thousand dollars (\$6,000.) or so much thereof as may be necessary to be expended as directed by the Executive Council, provided that not more than one half the amount herein appropriated shall be drawn in the year 1890 and the other half in the year 1891. \$6000 appropriation. How expended.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines Iowa. Publication.

Approved April 16th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 19, 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 74.

## INSTITUTION FOR DEAF AND DUMB.

AN ACT making appropriations for the Institution for the Deaf and Dumb at Council Bluffs, Iowa. Sub. for. H. F. 337.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated for the Institution for the Deaf and Dumb at Council Bluffs, Iowa, out of any money in the State Treasury not otherwise appropriated twenty-six thousand and fifty dollars or so much thereof as may be necessary in the following sums and for the following purposes, to-wit: \$26,050 appropriated.

Schedule.	1.	For Improvement for Industrial Schools,.....	\$2,000.
	2.	For Cooking School,.....	1,000.
	3.	For Laundry and Cistern,.....	2,000.
	4.	For Dining Room and Additions,.....	5,500.
	5.	For Water Main,.....	1,000.
	6.	For Approach to Main Building and Fire Escape,.....	1,500.
	7.	For Cows and Barns,.....	1,500.
	8.	For Repair Fund,.....	1,500.
	9.	For Smoke Stack and Steam Heating,.....	1,500.
	10.	For Painting,.....	1,000.
	11.	For Library,.....	400.
	12.	For Closets in School House and Main Building,.....	1,500.
	13.	For Sewer,.....	3,000.
	14.	For Vegetable Cellar,.....	1,000.
	15.	For Furniture, Beds and Bedding for Students, ..	800.
	16.	For Front Walls for Main Building,.....	600.
	17.	For Improvement for Gymnasium,.....	250.

Total.....\$26,050.

Money how  
drawn.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the trustees of said Institution, at such times as they may deem necessary; provided, that not more than one half thereof shall be drawn during 1890, and the balance in two equal installments, the first on or after May 15th, 1891, and the second on or after October 15th, 1891.

Publication.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 30th 1890.

I hereby certify that the foregoing act was published in the Iowa State Register *Register* May 7 and *Des Moines Leader* May 8 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 75.

### SOLDIERS HOME.

Substitute for AN ACT making appropriations for the Soldiers' Home at Marshalltown, Iowa.  
H. F. 45.

*Be it enacted by the General Assembly of the State of Iowa:*

\$38,150 appro-  
priated.

SECTION 1: That there is hereby appropriated thirty-eight thousand two hundred and fifty dollars or so much thereof as may be necessary out of any money in the State Treasury not otherwise appropriated for the Soldiers' Home at Marshall-

town, Iowa, in the following sums and for the following purposes, to-wit :

- |  |          |           |
|--|----------|-----------|
| 1. For Hospital Building.....  | \$25,000 | Schedule. |
| 2. For New Building for Boiler Room and<br>for Electric Light, ..... | 12,000   |           |
| 3. Sewerage, .....   | 1,250.   |           |

SEC. 2. The money herein appropriated shall be drawn out on the order of the Commissioners of said Home, at such times and in such sums as may be deemed necessary by them; provided, that not more than one half of said appropriation shall be drawn during 1890, and the balance in two equal installments. The first on or after May 1st, 1891, and the second on or after October 1st, 1891.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 23d, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 24, 1890.

FRANK D. JACKSON, *Secretary of State.*

CHAPTER 76.

HOME FOR INDIGENT CHILDREN.

AN ACT making appropriations for the Soldiers' Orphans' Home and Home for Indigent Children at Davenport, Iowa.

Substitute for  
H. F. 318.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated for the Soldiers' Orphans' Home and Home for Indigent Children at Davenport, Iowa out of any money in the State Treasury, not otherwise appropriated forty-six thousand dollars, or so much thereof as shall be necessary, in the following sums and for the following purposes, to-wit:—

- |  |           |           |
|--|-----------|-----------|
| 1. For a Main Central Building, .....    | \$30,000. | Schedule. |
| 2. For Furniture and Steam Heating, .... | 5,500.    |           |
| 3. For Water Supply, .....               | 6,000.    |           |
| 4. For Contingent expenses and Repairs,  | 3,000.    |           |
| 5. For Library, .....                    | 500.      |           |
| 6. For Out-houses. ....                  | 1,000.    |           |

Total ..... \$46,000.

Money, how  
drawn.

SEC. 2. The money herein appropriated may be drawn and paid on the order of the Trustees of said home, at such times and in such sums as they may deem necessary; provided, that not more than one-third shall be drawn during 1890, and the balance in two equal installments the first on or after May 15th 1891, and the second on or after October 15th 1891.

Publication.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 30th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* May 7 and *Des Moines Leader* May 8, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 77.

### STATE UNIVERSITY APPROPRIATION.

Substitute for AN ACT making appropriations for the State University at Iowa  
H. F. 278 City.

*Be it enacted by the General Assembly of the State of Iowa:*

\$125,000 appro-  
priated.

SECTION 1. That there is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the support of the State University in the several departments and in aid of the income fund, and for the erection of Building, and for the development of the Institution the sum of one hundred and twenty-five thousand dollars, or so much thereof as may be necessary in the following sums and for the following purposes, to-wit:

Schedule.

1. For additional general support,.....\$45,000.
2. For Vapor Gas plant for Laboratory use,..... 1,000.
3. For additional equipment of natural science department,..... 4,000.
4. For additional equipment in Department in Engineering,..... 4,000.
5. For Physical Laboratory Apparatus,..... 4,000.
6. For the erection of a Chemical Laboratory Building and the equipment for same,..... 50,000.
7. For enlargement of Boiler House and additional Heating Apparatus,..... 2,000.
8. For Library,..... 5,000.
9. For Repairs and Contingent fund,..... 10,000.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Board of Regents of said University at such times and in such sums as they may deem necessary; provided, that not more than one third shall be drawn in 1890, and the balance in two equal installments, the first on or after May 15, 1891, and the second on or after October 15, 1891. How drawn and paid.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register, and the Des Moines Leader, newspapers published in Des Moines, Iowa. Publication.

Approved April 19th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register April 24 and the Des Moines Leader April 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 78.

### AGRICULTURAL COLLEGE.

AN ACT making appropriations for the State Agricultural College. Sub. for House file 270.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated for the Iowa State Agricultural College out of any money in the State Treasury not otherwise appropriated, fifty thousand dollars or so much thereof as may be necessary in the following sums for the following purpose to-wit: \$50,000 appropriated.

For repairs on the main College Building and the two Boarding Halls five thousand dollars.....	(\$5,000.)	Schedule.
For Boiler, Boiler and Engine House, and Steam Heating apparatus for engineering hall five thousand dollars.....	(\$5,000.)	
For the enlargement and repair of the Chemical and Physical Laboratory Building two thousand dollars.....	(\$2,000.)	
For the Repair and improvement of Farm Buildings, including the erection of Swine House and Corn Cribs two thousand dollars.....	(\$2,000.)	
For Fire Escapes, additional water Tank in main building, Hose and other appliances for protecting College Building against fire one thousand dollars.....		

For building for museum, library chapel and recitation rooms and remodeling main building, thirty-five thousand dollars. . . . . (\$35,000.)

Money, how drawn.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Trustees of said College, in such sums and at such times as they may deem necessary; provided that not more than one third thereof shall be drawn during 1890 and the ballance in two equal installments, the first on or after May 15th 1891 and the second on or after October 15th 1891.

Publication.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 24, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 30, and *Des Moines Leader* May 1, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 79.

### NORMAL SCHOOL—CEDAR FALLS.

Sub. for House file 257.

AN ACT making an appropriation for the State Normal School at Cedar Falls, Iowa. And providing a Permanent Endowment and Contingent Fund for the Same.

*Be it enacted by the General Assembly of the State of Iowa:*

\$15,000 annual endowment.

SECTION 1. That there be and is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of fifteen thousand dollars, annually, as endowment fund for the payment of the teachers of said Institution and a further sum of twenty-five hundred dollars, annually for a regular contingent fund. The money herein appropriated shall be drawn and paid quarterly on the order of the Trustees of said School. The first quarterly payment being made on the first of June 1890.

\$2,500 annual contingent

\$17,600. general.

SEC. 2. That there is hereby appropriated in addition to the amount appropriated in Section one (1) of this act, the sum of seventeen thousand and six hundred dollars, or so much thereof as may be necessary in the following sums and for the following purpose, to-wit:

- |    |   |          |          |
|----|---|----------|----------|
| 1. | For Library and Apparatus, .....  | \$4,000. | Schedule |
| 2. | For Repairs on Chapel and old Buildings and for<br>Boilers and Steam Heating, ..... | \$5,000. |          |
| 3. | For Platform Scales, .....  | 100.     |          |
| 4. | For President's Cottage and Furnishing same, ....                                   | 6,000.   |          |
| 5. | For Cold Storage Room, .....  | 500.     |          |
| 6. | For Laundry and Appliances, .....   | 1,000.   |          |
| 7. | For Water Rents and Water, .....  | 1,000.   |          |

SEC. 3. The sums herein appropriated in Section two (2) of this act shall be drawn and paid on the order of Trustees of said school at such times and in such sums as they may deem necessary, provided, that not more than one third thereof shall be drawn during 1890, and the balance in two equal installments, the first on or after May 15th 1891, and the second on or after October 15th 1891. Provided that item 4, Presidents Cottage \$6000 may be drawn at any time during this biennial period upon warrants signed by the trustees of said institution.

Money, how drawn.

SEC. 4. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines, Iowa.

Publication.

Approved April 16th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader April 19, 1890.

FRANK D. JACKSON, Secretary of State.

CHAPTER 80.

INSTITUTION FOR FEEBBE MINDED CHILDREN.

AN ACT making appropriations for the Institution for Feeble Minded Children at Glenwood, Iowa.

Sub. for.  
H. F 24

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That there is hereby appropriated for the Institution for Feeble Minded Children at Glenwood, Iowa the sum of Forty one thousand six hundred dollars or so much thereof as may be necessary out of any money in the State Treasury not otherwise appropriated the following sums for the following purposes, to-wit:

\$41,600 adprop-  
riated.

Schedule.	For Temporary Hospital for Epileptic Children . . . . \$	1,500
	For one boiler, Steam pumps, Steam Fittings, Pipe Coverings, Coal shed and Water Reservoir, . . . .	8,000.
	For Electric Light Plant, . . . . .	5,000.
	For addition to Laundry, Shops and Machinery, . . . .	4,000.
	Brick addition to building . . . . .	4,400.
	For moving and repair Boys' East Cottage for adult farm boys, . . . . .	2,000.
	For Bakery and Kitchen Furniture, . . . . .	2,000.
	For Beds and Bedding, . . . . .	2,500.
	For Library, School Furniture and Supplies, . . . . .	400.
	For Cold Storage room and Ice House . . . . .	2,000.
	For Orchard, Small Fruit and Fencing, . . . . .	300.
	For Land and Barns, . . . . .	5,000.
	For Piggery, . . . . .	500.
	For Contingent and repair fund, . . . . .	3,000.
	For Improvement in Machinery for brick-yard, . . . . .	500.
	For Improvement and plan of ground, . . . . .	500.

Total . . . . . 41,600.

Money how drawn.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Trustees of said Institution in such sums and at such times as may be deemed necessary by said trustees; provided, that not more than one half of the amount herein appropriated shall be drawn from the treasury during the year 1890, and the balance in two equal installments, the first on or after May 15th 1891, and the second on or after October 15th 1891.

Publication.

SEC. 3. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, newspapers published in Des Moines, Iowa.

Approved April 24th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* May 1, 1890.

FRANK D. JACKSON, *Secretary of State.*



CHAPTER 81.

COLLEGE FOR THE BLIND.

AN ACT making appropriations for the College of the Blind at H. F. 110.  
Vinton, Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated for the College for the Blind at Vinton, Iowa out of any money in the State Treasury not otherwise appropriated Eight Thousand Dollars, or so much thereof as may be necessary in the following sums for the following purposes to-wit:

For contingent and repairs and Fire proof safe . . . . .	\$2,500.00
For Bedding and Furniture, . . . . .	2,000.00
For Library and School Apparatus, . . . . .	500.00
For Water Works, . . . . .	3,000.00

\$8,000 appropriated.

SEC. 2. The money herein appropriated shall be drawn and paid on the order of the Trustees of said College, at such times and in such sums as they may be deem necessary; provided that not more than one half thereof shall be drawn during 1890.

Money how drawn.

SEC. 3. This act being deemed of immediate importance shall take Effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader, newspapers published in Des Moines, Iowa.

Publication.

Approved April 30th, 1890.

I hereby certify that the foregoing Act was published in the Iowa State Register May 7, and Des Moines Leader, May 8, 1890.

FRANK D. JACKSON, Secretary of State.

CHAPTER 82.

STATE LIBRARY.

AN ACT making appropriations for the State Library. S. F. 423.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there is hereby appropriated for the State Library out of any money in the State Treasury not otherwise appropriated the following sums for the following purposes to-wit

Appropriation authorized.

Schedule.	To complete sets of the Session Laws of the various States & Territories.....\$500.00
	To complete sets of Periodicals and procure new sets..... 500.00
Money how drawn.	SEC. 2. The money herein appropriated shall be drawn and paid on the order of the trustees of said Library at such times as they may deem necessary.
Publication.	This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader newspapers published in Des Moines Iowa.
	Approved April 24th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader*, May 1, 1890.

FRANK D. JACKSON, *Secretary of State*

## CHAPTER 83.

### DAIRY COMMISSIONER.

H. F. 510. AN ACT providing an appropriation for conducting the office of the state dairy [dairy] commissioner, and for paying the expenses thereof.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the unexpended portions of the appropriation provided by section seventeen, Chapter Fifty-two of the laws of the twenty first general assembly, and by section two, Chapter Ninety eight of the laws of the twenty second general assembly is hereby appropriated for the next biennial period, or so much thereof as may be necessary for the proper carrying out of the purposes of the acts establishing this commission—But not more than one half of said unexpended balance shall be drawn from the state treasury prior to the first day of May, 1891—The amount hereby appropriated shall be expended only under the direction and with the approval of the executive council.

Approved April 17th 1890.

## CHAPTER 84.

## RELIEF OF PARENTS OF GEORGE HENRY KRESTING.

AN ACT appropriating money to the Dependent Parents of George H. F. 400.  
Henry Kresting, mortally wounded in assisting to arrest the Barber Brothers.

WHEREAS, on or about June 5th 1883 George Henry Krest- Preamble.  
ing in Bremer County Volunteered to assist in the arrest of  
two desperados known as Barber Brothers, who were fleeing  
from Peace officers; and

WHEREAS, when assisting in the arrest of the said Barber, Death of  
George H. Kresting was shot by a pistol bullet fired by one Kresting.  
of the Barbers, from the effect of which he soon afterward died;  
and

WHEREAS, said George Henry Kresting was at the time of Support of  
his death the only son and the support of his parents, who parents.  
were then aged and needy, and who were largely supported  
by said son who was single and resided with his parents: and

WHEREAS, Said parents are now aged and disabled: and

WHEREAS, the 20th General Assembly appropriated to each Appropriation  
of the other persons who were disabled in assisting in the cap- act of 20  
ture of the said Barber Brothers, the sum of two hundred dol- G. A.  
lars: therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there be appropriated to J. H. Kresting, \$200 appro-  
father of the said George H. Kresting, the sum of two hun- priated.  
dred dollars, out of any money in the treasury not otherwise  
appropriated.

Approved April 15th, 1890.

## CHAPTER 85.

## EXPENSES VISITING COMMITTEES TO STATE INSTITUTIONS.

AN. ACT to defray the expenses of the several Committees appointed S. F. 387.  
to visit the various State Institutions.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That there be and is hereby appropriated out Appropriation  
of any money in the State Treasury not otherwise appropriated ized.

the following sums of money to the persons and for the purposes hereinafter named.

Ag'l College.

SEC. 2. To J. H. Smith the four dollars and sixty cents; to Allen Smith three dollars and eighty-five cents; and to J. G. Thornburg, five dollars and twenty-five cents for mileage and expenses incurred in visiting the State Agricultural College, at Ames.

Benedict Home.

SEC. 3. To W. A. Davie one dollar and thirty cents; to B. B. Lane one dollar and twenty-five cents for mileage and expenses incurred in visiting the Benedict Home in Des Moines.

Fish Hatch-  
ing House.

SEC. 4. To James H. Barnett twenty-seven dollars; to Wm. M. McFarland twenty-six dollars and fifty cents; and to Ed. C. Russell thirty dollars and fifty cents for mileage and expenses incurred in visiting the State Fish Hatching House at Spirit Lake.

College for  
Blind.

SEC. 5. To E. E. Mack seventeen dollars and eighty-five cents; and to J. P. Holliday nineteen dollars and twenty cents for mileage and expenses in visiting the College for the Blind at Vinton.

Hospital Mt.  
Pleasant.

SEC. 6. To T. J. Caldwell eighteen dollars and eighty cents; to J. T. Young fourteen dollars and forty cents; and to L. A. Mitchell fourteen dollars and forty cents for mileage and expenses incurred in visiting the Hospital of the Insane at Mt. Pleasant.

Hospital In-  
dependence.

SEC. 7. To L. B. Mattoon twenty one dollars and thirty-three cents; to J. R. Shipley twenty-one dollars and thirty-three cents; and to J. M. Johnston twenty-one dollars and thirty-three cents for the purpose of paying mileage and expenses incurred in visiting the Hospital for the Insane at Independence.

Hospital  
Clarinda.

SEC. 8. To F. D. Bayless twenty-five dollars and fifty cents; to J. W. Luke twenty-five dollars and fifty cents; and to J. L. Woods twenty-five dollars and fifty cents for the purpose of paying mileage and expenses incurred in visiting the Hospital for the Insane at Clarinda.

Penitentiary  
Anamosa.

SEC. 9. To L. S. Hanchett twenty-three dollars and ten cents; to H. B. Wyman twenty-three dollars and ten cents and to N. B. Nemmers, twenty-three dollars and ten cents for the purpose of paying mileage and expenses in visiting the additional Penitentiary at Anamosa.

Penitentiary  
Ft. Madison.

SEC. 10. To J. D. McVey twenty-four dollars and fifty cents; to W. W. Morrow twenty-four dollars and fifty cents; and to W. H. Chamberlain twenty-four dollars and fifty cents for the purpose of paying mileage and expenses in visiting the Penitentiary at Fort Madison.

Soldiers  
Home.

SEC. 11. To N. V. Brower eleven dollars and thirty-five cents; to John Law seven dollars and fifty cents; and to M. Ewart six dollars and eighty cents for the purpose of paying

mileage and expenses in visiting the Soldiers' Home at Marshalltown.

SEC. 12. To E. P. Seeds twenty-three dollars; to J. A. Smith twenty-two dollars; and to Ed. Hart twenty-two dollars for the purpose of paying mileage and expenses in visiting the Orphans' Home at Davenport. Orphans Home.

SEC. 13. To O. M. Barrett eighteen dollars; to E. L. Hobbs sixteen dollars; and to B. Graeser sixteen dollars for the purpose of paying mileage and expenses in visiting the Institution for the Deaf and Dumb at Council Bluffs. Deaf and Dumb.

SEC. 14. To G. W. Perkins thirteen dollars; to H. L. Byers thirteen dollars; and to N. P. Holbrook thirteen dollars for the purpose of paying mileage and expenses incurred in visiting the State Normal School at Cedar Falls. Normal School.

SEC. 15. To A. B. Funk twenty five dollars; to F. M. Kyte, twenty dollars; and to F. F. Roe twenty-one dollars and fifty cents for the purpose of paying mileage and expenses incurred in visiting the Institution for Feeble Minded Children at Glenwood. Inst'n for Feeble Minded.

SEC. 16. To Richard Price twenty-two dollars and fifty cents; to J. E. Blythe twenty-two dollars and fifty cents; and to R. W. Briggs twenty-two dollars and fifty cents for the purpose of paying mileage and expenses incurred in visiting the State University at Iowa City. State University.

SEC. 17. To P. B. Wolfe twelve dollars and seventy-five cents; to G. W. Ball eleven dollars; and to Wm. Glattley twelve dollars for the purpose of paying expenses incurred in visiting the Industrial School at Eldora. Industrial School Boys.

SEC. 18. To Jno. M. Gobble three dollars and seventy cents; to John Dolph two dollars and twenty cents; and to W. J. Felkner two dollars and twenty cents for the purpose of paying mileage and expenses incurred in visiting the Industrial School at Mitchellville. Industrial School Girls.

SEC. 19. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Des Moines Leader newspapers published at Des Moines, Iowa. Publication.

Approved April 10th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Des Moines Leader* April 12, 1890.

FRANK D. JACKSON, *Secretary of State.*



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## PART III.

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### LEGALIZING ACTS.

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## CHAPTER 86.

## LEGALIZE INCORPORATION TOWN OF GALVA.

AN ACT to legalize the incorporation of the town of Galva, and the H. F. 175.  
acts of said town done and performed thereunder.

Whereas at an election held in Galva Township, Ida Legality of election questioned.  
County Iowa in the year of 1889 for the purpose of incorporat-  
ing the said Town of Galva, only five Trustees were elected  
instead of six as provided by Law, and doubts have arisen in  
consequence as to legality of said incorporation; Therefor

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the incorporation of the said Town of Legalized.  
Galva, together with the Acts of said Town done and per-  
formed thereunder are hereby legalized.

Approved April 23d, 1890.

## CHAPTER 87.

## LEGALIZE INCORPORATION TOWN OF CASEY.

AN ACT to legalize the incorporation of the town of Casey, Guthrie H. F. 331.  
County, Iowa, the election of its officers, and all the acts done and  
the ordinances passed by the council of said town.

Whereas, doubts have arisen as to the legality of the incor- Legality of incorporation questioned.  
poration of the town of Casey, Guthrie county, Iowa, the  
election of its officers, and the ordinances passed by the  
council of said town: therefore

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the incorporation of the said town of Acts legal-  
ized.  
Casey, Guthrie County, Iowa, the election of its officers, and  
all official acts done and the ordinances passed by the council  
of said town, not in contravention of the laws of the state, are  
hereby legalized and the same are hereby declared to be valid  
and binding, the same as though the law had in all respects  
been strictly complied with in the incorporation of said town,  
the election of its officers and the passing of its ordinances.

Publication.]

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register, published at Des Moines, Polk County, Iowa, and the Casey Vindicator, published at Casey, Guthrie County, Iowa, without expense to the State.

Approved April 23d, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 30 and *Casey Vindicator* May 2, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 88.

### LEGALIZE INCORPORATION TOWN OF HARTLEY.

H. F. 343.

AN ACT to legalize the incorporation of the town of Hartley, County of O'Brien, and state of Iowa.

Legality of  
incorpora-  
tion ques-  
tioned.

Whereas, doubts have arisen as to the legality of the incorporation of the town of Hartley, County of O'Brien, Iowa, and the election of its officers and all acts done and ordinances passed by the council of the said town. Therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

Acts legal-  
ized.

SECTION 1. That the incorporation of the town of Hartley, O'Brien County, Iowa, the election of its officers, and all the official acts done, and ordinances passed by the council of said town, not in contravention with the laws of the state, are hereby legalized and the same are hereby declared valid and binding, the same as though the law had in all respects been strictly complied with in the incorporation of said town, the election of its officers and the passing of its ordinances.

Publication.]

SEC. 2. This act being deemed of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register, published at Des Moines, Polk County Iowa, and in the Hartley Record, published at Hartley, in the county of O'Brien and State of Iowa, without expense to the state.

Approved April 23d, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and the *Hartley Record* May 2, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 89.

## LEGALIZE OFFICIAL ACTS, TOWN COUNCIL OF CHURDAN.

AN ACT to legalize the official acts of the town council, ordinance H. F. 513. and records of the incorporated town of Churdan, Greene county, Iowa.

Whereas, the town of Churdan, Greene County, Iowa, was incorporated in March 1884, and has passed ordinances and resolutions for the government of said town, and

Ordinances passed.

Whereas, doubts have arisen as to the legality of the official acts, ordinances and resolutions passed by the town council of said incorporated town of Churdan, by reason of the failure of the recorder of said town to record the yeas and nays on the suspension of the rules, and upon the passage of the ordinances and resolutions, and the failure to record the orders for the publication of ordinances, and the failure of the mayor to sign the proceedings of the council and the failure of records of the proceedings to show what members of the council were present at the meeting when ordinances were passed: Therefore

Doubts as to legality of ordinances.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That all official acts done and all ordinances passed by the council of said town of Churdan, Greene county, Iowa, not in contravention with the laws of the state, are hereby declared to be valid and binding the same as though the laws had, in all respects, been strictly complied with in respect to matters herein before mentioned.

Acts legalized

SEC. 2. This act being deemed of immediate importance, shall be in force and effect from and after its publication in the Iowa Capital and the Souvenir, newspapers published at Des Moines and Jefferson, Iowa, without expense to the State.

Publication.

Approved April 23d, 1890.

I hereby certify that the foregoing act was published in the Iowa Capital April 26, and Souvenir May 8, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 90.

## LEGALIZE OFFICIAL PROCEEDINGS TOWN OF DYERSVILLE.

H. F. 365. AN ACT to legalize the incorporation and the official proceedings of the town of Dyersville in the county of Dubuque and State of Iowa.

Doubts as to  
legality of in-  
corporation.

Whereas, Doubts have arisen as to the Legality of the Incorporation of the Town of Dyersville in the County of Dubuque and State of Iowa—and in the election of its officers and the ordinances passed by the Town Council of said Town Therefore:

*Be it enacted by the General Assembly of the State of Iowa:*

Acts legalized

SECTION 1. That the Incorporation of said Town of Dyersville in Dubuque County and State of Iowa, the election of its officers and all the official acts done and ordinances passed by the Town Council of said Town not in contravention with the Laws of Iowa are hereby legalized and the same are made valid as though the Law had in all respects been strictly complied with.

Publication.

SEC. 2. This act being deemed of immediate importance shall be in force and take effect from and after its publication in the Des Moines Leader and the Dyersville Commercial newspapers published at Des Moines and Dyersville Iowa without expense to the State.

Approved April 23d, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader, April 24, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 91.

## LEGALIZE INCORPORATION TOWN OF SIOUX RAPIDS.

S. F. 406. AN ACT to legalize the incorporation of the town of Sioux Rapids and its ordinances and the acts of its officers thereunder.

Incorporation

WHEREAS, the town of Sioux Rapids, in Buena Vista county, Iowa was incorporated in the year 1882 under the general laws of this state for the incorporation of cities and towns; and,

WHEREAS, the records of said town and of the county wherein the same is situated do not show clearly that the petition for incorporation presented to the proper court was sufficient in number of petitioners and territory described and the orders of said court in relation thereto are not as full and complete as the same should be, and the records of the appointment of commissioners to hold the election thereunder, and the records of said election for incorporating are defective in dates, in qualification of the Judges thereof, and the place of holding the same, and reports of said Judges to said court, and the records of said town and county do not show the publication of the result thereof as provided by law, nor the filing of certified copies as required: and,

Error in  
petition.

Error in  
record.

WHEREAS, the records of said town do not in all cases recite the fact that the ordinance thereof were read the required number of times, that the proper number of council were present and voted in all cases when the same were passed, and that the records do not in all cases show that the yeas and nays were called and recorded in every instance, nor do they in all cases show the suspension of the rules where the same would have been required, and that the records do not in all cases show the publication of said ordinances as required by law, and said records also show certain other like irregularities not effecting the rights of the people of said town; and,

Error in min-  
utes of coun-  
cil meeting.

WHEREAS, doubts have risen as to the validity and legality of said acts of incorporation, and as to the validity and legality of the ordinances passed by the town council of said town, under said incorporation, and as to the validity and legality of all other acts done by said town council or other officers of said town since said incorporation: Therefore.

Doubts as to  
legality.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the incorporation of the said town of Sioux Rapids be and the same is hereby legalized and made of the same force and effect as though all the steps in reference to the incorporation thereof had been each and severally shown upon the records of said incorporation and of said court and that all the ordinances of said Town Council and not in contravention of law be and the same are hereby declared to be legal and of the same force and effect as though the records showed acts and each and all of them said to have been omitted and shown in the records named in the preamble hereto, and the same as though there had been no defects or omissions in the acts of Incorporation or in the ordinances passed by the town council or acts of said council or other officers of said town or county relating thereto.

Incorporation  
properly  
legalized.

SEC. 2. That the incorporation of the said town of Sioux Rapids be, and the same is hereby legalized, and the said town of Sioux Rapids is hereby declared to be a valid existing

Acts of coun-  
cil legalizing

municipal corporation, under the laws of this state, and that all the ordinances passed by the town council of said town, and all the acts of the town council or other officer of said town done since its incorporation, are hereby declared to be as legal and binding to all intents and purposes whatsoever, as the same would have been had there been no defects or omissions in the acts of incorporation or in the ordinances passed by the town council or in the other acts of said council or other officers of said town.

Pulication.

SEC. 3. This act being deemed of immediate importance shall take effect from and after its publication in the Iowa State Register, a newspaper published at Des Moines, Iowa, and the Sioux Rapids Press, a paper published at Sioux Rapids, Buena Vista county, Iowa, without expense to the State.

Approved April 23d, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* and *Sioux Rapids Press*, May 1, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 92.

### LEGALIZE ELECTRIC LIGHT FRANCHISE—WHAT CHEER.

H. F. 505. AN ACT to legalize the granting of a franchise for electric light by the City of What Cheer, Iowa.

Franchise granted without an election.

Whereas, In the present year, 1890, the City Council of the City of What Cheer, Iowa, granted to the What Cheer, Electric Light and Power Co. a franchise for the purpose of generating electric light, and said franchise was granted without a vote of the electors of said City first having had upon the question of its granting, and

Doubts as to legality.

Whereas, by reason of the failure to hold such election, doubts have arisen as to the legality of said action by said City council therefore.

*Be it enacted by the General Assembly of the State of Iowa:*

Franchise declared legal.

SECTION 1. That the action of the City council of the City of What Cheer Iowa, in granting a franchise to the What Cheer Electric Light and Power Co. be declared legal and valid to the same extent as through [though] an election had been held therefor by the electors of the said City.

Publication.

SEC. 2. This act being deemed of immediate importance, shall be in force and effect from and after its publication in

the Des Moines Leader a newspaper published at Des Moines, Iowa, and the What Cheer Reporter, a newspaper published at What Cheer, Iowa, without expense to the State.

Approved April 17th, 1890.

I hereby certify that the foregoing act was published in the *Des Moines Leader* April 24 and *What Cheer Reporter* April 23 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 93.

### LEGALIZE INCORPORATION TOWN OF GUTHRIE CENTER.

AN ACT to legalize the incorporation of the town of Guthrie Center H. F. 434.  
Guthrie County, Iowa, the election of its officers, and all of the acts and ordinances of said town.

Whereas doubts have arisen as to the legality of the incorporation of the town of Guthrie Center, Guthrie County, Iowa, and as to the election of its officers and the acts and ordinances of said town; Therefore

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the incorporation of the said town of Guthrie Center, Guthrie County, Iowa, the election of its officers and all of the official acts done and ordinances passed by the council of said town, not in contravention of the laws of the state, are hereby legalized, and the same are hereby declared to be valid and binding, the same as though the law had in all respects been strictly complied with in the incorporation of said town, the election of its officers and in the passing of its ordinances.

SEC. 2. This act being deemed of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register; published at Des Moines, Polk County, Iowa, and in the Guthrie Times and Guthrie Times, newspapers published at Guthrie Center, Guthrie County, Iowa, without expense to the State.

Approved April 15th 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 18 and the *Guthrie Times* and *Guthrie Times* April 24 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 94.

## LEGALIZE ORDINANCES TOWN OF MITCHELLVILLE.

S. F. 153. AN ACT legalizing certain ordinances of the incorporated town of Mitchellville in the County of Polk and State of Iowa.

Doubts as to  
legality of  
ordinances.

Not recorded.

Book pro-  
vided.

WHEREAS doubts have arisen as to the legality of certain ordinances of the incorporated town of Mitchellville Iowa adopted by the council of the Incorporated town aforesaid, for the reason that the recorder of said town in some cases failed to keep a record of the votes taken upon the passage of an ordinance and in some instances the record fails to show the yeas and nays, when such were required and in some instances the records do not show that said ordinances were read on there separate days or that a suspensions of the rules was had, and whereas many of said ordinances were not numbered and recorded in a book kept for that purpose and duly authenticated by the signature of the presiding officer and the clerk and

WHEREAS the said Council of said Incorporated town of Mitchellville now has an Ordinance book as provided by section 492 Code of Iowa which contains several recently passed ordinances Therefore

*Be it enacted by the General Assembly of the State of Iowa:*

Acts legal-  
ized.

SECTION 1. That all acts, resolutions and ordinances heretofore passed by the town council of said town, as to which there was or is any failure or failures, defect or defects, omission or omissions, such as are in the foregoing preamble recited, are hereby, notwithstanding any such failure, defect or omission, with respect thereto, and only in such respect, legalized and given the same force and effect, as if the same had, in the particulars mentioned, been passed and recorded, in strict compliance with the laws relating to the passage of acts, resolutions and ordinances by incorporated towns.

Publication.

SEC. 2. This act being deemed of immediate importance shall take effect from and after its publication in Iowa State Register and the Mitchellville Index newspapers published in the state of Iowa without expense to the state.

Approved April 12th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 19, and *Mitchellville Index* April 18, 1890.

FRANK D. JACKSON, *Secretary of State.*



## CHAPTER 95.

## LEGALIZING INCORPORATION TOWN OF GILMORE CITY

AN ACT to legalize the incorporation of the town of Gilmore City in Humboldt and Pocahontas Counties, Iowa, and a subsequent annexation thereto, and the ordinances and the official acts of the town council thereof. H. F. 288.

WHEREAS the town of Gilmore City, Humboldt County, Iowa, was duly incorporated at a time prior to the month of August A. D. 1887 and there appear to have been certain informalities in the incorporation of the same and in the records thereof, and Informalities in incorporation.

WHEREAS at a time subsequent to the incorporation thereof a certain portion of adjacent territory lying in Pocahontas County, Iowa, was annexed thereto and there appear to have been certain informalities in the annexation thereof and in the records of the same, and Informalities in annexation.

WHEREAS in default of the publication of a newspaper therein, notices of the passage of certain ordinances and other acts of the town council thereof were posted as required by law but no record of the same kept by the recorder thereof, and No record.

WHEREAS doubts have arisen as to the legality of the incorporation, the annexation and the ordinances and acts of the town council thereof, therefore Doubts.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the incorporation of the said town of Gilmore City in Humboldt and Pocahontas Counties, Iowa, the annexation of the adjacent territory thereto, the election of officers therein, the passage of ordinances, resolutions and rules by the town council thereof, the levy of taxes therein, and all the official acts of the town council thereof which are not in conflict with the laws of the State of Iowa and which are within the limits of the powers of incorporated towns, be and the same are hereby legalized and declared to be valid the same as if strict compliance with the formalities of the law in relation thereto had been had. Incorporation annexation and ordinances legalized.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Gilmore City Gazette, newspapers published at Des Moines and Gilmore City, Iowa, without expense to the state. Publication.

Approved April 11th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register April 19 and Gilmore City Gazette April 24 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 96.

## LEGALIZING ELECTRIC LIGHT PLANT—MONTEZUMA.

S. F. 334. AN ACT legalizing the electric light plant in the town of Montezuma, Iowa, and the ordinances authorizing its establishment and contracting for electric light for the streets of said town.

Ordinances  
authorizing  
electric light  
plant.

WHEREAS, the council of the town of Montezuma, Iowa, adopted ordinances authorizing W. R. Lewis, or assigns to establish an electric light plant in the town of Montezuma, Iowa, and contracting with them for electric light for the streets of said town without first submitting the question to a vote of the legal electors of said town; and whereas, said plant and light have been established and are now in operation pursuant to said ordinances.

*Be it enacted by the General Assembly of the State of Iowa:*

Acts and  
ordinances  
legalized.

SECTION 1. That said electric plant in the town of Montezuma, Iowa, the ordinances authorizing its establishment and contracting for electric light for the streets in said town be and the same are hereby legalized and made of the same force and effect as if the legal voters of the town of Montezuma at an election duly held had by a majority voted in favor of establishing said electric light plant.

Approved April 10th, 1890.

## CHAPTER 97.

## LEGALIZING ELECTRIC LIGHT PLANT—BLOOMFIELD.

S. F. 303. AN ACT legalizing the electric light plant in the town of Bloomfield, Iowa, and the ordinances authorizing its establishment and contracting for electric light for the streets of said town.

Ordinances  
authorizing  
electric light  
plant.

WHEREAS, the council of the town of Bloomfield, Iowa, adopted ordinances authorizing W. R. Lewis, or his assigns to establish an electric light plant in the town of Bloomfield, Iowa, and contracting with them for electric light for the streets in said town without first submitting the question to a vote of the legal electors of said town; and whereas, said plant and light have been established and are now in operation in accordance with said ordinances.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That said Electric Light plant in the town of Bloomfield, Iowa, the ordinances authorizing its establishment and contracting for electric light for the streets of said town be and the same are hereby legalized and made of the same force and effect as if the legal voters of the town of Bloomfield at an election duly held had by a majority voted in favor of establishing said electric light plant.

Approved April 10th, 1890.

## CHAPTER 98.

### LEGALIZE INCORPORATION TOWN OF GRAND MOUND.

AN ACT to legalize the incorporation of the town of Grand Mound Clinton County, Iowa, the election of its officers, and all acts done and ordinances passed by the council of said town. S. P. 411.

Whereas; Proceedings were had in the Circuit Court of the State of Iowa, in and for Clinton County, at the January Term, 1884, of said court for the incorporation of the said Town of Grand Mound, and a certified copy of all papers and record entries relating to the matter on file in the office of the Clerk of said court were filed in the office of the Secretary of State on the 3rd day of April, 1884, but there is no record to show that a certified copy of said record and papers was filed in the office of the Recorder of said County, and;

Whereas; Doubts have arisen as to the legality of the incorporation of said Town of Grand Mound, of the election of its officers, and of the acts done and ordinances passed by the Council of said Town; Therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the incorporation of the said Town of Grand Mound, the election of its officers, and all acts done and ordinances passed by the Council of said Town are hereby declared legal and valid, the same as though the laws relating to the incorporation of towns had been strictly complied with; provided, however, that a certified copy of all papers and record entries relating to the matter on file in the office of the Clerk of said court at the close of the proceedings in said court in said matter be filed in the office of the recorder of said county within thirty days from the passage of this act.

Publication. SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the *Des Moines Leader* and the *Clinton County Advertiser*, newspapers published at Des Moines and Lyons, Iowa, without expense to the State.

Approved April 10th 1890.

I hereby certify that the foregoing act was published in the *Des Moines Leader* April 17, and the *Clinton County Advertiser* April 19 1890.

## CHAPTER 99.

### LEGALIZE ACTS TOWN COUNCIL ARCADIA.

S. F. 210. AN ACT to legalize the acts of the council of the incorporated town of Arcadia in Carrol [l] County, Iowa.

Town incorporated. Whereas; The Town of Arcadia in Carroll County State of Iowa was incorporated in the year 1881; and

Doubts as to legality. Whereas: Doubts have arisen as to the legality of the incorporation of said town of Arcadia Carroll County Ia; The election of its officers; The levying of taxes; The ordinances passed by the council of said town from the time of its incorporation up to time of the passage of this act, and

Error in records. "Whereas, The Town of Arcadia was organized according to law, its ordinances passed and published as the law provides, and taxes levied and its acts generally performed in accordance with law, but the records do not in all cases show the actual facts in the case, therefore"

*Be it enacted by the General Assembly of the State of Iowa:*

Incorporation acts, elections, etc., legalized. SECTION 1. That the incorporation of the said town of Arcadia, Carroll County Ia; the election of its officers and all the official acts done and ordinances passed by the council of said town, not in contravention with the Laws of the State, are hereby legalized, and the same are hereby declared valid and binding, the same as though the Law had in all respects been strictly complied with in the incorporation of said town, election of its officers and the passing of its ordinances.

Publication. SEC. 2. This act being deemed of immediate importance, shall be in force and take effect from and after its publication in the *Des Moines Leader*, published at Des Moines Ia, the

Carroll Sentinel and Der Carroll Democrat newspapers published at Carroll County Ia, said publication to be without expense to the state.

Approved April 10th, 1890.

I hereby certify that the foregoing act was published in the *Des Moines Leader* April 17, *Carroll Sentinel* April 18 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 100.

### LEGALIZE ANNEXATION TOWN OF WHAT CHEER.

AN ACT To Legalize The Annexation Of Certain Territory To The House File 1.  
Town Of What Cheer, In Keokuk County.

WHEREAS, In years 1882 and 1883, the council of the incorporated town of What Cheer, in Keokuk County, took steps to annex the following territory to said town, to-wit:—The North Half of the North West Quarter of Section Ten (10); the South East Quarter of the Northwest quarter of Section Ten (10); the North half of the North East quarter of Section Nine (9); the South West quarter of the North East quarter of section Nine (9); the West half of the South East quarter of Section Nine (9); the East half of the North East quarter of the South West quarter of Section Ten (10); the North Half of of the North East quarter of Section Sixteen (16) and the North Half of the North West quarter of Section Fifteen (15) all in Township Seventy Six (76) Range Thirteen (13) West of the Fifth Principal Meridian and

Description  
of annex.

WHEREAS, Said council endeavored to proceed in accordance with the provisions of Chapter 47, of the Acts of the 16th General Assembly, and

WHEREAS, The records of said council fail to show that the said council fixed the boundaries of said town as enlarged to the proposed extent and

Records  
defective.

WHEREAS, There is no record showing that the day of election was fixed by resolution of said council and

No record as  
to election.

WHEREAS, An election was held at which a majority of all the legal votes cast were in favor of said annexation and said election and all other proceedings connected therewith were regular and in accordance with law and

Holding an  
election.

WHEREAS, Since said time said town has become a city of the second class, and as such has exercised lawful jurisdiction over the territory above described, by levying and collecting

City of the  
second class

Doubts. taxes, improving streets and alleys, and electing officers and  
 WHEREAS, Doubts have arisen as to the legality of such  
 annexation of territory, therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

Annexation  
 legalized.

SECTION 1. That the annexation of the territory described  
 in the preamble hereof to the town of What Cheer, in Keokuk  
 County, be and the same is hereby legalized and declared  
 to be as valid as though the proceedings connected therewith  
 were in strict conformity to law.

Publication.

SEC. 2. This act shall be in force and effect from and after  
 its publication in the Des Moines Leader, and the Iowa State  
 Register, newspapers published at Des Moines, Iowa, provided  
 that such publication be made without expense to the State.

Approved March 22, 1890.

I hereby certify that the foregoing act was published in the *Iowa  
 State Register* March 26 and the *Des Moines Leader* March 27 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 101.

### LEGALIZE INCORPORATION TOWN OF PAULLINA

H. F. 155.

AN ACT to Legalize the Incorporation of the Town of Paullina  
 O'Brien County, Iowa, the Election of its Officers, and All Acts  
 Done and Ordinances Passed by the Council of Said Town.

Doubts as to  
 legality of in-  
 corporation.

WHEREAS, doubts have arisen as to the legality of the incor-  
 poration of the town of Paullina O'Brien County Iowa, the  
 election of its officers and the Ordinances passed by the Coun-  
 cil of said town: therefore

*Be it enacted by the General Assembly of the State of Iowa:*

Incorpora-  
 tion election,  
 etc., legalized.

SECTION 1. That the incorporation of the said town of Paul-  
 lina O'Brien County, Iowa, the election of its officers, and all  
 the official acts done and the ordinances passed by the council  
 of said town not in contravention with the laws of the State,  
 are hereby legalized, and the same are hereby declared to be  
 valid and binding, the same as though the law had in all  
 respects been strictly complied with in the incorporation of  
 said town, the election of its officers and the passing of its  
 ordinances.

Approved April 5th 1890.

## CHAPTER 102.

## LEGALIZING INCORPORATION TOWN OF ROCK VALLEY.

**AN ACT** to Legalize the Incorporation of the Town of Rock Valley, H. F. 354.  
 Sioux Co, Iowa, the Election of its Officers, the Official Acts Done  
 and Ordinances of Said Town.

**WHEREAS:** Doubts having arisen as to the legality of the incorporation of the town of Rock Valley, Sioux County, Iowa, and some of the ordinances passed by the council of said town, arising out of the fact that the commissioners appointed, gave notice for the election of only five trustees, instead of six: and at the first election only five trustees were elected. Doubts as to legality of incorporation and ordinances.

**WHEREAS:** Doubts having arisen as to the legality of other ordinances and acts of the town council of said town and its officers. As to other ordinances.

*Be it enacted by the General Assembly of the State of Iowa:*

**SECTION 1.** That the incorporation of said town of Rock Valley, Sioux County, Iowa. The election of its officers and all the official acts done, and the ordinances passed by the council of said town not in contravention with the laws of the state, are hereby legalized and the same are hereby declared to be valid and binding. Incorporation election, etc., legalized.

**SEC. 2.** This act being deemed of immediate importance shall be in force and take effect from and after its publication in the Des Moines Register and Rock Valley Register, News-papers published respectively, in Des Moines and Rock Valley Iowa, without expense to the State. Publication.

Approved April 5th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* May 15 and *Rock Valley Register* April 17 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 103.

## LEGALIZING PROCEEDINGS TOWN COUNCIL ALBION

H. F. 47. AN ACT to Legalize the Ordinances Resolutions and Proceedings of the Council of the Incorporated Town of Albion Marshall Co. Iowa.

Proceedings  
not properly  
recorded.

WHEREAS certain ordinances Resolutions and proceedings of the Council of the incorporated Town of Albion Marshall Co., Iowa were not properly recorded in their book of records and the minutes of the proceedings of said council have not been preserved, and

Questions as  
to legality.

WHEREAS questions have arisen as to the legality of the proceedings of said council from date "April 15th 1876" to "May 26th 1888" therefore

*Be it enacted by the General Assembly of the State of Iowa:*

Ordinances  
proceedings,  
etc., legalized.

SECTION 1. That all acts resolutions ordinances and proceedings of the Council of the incorporated Town of Albion Marshall County Iowa (from April 15th 1876 up to May 26th 1888) are hereby legalized and of as binding force as though they had been in strict conformity with law.

Publication.

SEC. 2. This act being deemed of immediate importance shall be in force and effect from and after its publication in the Iowa State Register and Des Moines Leader newspapers published at Des Moines Iowa without expense to the State.

Approved April 5th 1890.

I hereby certify that the foregoing act was published in the Des Moines Leader April 12 1890,

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 104.

## LEGALIZE STREET EXTENSION TOWN OF LAWLER.

H. F. 416. AN ACT to Legalize the Extension of Benz Street in the Incorporated Town of Lawler in Chickasaw County, Iowa.

Records of  
extension  
defective.

Whereas the town council of the Incorporated Town of Lawler in Chickasaw County, Iowa, by resolution extended Benz Street in said town from Grove Street in said town, North to the Jacksonville road, and has exercised jurisdiction



over said street and kept the same open for public travel for many years, but no plat thereof was ever made and recorded, and the records of said town are defective in this that said records fail to show the action of such council in extending said street—and doubts have arisen as to the right of the authorities of said Town to Control such street, therefore

*Be it enacted by the General Assembly of the State of Iowa:*

That the action of the town council of Lawler, Chickasaw County, Iowa, in laying out the extension of Benz street in said town from Grove Street to the junction thereof with the highway known as the Jacksonville road be and the same is hereby legalized and said extension of Benz street is hereby declared to be a public street of said town as fully and completely as if all the formalities of law had been complied with in laying out and platting said street.

Approved April 11th, 1890.

Proceedings  
legalized.

## CHAPTER 105.

### LEGALIZE REVISED ORDINANCES CITY OF INDEPENDENCE.

AN ACT Legalizing the Revised Ordinances of the City of Independence in Buchanan County, Iowa. H. F. 263.

Whereas, the City Council of the City of Independence in Buchanan County, Iowa, on the 11th day of April 1888 passed and adopted certain ordinances, denominated the "Revised Ordinances of the City of Independence"; and

Ordinances  
revised.

Whereas, The said Revised Ordinances were published in book form instead of being published in a newspaper of general circulation in the municipal corporation as required by Section 492 of the Code; and

Published in  
book form.

Whereas, Doubts have arisen as to the legality of said Revised Ordinances because of the manner in which the same were published; therefore,

Doubts.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the Revised Ordinances passed and adopted by the City Council of the City of Independence in Buchanan County Iowa, on the 11th day of April 1888, and not inconsistent with the laws of Iowa, are hereby legalized, and the same are hereby declared to be valid and binding, and

Ordinances  
legalized.

shall have the same force and effect as though all the requirements of Section 492 of the Code, in regard to the publication of ordinances, had been fully complied with.

Publication.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and the Independence Conservative, newspapers published respectively in Des Moines and Independence Iowa, without expense to the State.

Approved April 11th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* May 9, and the *Independence Conservative* April 23 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 106.

### LEGALIZE ACTS COUNCIL OF CHARLES CITY.

S. F. 90.

AN ACT legalizing the acts of the Council of the City of Charles City, Floyd County, Iowa, and legalizing the ordinances and resolutions passed, and adopted for the government of said City.

Acts and resolutions adopted.

WHEREAS, The City of Charles City, Floyd County, Iowa, through its Council passed and adopted ordinances and resolutions, and performed such other acts as properly devolved upon said Council by law, and

Failure of records to show members present.

WHEREAS, In certain cases the records of said acts, ordinances and resolutions, fail to show what members of said Council were present at the meetings when such acts, ordinances and resolution were passed, that a sufficient number of members were present at the meetings to legally pass same, that the rule was suspended by a three fourths vote of said Council, that the yeas and nays were called on the passage thereof, and the records of which city also fail to show that such ordinances were in all cases published as required by law, therefore

*Be it enacted by the General Assembly of the State of Iowa:*

Ordinances and resolutions legalized.

SECTION 1. That the ordinances and resolutions of the City of Charles City, Floyd County, Iowa, and the acts of the Council of said City of Charles City in reference thereto, be and the same are hereby legalized and declared to be valid and binding to the same extent as though all the requirements of law had in each and every respect been complied with, and the records of such city showed such compliance.

Approved March 17, 1890.

## CHAPTER 107.

## LEGALIZE ACTS CITY COUNCIL CITY OF KEOKUK.

AN ACT to legalize the action of the City Council of City of Keokuk H. F. 506.  
granting John C. Hubinger and to his successors and assigns the  
privilege to such in the Streets and alleys of said City the neces-  
sary poles, wires and conduits to properly maintain and operate  
an Electric System for furnishing Electric Light and power to the  
inhabitants of the City Keokuk.

WHEREAS, the City Council of the city of Keokuk did on Ordinance  
July 16th, 1888, passed an Ordinance No. 40 granting the No. 40 passed.  
power above mentioned to John C. Hubinger and to his suc-  
cessors and assigns.

WHEREAS, Doubts have arisen as to the power to pass such Doubts as to  
Ordinance without a vote of the people to approve same under legality.  
Section 639 Code 1873, Laws of Iowa as amended by the 22nd,  
General Assembly Chapter 11 and 26 Therefore.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the act of the City Council of the City of Acts legalized  
Keokuk in granting J. C. Hubinger and his successors and  
assigns the power aforesaid without the vote of the people be  
and same is hereby legalized.

SEC. 2. This act being deemed of immediate importance Publication.  
shall be in force and effect from and after its publication  
in the Iowa State Register and Keokuk Gate Newspapers  
published at Des Moines and Keokuk Iowa provided that  
said publication be without expense to the State.

Approved April 17th, 1890.

I hereby certify that the foregoing act was published in the Iowa  
State Register April 24, and the Gate City April 23, 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 108.

## LEGALIZE TAX LEVY IN CARROLL COUNTY.

S. F. 211. AN ACT to Legalize the levy of certain taxes for certain years in Carroll County Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

Taxes levied  
and assessed  
for certain  
years legal-  
ized.

SECTION 1. That the taxes assessed or levied by Carroll county of this state for the years 1884, 1885, 1886, 1887, 1888 and 1889, under Chapter 200 of acts of Twentieth General Assembly, are hereby legalized and made valid to the same extent as though such county [county] had had the power to levy the same, notwithstanding the proviso in section one of said Chapter. Provided the said levy made by the Board of Supervisors exclusive of any levy made by the board of township trustees, shall not be in excess of one mill on the dollar. of the assessed value of the taxable property of the County.

Publication.

This act being deemed of immediate importance the same shall be in force and effect from and after its publication in the Iowa State Register and State Leader, Newspapers published in Des Moines Iowa, without expense to the State.

Approved April 10, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 16 and the *Des Moines Leader* April 17 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 109.

## LEGALIZE ACTS BOARD OF SUPERVISORS JOHNSON COUNTY ALCOCK DITCH.

S. F. 326. AN ACT to legalize the proceedings of the board of supervisors of Johnson County Iowa in locating and causing to be constructed a ditch in Fremont Township in said county known as the Alcock ditch, and to provide for an assessment and levy of the costs and expenses thereof on the lands benefited thereby.

Acts of board  
of super-  
visors in-  
valid.

Whereas the proceedings of the board of supervisors of Johnson County Iowa in the years 1882-83-84 in respect to the location and construction of a ditch known as the Alcock ditch, in Fremont Township Johnson County Iowa, and in assessing and levying the costs and expenses thereof on the land benefited thereby are claimed to have been invalid,

because said proceedings do not show upon their face that said ditch was petitioned for by a majority of persons resident in the county and owning land adjacent to such ditch; and because, as it is claimed, such majority did not in fact petition therefor; and because of a failure to serve notice of the pendency of such proceedings as provided by law, and for irregularities in letting the contract for the construction of said ditch; and because such ditch is not necessary; and because of other irregularities and informalities, as alleged, in the proceedings of the board of supervisors in locating and constructing said ditch, and in the assessment and levy of the costs and expenses thereof.

Reasons why  
invalid.

And whereas on a writ or writs of certiorari issued out of the Circuit Court of Johnson County on the petition of sundry owners of land in said county assessed for the costs of said ditch, the assessment of the lands of said petitioners have been, by a judgment of said Court and of the Supreme Court of Iowa, adjudged invalid and set aside; and whereas the collection of the tax levied, or attempted to be levied, by the said board of supervisors on the lands adjacent to said ditch has been enjoined by the Circuit Court of Johnson County Iowa in sundry cases; and whereas the said ditch was constructed under and in pursuance of the said order and proceedings of the said board of supervisors, and under contracts entered into under the same and on the faith thereof; and whereas the auditor of Johnson County issued certain warrants for the cost and expenses of locating and constructing said ditch; and whereas in sundry suits brought upon some of said warrants in the District Court of Johnson County Iowa against said county judgment has been rendered for the defendant and said warrants held to be invalid, and the county not liable therefor; and whereas the said warrants were issued in good faith and for a valuable consideration, based upon the said order and proceedings of the said board of supervisors; therefore,

Writs of cer-  
tiorari issued.

Warrants  
issued by Co.  
auditor.

Suits on war-  
rants.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the proceedings of the board of supervisors of Johnson County Iowa in the years 1882-83-84 in respect to the location and construction of a ditch known as the Alcock ditch, in Fremont Township Johnson County Iowa, including the orders of the said board of supervisors for the location and construction of said ditch, the letting and making of contracts therefor be, and the same are hereby legalized and shall be held and decreed valid and effectual to the same extent and effect in all respects as to the said proceedings as if the same had fully conformed to the law when taken; and said ditch as actually constructed shall be held to be a lawful ditch, and all provisions of the law applicable to

Acts of board  
in location,  
construction,  
etc., legal-  
ized.

Board to ascertain amount of costs.	a ditch constructed under Ch. 2, Title 10 of the Code, and the amendments thereto shall apply to the said ditch.
Expenses of litigation excluded.	SEC. 2. The board of supervisors of Johnson Countys shall, at their regular meeting next after the expiration of 30 days from the taking effect of this act, proceed to ascertain anew the total amount of the costs and expenses of the construction of said ditch, including interest accrued and to accrue on the excess of the amount of any unpaid warrants issued for payment for work done or expenses in locating and constructing said ditch over and above the amount of money applicable to such payments now in the hands of the treasurer of Johnson County, including the costs and expenses of the proceedings in locating and constructing said ditch (exclusive of any expense or cost of litigation in reference thereto). The said board shall reapportion and reassess said amounts so ascertained among the and upon the lands in said county benefited by the location and construction of the said ditch in proportion to the amount of benefit to the said lands respectively.
Basis of reapportionment.	Said board shall take as the basis for said apportionment and reassessment the list or schedule of lands in said county heretofore assessed by them for said ditch as benefited thereby; but all persons interested in or affected by said assessments
Right of hearing.	shall have the right to appear and be heard before said board in respect to said apportionments and assessments, and the said board shall on such hearings make such changes, both in respect to the lands to be assessed and the amounts to be assessed thereon respectively, as in their judgment may be necessary to make such apportionments and assessments just and equitable. On the completion of said apportionments and reassessments all the provisions of law applicable to apportionments and assessments made under and by virtue of Ch. 2.
Completion of apportionment and reassessment.	of Title 10 of the Code and the amendments thereto in respect to the mode of levy and collection and application of the proceeds thereof and appeals therefrom shall apply to the said reassessments hereby directed, provided that the owners of any lands so assessed shall be entitled to credit upon their reassessment for any payments made and not refunded upon any previous assessment made or assumed to be made upon said land, for or on account of the construction of said levy; and provided further that when any previous assessment made by the said board of supervisors, against any of said land to pay for the construction of said ditch has been paid in full the said land shall not be reassessed for said ditch.
Certain credits.	SEC. 3. In making the reapportionment and reassessment provided for in this act, any land that has actually been sold and conveyed between June 28th 1887 and March 18th 1890, shall not be reassessed; but the failure to reassess any such land shall not operate to increase the assessment on any other land affected by this Act. Provided, that the warrants issued
Lands actually sold and conveyed.	

by the county auditor for the construction of said ditch shall be paid pro-rata from the proceeds of the reapportionment, reassessment, levy and collection herein provided for."

SEC. 4. This act being deemed of immediate importance shall take effect from and after its publication in the "Iowa State Press" a newspaper published at Iowa City Iowa, and in the "Des Moines Leader, a newspaper published at Des Moines Iowa, such publication to be without expense to the state. Publication.

Approved April 5, 1890.

I hereby certify that the foregoing act was published in the *Des Moines Leader* April 12 and the *Iowa State Press* April 16 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 110.

### LEGALIZE ACTS BOARD OF SUPERVISORS JOHNSON COUNTY—WALKER DITCH.

AN ACT to legalize the proceedings of the board of supervisors of Johnson County Iowa in locating and causing to be constructed a ditch in Fremont Township in said county known as the Walker ditch, and to provide for an assessment and levy of the costs and expenses thereof on the lands benefited thereby. S. F. 327.

Whereas the proceedings of the board of supervisors of Johnson County Iowa in the years 1882-83-84 in respect to the location and construction of a ditch known as the Walker ditch, in Fremont Township, Johnson County Iowa, and in assessing and levying the costs and expenses thereof on the land benefited thereby are claimed to have been invalid, because said proceedings do not show upon their face that said ditch was petitioned for by a majority of persons resident in the county and owning land adjacent to such ditch; and because, as it is claimed, such majority did not in fact petition therefor; and because of a failure to serve notice of the pendency of such proceedings as provided by law, and for irregularities in letting the contract for the construction of said ditch; and because such ditch is not necessary; and because of other alleged irregularities and informalities in the proceedings of the board of supervisors in locating and constructing said ditch; and in the assessment and levy of the costs and expenses thereof. Acts Board of Supervisors invalid. Reasons why invalid.

And whereas on a writ or writs of certiorari issued out of the Circuit Court of Johnson County on the petition of sundry owners of land in said county assessed for the costs of said ditch, the assessment of the lands of said petitioners have Writ of certiorari issued

been, by a judgment of said Court and of the Supreme Court of Iowa, adjudged invalid and set aside.

And whereas the collection of the tax levied, or attempted to be levied, by the said board of supervisors on the lands adjacent to said ditch has been enjoined by the Circuit Court of Johnson County Iowa in sundry cases.

And whereas the said ditch was constructed under and in pursuance of the said order and proceedings of the said board of supervisors, and under contracts entered into under the same and on the faith thereof.

Warrants  
issued by  
county  
auditor.

And whereas the auditor of Johnson County issued certain warrants for the costs and expenses of locating and constructing said ditch.

And whereas in sundry suits brought upon some of said warrants in the District Court of Johnson County Iowa against said county judgment has been rendered for the defendant and said warrants held to be invalid, and the county not liable therefor.

And whereas the said warrants were issued in good faith and for a valuable consideration, based upon the said order and proceedings of the said board of supervisors.

Therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

Acts of Board  
in locating,  
constructing,  
etc., legal-  
ized.

SECTION 1. That the proceedings of the board of supervisors of Johnson County Iowa in the years 1882-83-84 in respect to the location and construction of a ditch known as the Walker ditch, in Fremont Township Johnson County Iowa, including the orders of the said board of supervisors for the location and construction of said ditch; the letting and making of contracts therefore; be, and the same are hereby legalized and shall be held and decreed valid and effectual to the same extent and effect in all respects as to the said proceedings as if the same had fully conformed to the law when taken; and said ditch as actually constructed shall be held to be a lawful ditch, and all provisions of the law applicable to a ditch constructed under Ch. 2, Title 10 of the Code, and the amendments thereto, shall apply to the said ditch.

Board to  
ascertain  
amount of  
costs.

SEC. 2. The board of supervisors of Johnson County shall, at their regular meeting next after the expiration of 30 days from the taking effect of this act, proceed to ascertain anew the total amount of the costs and expenses of the construction of said ditch, including interest accrued and to accrue on the excess of the amount of any unpaid warrants issued for payment for work done, or expenses of locating and constructing said ditch over and above the amount of money applicable to such payments now in the hands of the treasurer of Johnson County, including the costs and expenses of the proceedings



in locating and constructing said ditch (Exclusive of any expense or cost of litigation in reference thereto.)

Cost of litigation excluded

The said board shall reapportion and reassess said amounts so ascertained among and upon the lands in said county benefited by the location and construction of the ditch in proportion to the amount of benefit to the said lands respectively. Said board shall take as the basis for such apportionment and reassessment the list or schedule of lands in said county heretofore assessed by them for said ditch, as benefited thereby; but all persons interested in or affected by said assessments shall have the right to appear and be heard before said board in respect to said apportionments and assessments, and the said board shall on such hearings make such changes, both in respect to the lands to be assessed and the amount to be assessed thereon respectively, as in their judgment may be necessary to make such apportionments and assessments just and equitable. On the completion of said apportionments and reassessments all the provisions of law applicable to apportionments and assessments made under and by virtue of Chapter 2 of Title 10 of the Code and the amendments thereto in respect to the mode of levy and collection and application of the proceeds thereof and appeals therefrom shall apply to the said reassessments hereby directed, provided that the owners of any lands so assessed shall be entitled to credit upon their reassessment for any payments made and not refunded upon any previous assessment made or assumed to be made upon said land, for or on account of the construction of said levy; and provided further that when any previous assessment made by the said board of supervisors against any of said land to pay for the construction of said ditch has been paid in full the said land shall not be reassessed for said ditch.

Basis of reapportionment.

Right of hearing.

Completion of apportionment and reassessment.

Certain credits.

"SEC. 3. In making the reapportionment and reassessment provided for in this act, any land that has actually been sold and conveyed between June 28th 1887 and March 18th 1890 shall not be reassessed; but the failure to reassess any such land shall not operate to increase the assessment on any other land affected by this act. Provided, that the warrants issued by the county auditor for the construction of said ditch shall be paid pro-rata from the proceeds of the reapportionment, reassessment, levy, and collection herein provided for."

Land actually sold and conveyed.

SEC. 4. This act being deemed of immediate importance shall take effect from and after its publication in the "Iowa State Press," a newspaper published at Iowa City, and in "The Des Moines Leader," a newspaper published at Des Moines Iowa, such publication to be without expense to the State.

Publication.

Approved April 5, 1890.

I hereby certify that the foregoing act was published in the *Des Moines Leader* April 12 and *Iowa State Press* April 16 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 111.

## LEGALIZE ACTS BOARD OF SUPERVISORS CLINTON COUNTY.

S. F. 301. AN ACT legalizing a certain action of the Board of Supervisors of Clinton County Iowa.

*Be it enacted by the General Assembly of the State of Iowa:*

Acts transferring certain territory legalized.

SECTION 1. That the act of the board of supervisors of the County of Clinton, in transferring from the township of Clinton, and attaching to the township of Lincoln in said County, all that part of the territory of the township of Clinton which was situated outside of the incorporated limits of the city of Clinton and of the incorporated town of Chauncy, be and the same is hereby legalized.

Publication.

This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Des Moines Leader a newspaper published at Des Moines and the Clinton Morning News published at Clinton Iowa without expense to the state.

Approved, March 17, 1890.

I hereby certify that the foregoing act was published in the Des Moines Leader and the Clinton Morning News March 20 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 112.

## LEGALIZE ACT BOARD OF SUPERVISORS CALHOUN CO HELL AND SHIPMAN SLOUGH DITCHES.

S. F. 412. AN ACT to Legalize the Proceedings of the Board of Supervisors of Calhoun County, in Locating and Constructing Ditches in said County, and in Assessing the Costs Thereof, on the Lands Benefited thereby.

Petition for ditches defective.

WHEREAS, a petition was presented to the Board of Supervisors of Calhoun County, in the year 1885, asking the construction of two certain ditches in said County, commonly known as Hell Slough and Shipman Slough ditches, along and through the Townships of Butler, Williams and Garfield, in said County, said petition for said ditches showing upon its face as the same was determined by said board of supervisors that it was signed by a majority of the owners of the land adjacent thereto, and

WHEREAS, doubts have arisen as to whether in fact said petition was signed by a majority of the owners of the lands adjacent thereto and

WHEREAS, doubts have arisen as to the legality of the appointment of an engineer in charge of said ditches and his report thereon, and

WHEREAS, doubts have arisen as to the legality of the service of the notices for the location of said ditches, and the damages caused by the construction thereof; and as to the legality of the appointment of appraisers to assess the damages caused by the construction of said ditches, and their report thereon; and as to the legality of the order of said Board in locating said ditches; and as to the legality of certain alleged irregularities and deviations from the surveys, plats and profiles in making the contract for the construction of said ditches; and also as to the legality of the notices of the time and manner of the letting of said contract for the construction of said ditches; and also as to the legality of certain alleged deviations from the surveys, plats and profiles in the construction of said ditches; and also as to the legality of certain alleged irregularities in the appointment of a commission to assess the costs of said ditches on the lands benefited thereby; and as to the legality of an alleged irregularity in the appointment of a second commission to make an additional and supplemental assessment of the costs of said ditches on the lands benefited thereby; and also as to the legality of certain alleged irregularities in the manner and time of the assessment of the costs of construction of said ditches on the lands benefited thereby, by said commissioners; and also as to the legality of certain alleged irregularities in the assessments of taxes on the lands benefited thereby; and also as to the legality of certain alleged irregularities in issuing bonds and warrants in payment for said work; and as to the legality of certain other alleged irregularities, and

Whereas, said ditches have been partially constructed under and in pursuance of said orders and proceedings of said Board and under a contract entered into under the same and on the faith thereof, therefore

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the proceedings of the Board of Supervisors of Calhoun County, Iowa, in the year 1885 and subsequent years, in respect to its action on the petition of the owners of the lands adjacent to the ditches above referred to, and in respect to the locating and constructing of said ditches, said ditches being commonly known as Hell Slough and Shipman Slough ditches, and both of said ditches beginning in Butler Township and terminating in Garfield Township of said county, including the orders of the Board of Supervisors

**Engineer.** and the Auditor in appointing an Engineer in charge of said ditches and the report of said engineer thereon, and the  
**Appraisers.** appointment of appraisers to assess the damages caused by the construction of said ditches and their report thereon, and the orders of the Board in locating and constructing said ditches, the letting and making of said contract therefor, the  
**Deviation in contract.** irregularities and deviations from the surveys, plats and profiles in making said contract for the construction of said ditches, the service of the notices for the location of said ditches and the damages caused by the construction thereof. the notice of the time and manner of the letting of the said contract for the construction of said ditches, the deviations from surveys, plats and profiles in the construction of said ditches, the appointment of the commission to assess the cost of said ditches on the lands benefited thereby, as well as the appointment of the second commission to make additional and supplemental assessments of the costs of said ditches on the lands benefited thereby, the irregularities in the manner and time of the assessments of the costs of construction of said ditches on the lands benefited thereby, by said commissions. the irregularities in the assessments of the taxes on the lands benefited thereby, the irregularities in the issuing of bonds and warrants in payment for said work, and all other acts done or performed by said Board of Supervisors or the officers of said County in connection with the construction of said ditches, Be and the same are hereby legalized and shall be held and decreed valid and effectual to the same extent and effect in all respects as to said proceedings, as if the same had fully conformed to the law when the same were had and taken, and said ditches as now constructed or hereafter to be constructed in accordance with the contract now made, shall be held and deemed to be lawful ditches, to be maintained and repaired as provided by law, in respect to such public improvements, and all provisions of the law applicable to ditches duly constructed under chapter two, title ten of the Code of 1873 and the amendments thereto, shall apply to said ditches.

**Legalized.**  
**Publication.** SEC. 2. This act being deemed of immediate importance shall take effect and be in force on and after its publication in the *Calhoun Republican*, a newspaper published in Rockwell City, Iowa, and the *Iowa State Register*, a newspaper published at Des Moines, Iowa, the provisions of section thirty three of the Code of 1873 to the contrary notwithstanding, such publication to be without expense to the State.

Approved April 12th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 19 and the *Calhoun Republican* April 18 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 113.

## LEGALIZE CERTAIN DEED—DAVIS COUNTY.

AN ACT legalizing and declaring valid a certain deed or conveyance S. F. 426.  
 of real estate, situated in Davis County, Iowa, made by Charles  
 Parsons executor and trustee of the last will and testament of  
 William M. McPherson, deceased, late of the City and County of St.  
 Louis, State of Missouri, to J. D. Trebilcock.

WHEREAS, the last will and testament of the late William M. McPherson deceased, a resident of the city and county of St. Louis, Missouri, at the date of his death, was duly admitted to probate in the Probate court, in and for the county of St. Louis, Missouri, on the 9th day of November A. D. 1872, and Charles Parsons, John R. Shepley and John F. Gibbons were appointed and designated by said will as executors and trustees of the estate of said McPherson deceased, granting to said trustees and executors and to the survivors, and survivor of them, the power and authority to sell and convey the real estate the late William M. McPherson, deceased, died seized, and whereas the said executors and trustees gave bond, which was by the court approved, and qualified as such and whereas said Shepley and Gibbons each died prior to the 15th day of October 1884, leaving said Parsons sole executor and trustee of said estate, and whereas the late William M. McPherson, deceased, was at the date of his death the owner of and died seized of the title to the following described real estate situated in Davis County, State of Iowa, to-wit: The north west quarter of the north west quarter of section thirteen, in township seventy north, of range fourteen west, and whereas on the 21st day of April 1885 there was filed in the office of the clerk of the circuit court of Davis county, Iowa a copy of the aforesaid will and of the original record of the probate thereof, together with a copy of the original record of the appointment, qualification and of the bond given of such executors and trustees, of said foreign court, all duly authenticated as required by the statutes of Iowa, in such cases made and provided, and whereas said will was duly admitted to probate by the circuit court aforesaid at the April term 1885 thereof, and on the fifth day of August 1885 said Parsons sole surviving executor and trustee of the aforesaid will and estate, sold and by proper deed conveyed to J. D. Trebilcock of Davis county, Iowa, the real estate above described, which said deed was filed for record in the office of the recorder of deeds of Davis county, Iowa, on March 11th, 1886 and recorded in "Book No. 31 of Deeds, on page 436" of said office, and whereas it

As to will of  
McPherson.

Bond of exe-  
cutors.

Real estate  
description.

Sale of prop-  
erty.

Record.

has since been learned that the clerk of the aforesaid circuit court failed and neglected to record on the records of his office that portion of said transcript of the aforesaid records so filed in his office on April 21st, 1885, required by section 2352 of the Code of Iowa, as amended by chapter 162 of the Laws of the 18th General Assembly of the state of Iowa, Therefore

*Be it enacted by the General Assembly of the State of Iowa:*

Acts legalized

SECTION 1. That the sale of the north west quarter of the north west quarter of section number thirteen (13) in township number seventy (70) north, of range number fourteen (14) west in Davis county, Iowa by Charles Parsons executor and trustee of the last will of William M. McPherson, deceased, late of St. Louis, Missouri, to J. D. Trebilcock, and the deed of conveyance of said real estate by said executor and trustee to said Trebilcock, dated August 5th, 1885 and recorded in Book No. 31, at page 436, of records of deeds in Davis county, Iowa, be and the same are hereby declared valid, legal and of full legal force and effect, in law and equity from the date of said deed, as fully as if all the requirements of the statutes of this State, in relation to such sales and conveyances, had been in every respect complied with, for more than three months immediately prior to the date of said deed, regardless of any provision of the statutes of this State to the contrary: *Provided*, that the provisions of this Act shall in no manner affect adverse rights vested at the date of said deed.

Proviso.

Publication.

SEC. 2. This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register and Iowa State Leader, newspapers published at Des Moines, Iowa, without expense to the State.

Approved April 17th, 1890.

I hereby certify that the foregoing act was published in the *Des Moines Leader* April 24, 1890.

FRANK D. JACKSON, *Secretary of State*.

## CHAPTER 114.

## LEGALIZE ACTS N. S. PAULL.

**AN ACT** to legalize the official acts of N. S. Paull as acting Deputy S. F. 399.  
Recorder of Worth County Iowa.

**WHEREAS**, On the first day of March 1890 Ellen Scott was the duly elected and qualified Recorder of Worth County Iowa and on that day she in writing appointed Mrs. N. S. Paull Deputy Recorder of said county and whereas said appointment was not approved by the Board of Supervisors of said County until their April session 1890 Appointment not approved.

**WHEREAS**—On the 3d day of March 1890 said Ellen Scott filed with the County Auditor of said County her written resignation of the office of Recorder of said county to take effect when her successor was appointed and qualified. Resignation.

**WHEREAS**, On the 7th day of March 1890 said Ellen Scott removed permanently from said Worth County Iowa thereby creating a vacancy in said office of Recorder. Vacancy.

**WHEREAS**, On account of the serious illness of two members of the Board of Supervisors it was not practicable to hold a special session of said Board to fill the vacancy in the office of said Recorder of Worth County. Action of Board prevented.

**WHEREAS**—The said N. S. Paull continued to act as Deputy Recorder of Worth County after the vacancy occurred and until the office of Recorder was filled by appointment at the April 1890 session of the Board of Supervisors of said County. Action of Deputy.

**WHEREAS**—Vast private interests are involved which may result in great loss to divers and sundry persons unless said acts are legalized Therefore, Interests involved.

*Be it enacted by the General Assembly of the State of Iowa:*

**SECTION 1.** That the official acts of the said N. S. Paull as acting Deputy Recorder of Worth County Iowa from and including March 1st A. D. 1890 to the present time are hereby legalized and made valid as if her appointment had been duly approved and no vacancy had occurred in said office of Recorder of Worth County Iowa. Acts legalized.

**SEC. 2.** This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Worth County Index without expense to the State. Publication

Approved April 15th, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 18 and *Worth County Index* April 24 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 115.

## LEGALIZE ACTS CLERK OF COURTS—PLYMOUTH COUNTY.

H. F. 30.

AN ACT to legalize the acts of the clerks of the district and circuit courts of Plymouth County, in entering judgments on confession in said court.

Defective records.

WHEREAS it has been the practice of the Clerks of the District and Circuit Courts in and for the County of Plymouth since the year 1880 in entering Judgments on confession in said Courts, to record in the record books of said courts the statement for confession of Judgment only, and enter the same on the Judgment dockets and the index books of said courts without making any Judgment Entry in the record books, as required by law, and

Doubts.

WHEREAS doubts have arisen as to the legality of said Judgments and the title to numerous pieces of real-estate in said County by reason of process having been issued and sales made under Judgments so entered, Therefore

*Be it enacted by the General Assembly of the State of Iowa:*

Acts legalized.

That all Judgments by Confession entered by the Clerks of the District and Circuit Courts of said County of Plymouth in the manner recited by the preamble to this act are hereby legalized and made as valid and effectual in law, as though the same had been in all respects entered upon the record books of said courts as required by law, and all process which has been issued upon Judgments so entered and all acts and proceedings had thereunder together with all sales made on such process, and the title to all property real or personal resting upon such sales are hereby declared as legal and binding as the same would have been, had such Judgments been properly and legally entered of record, at the time of the filing of such statements for confession.

Publication.

SEC. 2. This act being deemed of immediate importance, shall take effect from and after the date of its publication in the Des Moines Leader and The Le Mars Globe, newspapers published at Des Moines, and Le Mars, Iowa.

Approved April 15th, 1890.

I hereby certify that the foregoing act was published in the *Des Moines Leader* and *Le Mars Globe* April 18, 1890.

FRANK D. JACKSON, *Secretary of State.*



## CHAPTER 116.

## LEGALIZE ACT OF L. L. LANGWORTHY.

AN ACT to legalize the acts of L. L. Langworthy justice of the H. F. 304.  
peace in and for Massina Township, Cass County, Iowa.

WHEREAS, L. L. Langworthy was duly elected qualified and acted Justice of the Peace in and for Massina Township Cass County Iowa, for two consecutive terms, and whereas his successor failed to qualify, and whereas his successor failed to qualify, the said L. L. Langworthy held over without the renewal of his bond for the year of 1889, and

WHEREAS, doubts have arisen in respect to the legality of such acts, therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION. 1. That all the official acts of the said L. L. Langworthy acting Justice of the Peace in and for Massina Township Cass County, Iowa, be and the same are hereby declared to be valid and legal, to the same extent as if said officer had renewed his bond. Acts legalized

SEC. 2. This act shall take effect from and after its publication in the Iowa State Register a newspaper published at Des Moines, Iowa, and the Atlantic Telegraph, a newspaper published at Atlantic Iowa, without expense to the state. Publication.

Approved April 11th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register April 18 and Atlantic Telegraph May 12 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 117.

## LEGALIZE ACTS GEO. C. ANDERSON.

AN ACT to legalize the acts of Geo. C. Anderson, a justice of the H. F. 105.  
peace in and for Otter Creek Township Linn Co. Iowa.

Whereas, Geo. C. Anderson, was duly elected on the 5th day of November A. D. 1889, to the office of Justice of the Peace, in and for Otter Creek Township Linn County, Iowa, to fill a vacancy and Elected Justice.

Whereas, on the 15th day of November A. D. 1889, said Geo. C. Anderson executed a bond and qualified according to Bond.

law; and on the 16th day of November A. D. 1889 this bond was duly filed with the Auditor of Linn Co, Iowa and on the same day was accepted; and

**Approval.** Whereas, said bond was approved by the board of Supervisors of Linn Co. Iowa at their regular meeting in January A. D. 1890 and recorded as the law requires; and

**Prior acts.** Whereas, the said Geo. C. Anderson performed certain official acts prior to the formal approval of said bond, the legality of which acts are questioned; therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

**Legalized.** That the official acts of said Geo. C. Anderson, Justice of the Peace aforesaid, performed and done prior to the approval of said bond, are hereby legalized and made valid as if performed subsequent to the approval of said bond.

Approved April 5th 1890.

## CHAPTER 118.

### LEGALIZING ORGANIZATION OF INDEPENDENT SCHOOL DISTRICT OF RED ROCK.

**H. F. 467.** AN ACT to amend chapter 97 of the Eighteenth General Assembly entitled an act to legalize the organization of the Independent School District of Red Rock, Red Rock Township, Marion County: Iowa, and to establish the boundaries thereof;

**Territory incorporated by Chap. 97. 18 G. A.** WHEREAS, By the provision of chapter 97 acts of 18th General Assembly there was incorporated into the Independent District of Red Rock parts of Sections 35, & 36 in Twp. 77, N R, 20 West, and the N. half of Sec. 2, Twp 76. R, 20, West, which were at the time a part of the District Township of Union in Said County, and said District Township never having consented thereto, and,

**District separated by river.** WHEREAS, The Des Moines River cuts off and separates all of said parts of said section from the balance of Said Independent District, and from the school house of said District, so that the school children residing on said parts of said sections cannot attend school in the said Independent District of Red Rock; Therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

**Boundaries established.** SECTION 1. That all of said act, Chapter 97 of the Eighteenth General Assembly as incorporated into the Independent District of Red Rock that part of Sec. 35 and 36 in Twp 77 N R, 20 West of the 5th P. M., as lays south and

west of the Des Moines River and the N. half of Sec. 2, Twp 76 R, 20, West be and the same is hereby repealed and said parts of said section on the south & west side of the Des Moines River be and the same is hereby restored to the District Township of Union, and made a part thereof.

Approved April 17th 1890.

## CHAPTER 119.

### LEGALIZE RE-INCORPORATION FIRST CONGREGATIONAL CHURCH— TOLEDO.

AN ACT to legalize the reincorporation of the First Congregational H. F 431.  
Church in Toledo, Tama County, Iowa.

Whereas—The first Congregational Church of Toledo in Original  
Tama County, Iowa, Was incorporated on July 12th 1856 to incorpo-  
ration.  
continue for Twenty years, and

Whereas—said Church was not reincorporated within the said Not renewed  
term of Twenty years, but was reincorporated on December at proper  
time.  
14th, 1877, and,

Whereas—Doubts exist as to whether such reincorporation Doubts.  
is legal, not having been effected before the expiration of the  
former incorporation, Therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

SEC. 1. The said First Congregational Church of Toledo, Reincorpora-  
Tama County Iowa, is hereby declared to be Incorporated tion legalized.  
and the acts of said society in reincorporating, and hereby  
legalized and said reincorporation of said Church on Decem-  
ber 14th 1877, is hereby declared to be legal and to be as  
effectual as though the same had been made within the term  
of Twenty years from its original organization.

Approved April 23, 1890.

## CHAPTER 120.

## LEGALIZE INCORPORATION OF DEEP RIVER ALLIANCE.

S. F. 306. AN ACT to legalize the incorporation, of the "Deep River Farmers Alliance Stock Company" at Deep River, Poweshiek County, Iowa, the election of its officers and all acts done by it.

Articles not  
filed with  
Sec'y State  
within time  
required.

WHEREAS, "The Deep River Farmers Alliance Stock Company" at Deep River, Iowa organized and was incorporated April 9th, 1889 and filed articles with the Recorder of Deeds of Poweshiek County, Iowa on April 9th, 1889, and then commenced to transact business as such: and whereas on the 11th, day of May 1889, the parties composing said corporation, again organized by adopting new articles of incorporation, and said new articles of incorporation were duly recorded in the office of the Recorder of Deeds of Poweshiek County, Iowa on the 18th, day of July 1889, but said articles were not recorded in the office of the Secretary of State until the 27th day of December 1889

Acts  
involved.

And whereas said "Deep River Farmers Alliance Stock Company" did not publish notice as required by law until in March 1890

And whereas said incorporation elected its officers, acquired, held and sold property, and done other acts from and after April 9th, 1889 and up to the present time: therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

Incorporation  
legalized.

SECTION 1. That the incorporation of the said "Deep River Farmers Alliance Stock Company" at Deep River, Poweshiek County, Iowa, the election of its officers, and all acts done by it from and after its inception to the present time, not in controvention of the laws of Iowa, if a legal organization had been made, are hereby legalized, and declared to be valid and binding, the same as though the law had been strictly in all respects complied with in the incorporation of said company, the election of its officers and all other official acts done by it or its officers.

Approved April 17th, 1890.

## CHAPTER 121.

## LEGALIZE ORGANIZATION DES MOINES CONFERENCE EVANGELICAL ASSOCIATION.

AN ACT to legalize the organization of the Des Moines Conference of the Evangelical Association, of Iowa. H. F. 302.

WHEREAS, The Des Moines Conference of the Evangelical Association, in the State of Iowa, was organized on the thirteenth day of April A. D. 1876, and

Organization.

WHEREAS, Said Des Moines Conference, through the oversight of a committee appointed thereto, failed to adopt and record articles of incorporation as required by law, until twenty seventh day of March A. D. 1889, and,

Failure to file with Sec'y of State.

WHEREAS, Anterior to that time said organization entered into contracts and acquired and conveyed real estate, which contracts and conveyances are of doubtful validity; therefore,

Real estate transfers.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the said Des Moines Conference of the Evangelical Association, be and the same is hereby declared a body corporate organized and created as of April thirteenth A. D. 1876, and all contracts and conveyances made by said conference, though its Board of Trustees, and all conveyances gifts or devises made thereto, or to any person or persons for its use, are hereby legalized and declared to be binding to the same extent as though said conference had been fully and legally incorporated on the thirteenth day of April A. D. 1876.

Declared a body corporate.

SEC. 2. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Des Moines Leader and the Iowa Capital, Newspapers of Des Moines Iowa, without expense to the state.

Publication.

Approved April 11th, 1890.

I hereby certify that the foregoing act was published in the Iowa Capital April 18 and Des Moines Leader April 19 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 122.

## LEGALIZE INCORPORATION OF CERRO GORDO COUNTY AGRICULTURAL SOCIETY.

H. F. 386.

AN ACT to legalize the incorporation of "The Cerro Gordo County Agricultural Society," and the acts and proceedings thereof, and to provide for and authorize the recording of a copy of the Articles of Incorporation of said society, in the office of the County Recorder of Cerro Gordo county, and the filing of said copy in the office of the Secretary of State.

Organiza-  
tion.

WHEREAS on April 13th 1872, G. W. Henderson, C. E. Crane B. A. Bryant, and nineteen other persons all residents and citizens of Cerro Gordo County Iowa, associated themselves together and organized, as an Incorporated Society, under the name of The Cerro Gordo County Agricultural Society, For the purpose of promoting Agriculture and the other usual purposes of such societies, as provided by the laws of the State of Iowa, and signed and acknowledged Articles of Incorporation of such Society—and

Business  
transacted.

WHEREAS—Under said Articles of Incorporation the said Cerro Gordo County Agricultural Society, composed of said persons, elected regular officers, adopted Bye Laws—and said persons and their successors continuing said organization and incorporation, have ever since acted and are now acting as such Incorporated Society under the said name as aforesaid—and

Conveyance  
of land.

WHEREAS, Said Society has heretofore conveyed land, and received conveyances of land, and now holds in the name of said Society certain lands in said Cerro Gordo County Iowa—To wit: The N. W.  $\frac{1}{4}$  S. W.  $\frac{1}{4}$  Sec 4—Twp. 96—Range 20—and said Society has executed Mortgages thereon, and made contracts in relation thereto—and

Articles not  
recorded.

WHEREAS—The Original Articles of Incorporation of said Society were never filed in the office of the County Recorder of Cerro Gordo County, or in the office of the Secretary of State, and the Certificate of acknowledgment of said articles was not in compliance with the forms required by law in cases of conveyances of Real Estate, and by reason thereof doubts exist as to the legality of the existence and acts of said society, and

Copy of  
articles.

WHEREAS—The said Original Articles of Incorporation have been lost—but a complete record of the same was made in the books of the said society and is preserved in said books—and the members of said society desire that a copy of the record of said Articles of Incorporation, as contained in the books aforesaid, may be filed and recorded in the office of the

County Recorder and filed in the office of the Secretary of State, therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the organization of said "The Cerro Gordo County Agricultural Society"—and all its acts, and all conveyances, and mortgages of land and contracts in relation thereto, made by said society, and conveyances of land made to it in its name, and the titles to all lands conveyed to it and held in its name, now or heretofore, are hereby legalized and declared good valid and binding to all intents and purposes, and in all respects as they could have been if said articles of Incorporation had been properly acknowledged and filed and recorded in the office of the County Recorder, and filed in the office of the Secretary of State, and as if the law in relation thereto had been strictly complied with. Acts legalized.

SEC. 2. That said Society may and is hereby authorized to have, a Copy of its Articles of Incorporation, as the same now appear of record in its books, certified by its President and Secretary, filed and recorded in the office of the County Recorder of Cerro Gordo County—and that on such filing and recording said copy may be filed in the Office of the Secretary of State, and when so recorded and filed as aforesaid, said Copy and record thereof shall have all the force, virtue and effect, from the time of the incorporation of Said Society, as if the law in relation to such incorporation, and its Articles, and the filing and recording thereof, had been in all respects fully complied with. Copy to be made and filed.

SEC. 3. This act being deemed of immediate importance shall be in force and effect from and after its publication in the Express Republican a newspaper published at Mason City Iowa, and in the Iowa State Register, a newspaper published at Des Moines Iowa—without expense to the State. Publication.

Approved April 12 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 22 and the *Express Republican* April 24 1890.

FRANK D. JACKSON, *Secretary of State.*

## CHAPTER 123.

## LEGALIZE ACTS OF INDEPENDENT SCHOOL DISTRICT OF FREMONT MAHASKA COUNTY.

S. F. 330. AN ACT to Legalize the acts of the Independent School District of Fremont, Mahaska County, Iowa, relating to voting bonds for the purpose of building a school house.

Election as to  
issue of bonds

WHEREAS, a majority of the legal voters of the Independent School District of Fremont, Mahaska County, Iowa, at the regular annual meeting of said Independent School District on the tenth day of March, 1890 voted for a proposition to issue bonds of said District in the amount of Four thousand Dollars (\$4,000) for the purpose of erecting a public school building in said Independent District, there being at said election fifty-one votes cast in favor of the proposition and forty-five against,

Doubts as to  
legality of  
notice.

And, Whereas, notice was regularly given that said proposition would be voted upon at said time, and whereas, some doubts have arisen as to the legality of said notice and said proceedings, therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

Election  
legalized.

SECTION 1. That the said proceedings and election and vote upon said proposition in the manner recited by the preamble to this act, are hereby legalized and made as valid and effectual in law as if done in strict compliance with the law.

Publication.

SEC. 2. This act being deemed of immediate importance shall take effect from and after its publication in the Iowa State Register, and Oskaloosa Herald without expense to the State.

Approved March 28, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Oskaloosa Herald March 31, 1890.

FRANK D. JACKSON, *Secretary of State.*



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## PART IV.

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PRIVATE, LOCAL AND TEMPORARY.

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## CHAPTER 124.

## I. AND R. P. RAILWAY TO PASS OVER STATE GROUNDS.

AN ACT to permit the "Independence and Rush Park Railway Company" to pass over the grounds of the State used for the Hospital for the Insane at Independence, Iowa. H. F. 235.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That permission is hereby given to the Independence and Rush Park Railway Company to build and construct a line of railway across and over the grounds of the State of Iowa, which are used for the Hospital for the Insane at Independence Iowa. "Provided, that in case said railway, when the same shall have been constructed over the grounds of the State as herein provided, shall cease to be operated or used over said grounds for more than two years, all rights and privileges the said railway over and upon said grounds shall thereupon cease and terminate." Permit to pass over the Hospital grounds.

SEC. 2. That said Independence and Rush Park Railway Company, shall build and construct the said line of railway, over such part of said grounds, as the trustees of said Hospital for the Insane at Independence may direct, provided however, that such trustees shall permit the line to run to the main building of the hospital. "Provided, that the said trustees are hereby aothorized to prescribe such reasonable rules and regulations, with reference to the operation of said railway over said line within said grounds, as they may find proper and necessary." Under direction of Hospital trustees.  
Rules and regulations.

SEC. 3. That said railway company shall operate the road, so permitted to be constructed, only by animal or electric power and shall not connect with any other line of road nor permit any other power to be used in the operation of such road. Power to be used.

Approved May 1st, 1890.

## CHAPTER 125.

## RIGHTS OF THE STATE AGRICULTURAL SOCIETY.

H. F. 514. AN ACT to define the rights in certain cases of the State Agricultural Society.

*Be it enacted by the General Assembly of the State of Iowa:*

The State Fair grounds to be exempt.

SECTION 1. The provisions of Chapter One Laws of the Twenty third General Assembly. Shall not be construed as authorizing or empowering the City so extending thereunder its Territory or corporate limits to enforce upon the Grounds owned by the State and occupied by the Iowa State Agricultural Society Ordinances or resolutions that will impair or conflict with the right and power of said Society to exercise within and over said Grounds and during the Exhibition and Fairs of said society the same management and control that said Society was authorized to exercise previous to the enactment of said Chapter One.

Approved May 1st, 1890.

## CHAPTER 126.

## COLUMBIAN EXPOSITION.

S. F. 33. AN ACT to provide for a creditable exhibit of the Resources of the State of Iowa, in the "Columbian Exposition" or World's Fair, to be held in Chicago.

Bill before congress.

WHEREAS, Congress is now considering, and the House of Representatives has already passed, a bill, providing for a World's Fair, to be known as the "Columbian Exposition," and held at Chicago during the year 1892 or 1893; and

Iowa's Exhibit.

WHEREAS, It is highly desirable that the agricultural, mineral, mechanical, industrial, educational and other resources and advantages of the State of Iowa shall be creditably represented in such exposition, therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

Exhibition Committee to be appointed.

SECTION 1. That the Executive Council be and is hereby authorized and directed to appoint an exhibition committee to be known as the "Iowa Columbian Commission." Such commission shall consist of eleven members, to

be selected one from each congressional district in the state not more than six of whom shall be from the same political party and shall have full power to devise and execute plans for the state exhibit herein contemplated, take charge of the same, and disburse the appropriations. It may appoint such officers as its judgment may be necessary for the carrying out the purposes of this act, including the right to delegate to an Executive Committee the duty and power to execute all or any plans that may be devised or ordered by such Commission. Officers may be appointed.

One member thereof shall be chosen to act as Treasurer, and he shall be (ex-officio) custodian of the moneys herein appropriated; but before entering upon the duties of such position he shall furnish a bond, subject to the approval of the Executive Council, and running to the state of Iowa in the penal sum equalling herein appropriated. If the said "Columbian Exposition" is held during the year 1892 the Commission created by this section shall be appointed at some time prior to January 1st 1891; and if held in 1893 then it may be appointed at any time before January 1st 1892. Any vacancy occurring in said Commission shall be filled by the Executive Council by the choice of some citizen residing in the congressional district wherein such vacancy occurs. The Commission herein created shall receive as compensation for the service of its members not to exceed five dollars, for each day actually and necessarily engaged in the work of the Commission, and actual railroad fare paid. Treasurer. Bond. Time for appointment. Compensation.

SEC. 2. The sum of Fifty Thousand Dollars is hereby appropriated out of any money in the State Treasury not otherwise appropriated, for the purpose of carrying into execution the intent of this act; Provided that, if said Fair or Exposition be not held before 1893, not more than ten per cent of the sum hereinbefore named shall be draw from the State Treasury before the convening of the 24th General Assembly; and the remainder shall be covered back into the Treasury, and the subject of further appropriation shall be referred to the said 24th General Assembly; but no part of any such appropriation shall be drawn from the State Treasury until the Commission through its duly chosen officers, shall certify to the Auditor of State that the same is actually necessary for disbursement, and shall then be drawn only in portions, not exceeding one-fourth the amount appropriated, as may from time to time become requisite. All payments of money by the treasurer must be upon complete vouchers and under conditions to be fixed by said commission. At the close of its services the commission shall make to the Governor a statement of its proceedings, which shall include a list of all disbursements, with complete vouchers therefor attached. Provided further no appointments under this act shall be made nor shall any \$50,000 appropriated. Manner of drawing the money. Condition for payment.

Expenses  
restricted.

money herein appropriated be drawn or any charge or expense made until it is definitely known when the exposition is to be held. Provided further that said commission shall be restricted in expenditures to the sum herein appropriated.

Approved April 15th, 1890.

## CHAPTER 127.

### CONSTITUTIONAL CONVENTION.

S. F. 15.

AN ACT providing for the submission of the question of calling a Constitutional Convention to the qualified electors of the State as provided by section three article ten of the Constitution of the State.

*Be it enacted by the General Assembly of the State of Iowa:*

Election  
proclamation  
of 1890.

SECTION 1. That when the Governor of the State issues his proclamation for the election of State officers—at the general election A. D. 1890—he shall also at said time in said proclamation give notice to the qualified electors of the state of the submission at said election of the question—“Shall there be a convention to revise the Constitution and amend the same”

Question sub-  
mitted at  
general elec-  
tion.

SEC 2. At the general election A. D. 1890—the question specified in Section one (1) of this act—shall be determined by the electors of the State qualified to vote for members of the General Assembly—the question aforesaid shall be written or printed on each ballot—and at the end of said question the word “Yes” or “No” Shall be written or printed—on such ballot. And all such ballots, having the word yes thereon after said question shall be counted and canvassed in favor of the proposition so submitted and all such ballots having thereon the word no after said question shall be counted and canvassed as against the proposition.

Ballots can-  
vassed and  
counted.

SEC. 3. The ballots cast for and against the question of calling a convention in the manner aforesaid shall be counted canvassed and returned in all respects in the manner that the ballots for state officers other than Governor and Lieutenant Governor are counted canvassed and returned—except that the result shall be certified in duplicate by the State Board of Canvassers—One certificate being deposited in the office of the Secretary of State and the other in the office of the Governor.

Result of  
election.

SEC. 4. In case said proposition shall be adopted by a majority of the electors voting on the question—voting in the affirmative—it shall be the Governor to report such result to the General Assembly at its next session.

Approved April 17th, 1890.

## CHAPTER 128.

## GRANT BY IOWA CITY TO THE STATE.

AN ACT to accept and legalize the grant to the State of Iowa made by the city of Iowa City, of certain rights and privileges in a public park and street in said city as indicated by an ordinance of said city, passed March 7, 1890. S. F. 344.

Whereas, the City of Iowa City has passed and ordained the following ordinance, to wit:

An Ordinance Granting the use of the Public Park of Iowa City, and Vacating and Granting Linn Street Between Jefferson Street and Iowa Avenue to the State of Iowa for the use of the Iowa State University; Certain land vacated.

SECTION 1. Be it ordained by the city council of the city of Iowa City that the use of the public park of Iowa City, said park being located between Dubuque and Linn streets, and between Iowa Avenue and Jefferson street is hereby granted to the state of Iowa for the use of the Iowa State University, said park to be used by the state of Iowa for the purpose of erecting there on additional buildings to be used by the Iowa State University. Ground granted for use of University.

SEC. 2. All that part of Linn street located between Iowa Avenue and Jefferson street is hereby vacated, and the use of the same granted to the state of Iowa for the use of the Iowa State University, the said street so vacated to be used in connection with the park hereinbefore granted. Ground vacated.

SEC. 3. The city of Iowa City to retain the proprietorship, control, and preservation of the park and street named in said grant for the free use of the public until such time as the state of Iowa shall need the same for the erection of suitable buildings thereon said building to be used exclusively by the State University of Iowa for educational purposes. The city to retain control

SEC. 4. Should the state after occupying said premises, fail to use said property for the purposes herein designated and specified, then the grant herein made to be void, and said property to revert to Iowa City for the use of the public. Failure to use the property as intended.

Passed March 7th, 1890.

W. J. HOLTZ, city clerk.

C. M. RENO, Mayor.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the action of said City of Iowa City in passing said ordinance, be and the same is hereby legalized and confirmed, and the same made effectual and valid. Acts of council to be legalized.

Grant  
accepted.

SEC. 2. That the grant in said ordinance made to the State of Iowa, of the use and benefit of the public park and street in said ordinance described, be and the same is hereby accepted by the State of Iowa, subject to the terms and conditions in said ordinance mentioned, and for the use and benefit of the State University of Iowa.

Approved April 12th, 1890.

## CHAPTER 129.

### SOLDIER'S MEMORIAL.

S. F. 415.

AN ACT in reference to the erection of a State Soldier's Monument, Arch, Memorial Hall or Hall and Monument combined.

*Be it enacted by the General Assembly of the State of Iowa:*

Part of section 2, chapter 136, acts 22d General Assembly re-enacted.

SECTION 1. So much of section 2 of chapter 136 of the laws of the twenty-second General Assembly as created and appointed an Iowa Soldiers' and Sailors' Monument commission, is hereby reenacted and continued in force. The commissioners named in said section 2 are continued in office, and Hon. E. Townsend and L. E. Mitchell are added thereto. They shall constitute and be known as the "Board of Commissioners of the Iowa Soldiers' and Sailors' Monument." Any vacancies occurring in said board shall be filled by appointment to be made by the Governor from nominations to be made by the remaining commissioners. But every person so appointed shall be selected from the same political party to which his predecessor belonged. The Governor shall be ex-officio President of said board.

Additions to Board.

Vacancies, how filled.

Additional duties of Board.

SEC. 2. In addition to the duties named in said section 2 chapter 136, of the laws of the 22nd General Assembly, said commission is hereby requested and directed to consider and report to the 24th General Assembly their views as to whether a Monument, a Memorial Arch, a Memorial Hall or a Memorial Hall and Monument combined, will best express on the part of the people of the State of Iowa, their appreciation of the patriotism, courage, and distinguished soldierly bearing of their fellow citizens. in the War of the Rebellion. And if, in the judgment of said Board of Commissions, it shall be desirable to do so, they are hereby given authority to advertise for, procure and examine plans for either or any of these forms of expression, as aforesaid and report the same to the next General Assembly.

Plans and bids.



SEC. 3. For the purpose of carrying out the intent of this act the sum of five thousand dollars is hereby appropriated, or so much thereof as shall be necessary, to be expenses under the direction of the Executive Council; and such compensation for services shall be allowed to the members of such Board of Commissioners as the Executive Council may decide, such payment to be from the amount herein appropriated. \$5,000 appropriated.  
How expended.

SEC. 4. That of the moneys which may come into the State Treasury in pursuance of an Act of Congress refunding to the State the amount paid to the General Government under the direct tax act approved August 5, 1861, so much as may remain after these shall have been paid therefrom the amount due and payable under the Constitution of this State, from the general government fund of the State to the School fund of the State, as contemplated by the provisions of section 1 of chapter 194, of Laws of the Twenty Second General Assembly, shall be held by said Treasurer to await the action of the Twenty Fourth General Assembly in the matter of the erection of said Monument or Memorial Structure. The direct tax refund.

Approved April 24th, 1890.

## CHAPTER 130.

### ONE-HALF MILL TAX LEVY.

AN ACT to provide for the levy of one half ( $\frac{1}{2}$ ) mill state tax for the year 1890 for the purpose of properly meeting the necessary requir[e]ments of the several state institutions and for other purposes. S. F. 418.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That for the purpose of properly meeting the necessary requirements of the several state institutions, and to aid in paying any appropriations that may be made therefor. The Board of Supervisors of each county shall at their September session in the year 1890 levy one half ( $\frac{1}{2}$ ) mill state tax, in addition to the tax directed to be levied by the Executive Council and said tax shall be collected and remitted to the state treasury in the same manner as other state taxes. Tax levied  
September  
1890.

Approved April 17th, 1890

## CHAPTER 131.

## REPRESENTATIVE DISTRICTS.

H. F. 463. AN ACT to Apportion the State into representative Districts and declaring the ratio of the representation.

*Be it enacted by the General Assembly of the State of Iowa:*

Ratio of representation.

SECTION 1. That one representative from every eighteen thousand five hundred inhabitants is hereby constituted the ratio of apportionment and that each representative district shall be as hereinafter described.

- 1, Lee. SEC. 2. Lee county shall be the first district and entitled to two representatives, 34,024.
- 2, Van Buren. SEC. 3. Van Buren county shall be the second district and entitled to one representative—16,170.
- 3, Davis. SEC. 4. Davis county shall be the third district and entitled to one representative—15,183.
- 4, Appanoose. SEC. 5. Appanoose county shall be the fourth district and entitled to one representative—16,941.
- 5, Wayne. SEC. 6. Wayne county shall be the fifth district and entitled to one representative—15,494.
- 6, Decatur. SEC. 7. Decatur county shall be the sixth district and entitled to one representative—15,083.
- 7, Ringgold. SEC. 8. Ringgold county shall be the seventh district and entitled to one representative—12,730.
- 8, Taylor. SEC. 9. Taylor county shall be the eighth district and entitled to one representative—15,973.
- 9, Page. SEC. 10. Page county shall be the ninth district and entitled to one representative—20,938.
- 10, Fremont. SEC. 11. Fremont county shall be the 10th district and entitled to one representative—15,921.
- 11, Mills. SEC. 12. Mills county shall be the eleventh district and entitled to one representative—13,727.
- 12, Montgomery. SEC. 13. Montgomery county shall be the twelfth district and entitled to one representative, 15,901.
- 13, Adams. SEC. 14. Adams county shall be the 13th district and entitled to one representative—12,146.
- 14, Union. SEC. 15. Union county shall be the fourteenth district and entitled to one representative—16,502.
- 15, Clarke. SEC. 16. Clarke county shall be the fifteenth district and entitled to one representative—11,369.
- 16, Lucas. SEC. 17. Lucas county shall be the sixteenth district and entitled to one representative—14,791.
- 17, Monroe. SEC. 18. Monroe county shall be the seventeenth district and entitled to one representative—12,324.

SEC. 19. Wapello county shall be the eighteenth district 18, Wapello.  
and entitled to one representative—25,803.

SEC. 20. Jefferson county shall be the nineteenth district 19, Jefferson.  
and entitled to one representative—15,995.

SEC. 21. Henry county shall be the 20th district and entitled 20, Henry.  
to one representative—17,862.

SEC. 22. Des Moines County shall be the 21st district and 21, Des Moines  
entitled to two representatives 35,733.

SEC. 23. Louisa County shall be the 22nd District and 22, Lucas.  
entitled to one representative—11,923.

SEC. 24. Washington county shall be the 23rd District and 23, Washing-  
ton.  
entitled to one representative—18,504.

SEC. 25. Keokuk county shall be the 24th district and 24, Keokuk.  
entitled to one representative—23,318.

SEC. 26. Mahaska county shall be the 25th district and 25, Mahaska.  
entitled to one representative—27,131.

SEC. 27. Marion county shall be the 26th district and 26, Marion.  
entitled to one representative—23,419.

SEC. 28. Warren County shall be the 27th district and 27, Warren.  
entitled to one representative—17,868.

SEC. 29. Madison County shall be the 28th district and 28, Madison.  
entitled to one representative—16,240.

SEC. 30. Adair County shall be the 29th district and entitled 29, Adair.  
to one representative—14,102.

SEC. 31. Cass county shall be the 30th district and entitled 30, Cass.  
to one representative—18,019.

SEC. 32. Pottawattamie county shall be the 31st district 31, Pottawat-  
tamie.  
and entitled to two representatives—45,866.

SEC. 33. Harrison county shall be the 32nd district and 32, Harrison.  
entitled to one representative—20,560.

SEC. 34. Shelby county shall be the 33rd district and 33, Shelby.  
entitled to one representative—16,306.

SEC. 35. Audubon county shall be the 34th district and 34, Audubon.  
entitled to one representative—10,825.

SEC. 36. Guthrie county shall be the 35th district and 35, Guthrie.  
entitled to one representative—16,439.

SEC. 37. Dallas county shall be the 36th district and 36, Dallas.  
entitled to one representative—20,050.

SEC. 38. Polk county shall be the 37th district and entitled 37, Polk.  
to two representative—51,907.

SEC. 39. Jasper county shall be the 38th district and 38, Jasper  
entitled to one representative—25,247.

SEC. 40. Poweshiek county shall be the 39th district and 39, Poweshiek.  
entitled to one representative—18,203.

SEC. 41. Iowa county shall be the 40th district and entitled 40, Iowa.  
to one representative—18,190.

SEC. 42. Johnson county shall be the 41st district and 41, Johnson.  
entitled to one Representative—23,046.

- 42, Muscatine. SEC. 43. Muscatine county shall be the 42nd district and entitled to one representative—24,320.
- 43, Scott. SEC. 44. Scott county shall be the 43rd district and entitled to two representatives—41,956.
- 44 Cedar. SEC. 45. Cedar county shall be the 44th district and entitled to one representative—17,832.
- 45 Clinton. SEC. 46. Clinton county shall be the 45th district and entitled to two representatives—38,661.
- 46 Jackson. SEC. 47. Jackson county shall be the 46th district and entitled to one representative—22,839.
- 47 Jones. SEC. 48. Jones county shall be the 47th district and entitled to one representative—19,654.
- 48 Linn. SEC. 49. Linn county shall be the 48th district and entitled to two representatives—40,720.
- 49 Benton. SEC. 50. Benton county shall be the 49th district and entitled to one representative, 23,902.
- 50 Tama. SEC. 51. Tama county shall be the 50th district and entitled to one representative—21,622.
- 51 Marshall. SEC. 52. Marshall county shall be the 51st district and entitled to one representative—25,036.
- 52 Story. SEC. 53. Story county shall be the 52nd district and entitled to one representative—17,527.
- 53 Boone. SEC. 54. Boone county shall be the 53rd district and entitled to one representative—24,972.
- 54 Greene. SEC. 55. Greene county shall be the 54th district and entitled to one representative—15,923.
- 55 Carroll. SEC. 56. Carroll County shall be the 55th district and entitled to one representative—16,329.
- 56 Crawford. SEC. 57. Crawford county shall be the 56th district and entitled to one representative—16,131.
- 57 Monona. SEC. 58. Monona county and Ida County shall be the 57th district and be entitled to one representative—21,190.
- 58 Woodbury. SEC. 59. Woodbury county shall be the 58th district and entitled to two representative—32,289.
- 59 Cherokee. SEC. 60. Cherokee county shall be the 59th district and entitled to one representative—12,584.
- 60 Sac. SEC. 61. Sac county shall be the 60th district and entitled to one representative—12,741.
- 61 Calhoun. SEC. 62. Calhoun county shall be the 61st district and entitled to one representative—9,836.
- 62 Webster. SEC. 63. Webster county shall be the 62nd district and entitled to one representative—19,987.
- 63 Hamilton. SEC. 64. Hamilton county shall be the 63rd district and entitled to one representative—14,075.
- 64 Hardin. SEC. 65. Hardin county shall be the 64th district and entitled to one representative—12,526.
- 65 Grundy. SEC. 66. Grundy county shall be the 65th district and entitled to one representative—12,304.

- SEC. 67. Black Hawk county shall be the 66th district and <sup>66 Black Hawk.</sup> entitled to one representative—23,860.
- SEC. 68. Buchanan county shall be the 67th district and <sup>67 Buchanan.</sup> entitled to one representative—17,726.
- SEC. 69. Delaware county shall be the 68th district and, <sup>68 Delaware.</sup> entitled to one representative—17,436.
- SEC. 70. Dubuque county shall be the 69th district and <sup>69 Dubuque.</sup> entitled to two representatives—45,496.
- SEC. 71. Clayton county shall be the 70th district and <sup>70 Clayton.</sup> entitled to one representative—26,853.
- SEC. 72. Fayette county shall be the 71st district, and <sup>71 Fayette.</sup> entitled to one representative—22,422.
- SEC. 73. Bremer county shall be the 72nd district, and <sup>72 Bremer.</sup> entitled to one representative,—14,350.
- SEC. 74. Butler county shall be the 73rd district and <sup>73 Butler.</sup> entitled to one representative—14,523.
- SEC. 75. Franklin county shall be the 74th dtstrict and <sup>74 Franklin.</sup> entitled to one representative—11,324.
- SEC. 76. Wright county shall be the 75th district and <sup>75 Wright.</sup> entitled to one representative—9,380.
- SEC. 77. Humboldt county and Pocahontas county shall <sup>76 Humboldt, Pocahontas.</sup> be the 76th district and entitled to one representative— 14,217.
- SEC. 78. Buena Vista county shall be the 77th district and <sup>77 Buena Vista.</sup> entitled to one representative—11,530.
- SEC. 79. Plymouth county shall be the 78th district and <sup>78 Plymouth.</sup> entitled to one representative—15,481.
- SEC. 80. Sioux county shall be the 79th district and enti- <sup>79 Sioux.</sup> tled to one representative—11,584.
- SEC. 81. Lyon county and O'Brien county shall be the 80th <sup>80 Lyon, O'Brien.</sup> district and entitled to one representative—12,396.
- SEC. 82. Osceola county and Clay county shall be the <sup>81 Osceola, Clay.</sup> 81st district, and entitled to one Representatives—10,433.
- SEC. 83. Dickinson county and Emmet county and Palo <sup>82 Dickinson, Palo Alto, Emmet.</sup> Alto county shall be the 82nd district and entitled to one representative—12,281.
- SEC. 84. Kossuth county and Hancock county shall be the <sup>83 Kossuth, Hancock.</sup> 83rd district and entitled to one representative—14,426.
- SEC. 85. Cerro Gordo county shall be the 84th district and <sup>84 Cerro Gordo.</sup> entitled to one representative—12,688.
- SEC. 86. Floyd county shall be the 85th district and enti- <sup>85 Floyd.</sup> tled to one representative—15,362.
- SEC. 87. Chickasaw county shall be the 86th district and <sup>86 Chickasaw.</sup> entitled to one representative—13,899.
- SEC. 88. Allamake[e] county shall be the 87th district and <sup>87 Allamakee.</sup> entitled to one representative—18,335.
- SEC. 89. Winneshiek county shall be the 88th district, and <sup>88 Winneshiek.</sup> entitled to one representative—22,680.
- SEC. 90. Howard county shall be the 89th district and <sup>89 Howard.</sup> entitled to one representative—9,305.

90 Mitchell      SEC. 91. Mitchell county shall be the 90th district and entitled to one representative—12,825.

91 Worth,  
Winnebago.      SEC. 92. Worth county and Winnebago county shall be the 91st district and entitled to one representative—13,836  
Approved May 1st, 1890.

## CHAPTER 132.

### REFUNDING MONEY TO HEIRS OF HARRY SCHOFIELD.

S. F. 212.      AN ACT to permit the Board of Supervisors of Marshall County Iowa to refund money with interest to the widow and heirs of Harry Scofield, of Marshall county Iowa.

State vs.  
James Quinn.      WHEREAS in a Liquor Prosecution in Marshall County, State of Iowa—VS—James Quinn. two judgments were rendered Dec 18th 1885. of \$500.00 each upon which Harry Scofield & William Dunn appeared and became sureties between the time of rendering judgment and the attempt at collection, Dunn became a bankrupt leaving Scofield the whole burden of paying the fine under the judgment, and

Sureties.

Misfortune to  
defendant.

WHEREAS said Scofield was a poor man who had by industry and economy saved enough to purchase an 80 acre farm, had paid all but \$300 secured by mortgage on the land. to pay. this judgment was compelled to again mortgage his little home, an accident befell him by which he lost an eye and ultimately his life, leaving a widow and three small children whose only support was the income from this 80 acre farm so mortgaged, Therefore

*Be it enacted by the General Assembly of the State of Iowa:*

Refund  
authorized.

SECTION 1. That the Board of Supervisors of Marshall County Iowa is hereby authorized to refund to the widow and heirs of one Harry Scofield of Marshall county Iowa the amount of a certain judgment (it being four hundred dollars) and interest from date of payment of judgment until the same has been refunded from any funds raised for ordinary county revenue now or hereafter coming into the hands of the Treasurer of said county

Approved April 11th, 1890.

## CHAPTER 133.

## FREMONT COUNTY CREDIT ON SCHOOL FUND ACCOUNT.

AN ACT to authorize the Auditor, to credit Fremont County on H. F. 470. account of school fund and county fund.

WHEREAS, On the 7th day of March, A. D. 1874, Fremont county did, for the use and benefit of the school fund, sell to M. A. Payne and and G. H. Young, lands in section No. 15, township No. 67, range No. 43 west, said lands being indemnity lands taken in lieu of school lands, and

Lands sold.

WHEREAS, In June of the said year 1874, the said lands, by reason of encroachment of the Missouri river, were entirely washed out and their former site transferred to the state of Nebraska; the said purchasers (Payne and Young) have refused to pay any part of the debt thus incurred, the principal of of which was \$1,303.50, and the interest thereon from the date afore mentioned, to wit, from March 7, 1874, to January 1, 1890, of \$1,393.31, and

Lands washed out by river.

WHEREAS, Fremont county has annually reported to the state and paid the lawful interest on the \$1,303.50, the same being the amount due on said lands and the amount of said interest being \$1,393.31, not one dollar of which has ever been paid by said purchasers, therefore.

Interest paid.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the auditor of state is hereby authorized and directed to cancel the amount of said claim against Fremont county, to-wit: The sum of \$1,303.50, being the amount of unpaid purchase money on said school land and to issue a refund warrant to said county for the sum of thirteen hundred and ninety-three dollars and thirty-one one hundredths (\$1,303.31), the same being the amount of interest erroneously paid by said county into the State treasury.

Auditor directed to to cancel claim.

Approved April 9th. 1890.

## CHAPTER 134.

## TO RELIEVE ANDERSON M. BENGE.

S. F. 404.

AN ACT to relieve Anderson M. Benge and others to whom loans of the school fund were made in Madison County, Iowa.

Receipts  
given and  
money re-  
ceived by  
Auditor on  
school fund.

Whereas, one A. L. Tullis was County Auditor in and for Madison County, Iowa, from the first Monday in January 1881 to the first Monday in January 1885, and as such officer during the time aforesaid in keeping the account of the School Fund, and Securities pertaining thereto, of the State of Iowa, being held and managed by the Board of Supervisors of Madison County, in many instances, where borrowers of said fund desired to pay the principal or interest of the same due or owing to said County, he, said County Auditor, would and did collect, accept and receive the payment of, the same from such borrowers giving receipts therefor as County Auditor instead of giving the borrowers aforesaid, paying the same, a certificate on which to pay said fund to the County Treasurer of said County, and,

Payment  
made in good  
faith.

Whereas, in the manner aforesaid many borrowers of said School Fund acting in good faith and relying upon the supposed correct business methods and integrity of said County Auditor paid him divers and sundry sums due or owing to said County of principal, interest or both belonging to said fund and believing they were paying the same to the duly authorized officer to receive the same; and,

Failure of  
County  
Auditor to  
pay over col-  
lection.

Whereas, afterwards said County Auditor proved to be a defaulter and failed to account to said County for a large amount of the School Fund aforesaid, and having failed to pay to the County Treasurer of said County, divers and sundry amounts of said fund paid by various borrowers thereof to said County Auditor as aforesaid; and,

Sureties not  
liable  
through lim-  
itation.

Whereas, the sureties on the official bond of said County Auditor by reason of the Statute of Limitation or other causes were held or adjudged to be not liable to said County for the various amounts involved herein and paid by borrowers of said fund to said County Auditor; and the borrowers aforesaid are liable to said County, and under the law have paid or are required to pay respectively to said County the full amount paid severally by them to said County Auditor as aforesaid; and said County has made good, to the State of Iowa, all loss sustained to the School Fund by reason of the defalcation of said County Auditor; and,



Whereas, the following named borrowers of said School Fund having once paid the amount opposite their names respectively are now or have been, by reason of the facts set forth above held liable and required to pay to Madison County the said sums again to-wit :

(Name).	(Paid).	(Unpaid).	Money once paid.	Schedule.
William Beard,.....		\$ 78.96		
W. E. Stafford,.....		\$40.48		
J. R. Sillimon,.....		\$153.70		
Martha Sturman,.....		\$571.59		
Elizabeth Thrift,.....		\$17.28		
Wm. Shay,.....	\$71.60			
Henry Evans,.....		\$66.84		
J. A. Fanrote,.....	\$12.00			
Henry Comp,.....	\$31.76			
Jennette Minton,.....		\$20.77		
George W. Smith,.....	\$44.06			
J. H. Quinn,.....	\$3.84			
Hyampsul Smith,....		\$43.84		
William Fudge,.....	\$1.41			
Granville Compton,.....		\$11.72		
Sarah and Levi Smith,.....	\$15.37			
Mary Gillespie,.....		\$49.92		
Maria and John Arnold,....	\$38.88			
M. V. Henry,.....		\$12.96		
S. A. Ellis,.....		\$16.55		
J. W. Fisher,.....		\$6.96		
John M. Duncan,.....		\$43.20		
J. B. Wilson,.....	\$128.64			
Anderson M. Bengé,....		\$12.40		
J. S. Bard,.....		\$30.24		
A. M. and Endosa Bengé,...		\$19.84		
Adam C. Krell,.....	\$8.64			
Amos and Hannah Chase,...	\$26.70			
Jonathan Cox,.....	\$60.00			
W. H. H. Dabney,.....	\$452.00			

And, whereas to pay said amounts a second time after having paid the same to the County Auditor in the manner aforesaid is deemed a great hardship upon said borrowers and a burden they ought not under the circumstances to bear, and the Board of Supervisors under the law seem powerless to relieve them from such burden; therefore

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the Board of Supervisors of Madison County, Iowa, be and are hereby authorized and empowered to submit at the next general election to the qualified voters of Madison County, Iowa, a proposition for and against relieving from further liability therefor respectively the bor-

Question of release to be submitted to electors.

rowers of said School Fund aforesaid that have not paid the amount of their liability to said County, in the sums, with interest, as shown in the recital to this act, and to refund to the borrowers of said fund aforesaid respectively, that have heretofore paid the sums for which they were liable to said County as set out in the recital to this act, the said sums without interest which they have respectively heretofore paid.

Form of  
ballot.

SEC. 2. If the proposition is so submitted those voting in favor thereof shall vote a ballot "For release and refunding" and those voting against the same shall vote a ballot "Against release and refunding" and if a majority of the votes for and against said proposition shall be for release and refunding then the Board of Supervisors of Madison County, Iowa, are hereby authorized and empowered to release from further liability to said County the borrowers of said fund aforesaid named in the recital of this act, their heirs, executors or assigns, respectively, in the amounts set opposite their names in such recital with interest, and to refund to the borrowers of said fund aforesaid named in said recital, their heirs executors or assigns respectively, the sums paid by them respectively as shown in said recital without interest.

Approved April 12th, 1890.

## CHAPTER 135.

### RELIEF OF MRS. A. NEET.

S. F. 374.

AN ACT to relieve Mrs. A. Neet of Rienbeck Iowa.

Shot in line  
of duty.

WHEREAS, on the 26th day of September, 1889, Archie Neet, a private citizen of Reinbeck, Grundy county, Iowa, was called upon by Thomas Brown, sheriff of the county and state aforesaid, to assist him in arresting two criminals, and while in the discharge of this duty the said Archie Neet was shot by one of the criminals aforesaid, and died on the 30th day of September, 1889, from the effect of the wound; and,

Widow left  
destitute.

WHEREAS, Mrs. A. Neet, widow of the above mentioned Archie Neet, is in dependent circumstances, the death of her husband having left to her the entire support of herself and four children as follows: Birdie Neet, aged fourteen; Wm. Neet, aged twelve; Charles Neet, aged ten and Frederick Neet, aged six; and

WHEREAS, the state of Iowa through its properly appointed officer, demanded of the said Archie Neet a hazardous public service in the discharge of which he lost his life, thereby depriving his wife and children of their means of support, therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That the sum of Two Thousand Five Hundred Dollars be appropriated for the relief of the aforesaid Mrs. Neet and family, said money to be placed in the hands of the board of three Trustees who shall manage it free of charge paying principal and interest to Mrs. Neet and above named children as hereinafter provided \$2,500 appropriation for relief.

SEC. 2. John R. Stewart I. N. Meyers and George Swan of Reinbeck Grundy County Iowa are hereby constituted a board of trustees for the purpose of carrying out the provisions of this act Board of trustees.

SEC. 3. Within ten days after they are officially notified of their appointment—the above named trustees shall file with the Clerk of the District Court of Grundy County a bond subject to his approval in the sum of Six thousand dollars each — as security for the faithful performance of their duties as hereinafter provided. Trustees bond.

SEC. 4. When the Clerk of the District Court of Grundy County shall have approved the bonds of the trustees herein provided for he shall notify the state treasurer thereof, whereupon the latter shall immediately pay to the said trustees the entire amount hereby appropriated taking their receipt therefor. Payment on approval of bond.

SEC. 5. Upon receipt of the money hereby appropriated the board of trustees shall immediately place at interest the entire amount (less such sum not exceeding one hundred dollars—as may be necessary to relieve the present necessities of Mrs. Neet and family) being careful to secure therefor the highest legal rate of interest at which it can be loaned on condition that all interest be paid quarterly in advance and at once placed to the credit of Mrs. Neet and subject to her order Application of money.

SEC. 6. If it shall appear to the trustees that the interest upon this fund will be insufficient to enable Mrs Neet to properly support herself and children—they shall upon her written request place to her credit in addition thereto such sum not exceeding twenty five dollars per quarter as she may desire *provided* that in no event shall she receive more than one hundred dollars per year in excess of the amount received as interest. In the event of Mrs. Neets death the income under the provisions of this section shall be collected and disbursed for the benefit of the above named children by their legally appointed guardian Conditions.

SEC. 7. The trustees shall administer this fund for a period of six (6) years dating from the receipt of the money from the State Treasurer and shall make a written report to the Clerk of the District Court on the first day of January of each year showing all receipts and disbursements on account of said fund also amount and disposition of money in fund at date of report. At the end of their term of six (6) years they shall pay into the Report of trustees.

hands of Mrs. Neet (if she be alive) one third of the amount in their possession and to the properly appointed guardian of her children above named or such of them as may be alive the remaining two thirds, to be invested for their benefit during their minority and paid to them *pro rata* as fast as they attain their majority. In the event of Mrs. Neet's death occurring before the expiration of this trusteeship—her children, above named shall inherit the entire amount subject to the foregoing provisions.

In case of death of Mrs. Neet.

Death or resignation of trustees.

SEC. 8. If at any time within six (6) years one of the trustees should die or resign it shall be the duty of the others to immediately report the fact to the Clerk of the District Court together with a report of the funds and notes in their possession and if it shall appear to his satisfaction that the fund is intact he shall release the retiring member—or in case of death—his heirs and assigns from further liability under his bond and shall appoint another trustee to fill the vacancy said appointee to file a bond as provided in section 2 of this act.

Account of money received.

SEC. 9. The trustees shall keep accurate account of all moneys received and disbursed by them under the provisions of this act and shall with every report to the Clerk of the District Court furnish vouchers for all moneys paid to Mrs. Neet or other person legally authorized to receive the same and shall be subject to the orders of the District Court the same as other Trustees. When they shall have paid to Mrs. Neet and the guardian of her children all money in their possession belonging to the fund as provided in Section 6 of this Act the county clerk shall cancel their bonds and relieve them of further responsibility.

Publication.

SEC. 10. This act being deemed of immediate importance shall take Effect and be in force from and after its publication in the Iowa State Register and the Des Moines Leader, Newspapers published at Des Moines, Iowa.

Approved April 30th, 1890.

I hereby certify that the foregoing act was published in the Iowa State Register and Des Moines Leader, April 18 1890.

FRANK D. JACKSON, Secretary of State.

## CHAPTER 136.

## RELIEF OF F. HARBACH.

AN ACT for the relief of F. Harbach.

S. F. 186.

WHEREAS, On the 14th day of December A. D. 1887, in the District Court of the State of Iowa in and for Polk County two certain judgments were rendered against one Fred Harbach on the relation of one A. D. Littleton for a violation of the prohibitory statutes of said state, said violation consisting of a failure to make proper returns to the auditor as provided by law and Whereas—The sole violation of the statute consisted in returning the price of liquor sold at from \$1.50 to \$4.00 per gallon instead of giving the specific cost of each gallon sold and

Judgment  
against Har-  
bach.

Violation.

WHEREAS, No intent to deceive was shown, and the violation of said statute was only technical in its nature, and

WHEREAS said Harbach has paid upon said Judgments the entire amount thereof which goes to the person upon whose relation said action was prosecuted, he having been satisfied in full, and has paid all costs of said suits, Now therefore

Payment.

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. That Fred Harbach be and he is hereby released from from all liability by reason of said two judgments having been rendered in causes Nos 8256 and 8257 in the District Court of the State of Iowa in and for Polk county upon the relation of one A. D. Littleton, and that said judgments are hereby ordered cancelled so far as any claim the state of Iowa may have thereunder is concerned and said F. Harbach is released from all claim or liability thereunder

Harbach re-  
leased.

SEC. 2. This act being deemed of immediate importance shall be deemed in full force and effect from and after its publication in the Iowa State Register and Des Moines Leader newspapers published at Des Moines Iowa said publication to be made without expense to the state.

Publication.

Approved April 10, 1890.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 16 and *Des Moines Leader* April 15, 1890.

FRANK D. JACKSON, *Secretary of State.*

## SENATE RESOLUTION.

Favoring the World's Fair of 1892 being located at Chicago.

*Be it resolved by the Senate of the State of Iowa:*

**WHEREAS:** It is proposed to commemorate the landing of Columbus four Centuries ago, by a Worlds fair to be held in 1892 in some great city in the United States; and as it is the purpose of this great bazaar to enable the citizens of all christendom to become fully acquainted with the boundless resources of our magnificent Country: and to enlighten them on its grandeur and potentialities, it is not only within the province of this body, but it is an imperative duty of the citizens of Iowa to unite their influence, their efforts and their labor in securing the location of said fair in a Western City: therefore

*Resolved,* That we the members of the Senate of the Twenty Third General Assembly of the State of Iowa emphatically declare that we favor the selection of Chicago as the city most accessible and convenient to the people of our Country. That in Chicago we recognize a truly representative American city typifying the thrift, push and advancement of the Nineteenth Century, a city that challenges the admiration of the world for its enterprise, ambition and progress and whose hearts and homes are large enough to welcome and entertain the multitude of her visitors, great as they may be, a city that stands as it were, as the Gate-way between the East and West and through which has passed the splendid civilization of this Western Country.

*Resolved:* That we urgently request our Senators and Representatives at the National Capitol to use their every effort toward obtaining the location of the Worlds fair for 1892 in the city of Chicago. That the Secretary of State be directed to send engrossed copies of these resolutions to each of our Senators and Representatives in Congress.

Passed January 16th, 1890.

## JOINT RESOLUTION No. 3.

Memorial and Joint Resolution, Relative to the Construction of a Canal from the Mississippi River to the Illinois River at Hennepin, in the State of Illinois.

**WHEREAS,** The question of cheap transportation by an uninterrupted water-route, between the Mississippi River and the Atlantic sea-board, by way of the great lakes, has long been one of all absorbing interest to the people of the food producing states of the Northwest; and,

WHEREAS, The general assembly of Iowa has repeatedly memorialized congress for the construction of this water-route and urged upon congress the construction of the same; and,

WHEREAS, The construction of this canal has received more endorsement since 1844 than any other water way on the continent of America; and,

WHEREAS, A board of civil engineers has surveyed, located and approved of the construction of this water-way from Hennepin to the Mississippi River at the mouth of Rock river; and,

WHEREAS, At the water convention held September 3d and 4th, in Cincinnati, Ohio, a resolution passed said convention, urging upon congress to make an immediate appropriation therefor, now therefore,

*Be it resolved by the General Assembly of the State of Iowa:*

That our senators and representatives in congress are requested to vote for and use their active influence to effect such legislation by congress as will secure an appropriation to commence the construction of said canal at an early day, and they are also requested to vote a liberal appropriation therefor to the end that said canal may be completed and opened to the commerce of the country at the earliest possible date.

*Resolved*, That the secretary of state be, and he is hereby instructed to forthwith transmit a copy hereof to each of our senators and representatives in congress.

Approved March 11th, 1890.

#### JOINT RESOLUTION No. 4.

To the Congress of the United States in relation to the arrears of pensions.

*Be it resolved by the General Assembly of the State of Iowa:*

That our senators and representatives in Congress be and they are hereby earnestly requested to use their best efforts to secure the repeal of the limitation contained in the arrears act of 1879, so that all invalid soldiers shall share alike, and their pensions shall begin with the date of disability or discharge and not with the date of their application.

That the secretary of state transmit a certified copy of this resolution to each of our senators and representatives in Congress.

Approved March 11th, 1890.

SUBSTITUTE FOR JOINT RESOLUTION No. 2 relative to placing jute and sisal grass upon the free list.

*Be it resolved by the General Assembly of the State of Iowa:*

That our Senators and Representatives in Congress are earnestly requested to vigorously support and, if possible, secure the passage of a bill placing jute and sisal grass upon the free list.

That the Secretary of State be required to transmit a copy of this resolution to each of our members of Congress.

Approved March 28th 1890.

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### JOINT RESOLUTION No. 3.

Joint Memorial and Resolution Asking Congress to Enact a Law Providing for Pensioning Certain Women Enrolled as Army Nurses.

*Resolved* by the General Assembly of Iowa that our representatives in both branches of the National Congress are respectfully urged to favor the enactment of a law providing for pensioning women who, under appointment by proper authority, acted as nurses in Hospitals, Diet-Kitchens or on battle fields, and have been honorably discharged therefrom, and who, from the results of such service, and the infirmities of age, are unable to support themselves—the bill to be in substantial accord with the provisions of a bill prepared by the Pension and relief Committee W. R. C. and indorsed by the Grand Army of the Republic.

Approved March 25, 1890.

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### CONCURRENT RESOLUTION.

*Resolved: By the Senate, the House concurring;*

That the lists of ex-Soldiers and Marines authorized by Section 2, chapter 165 laws of the Twentieth General Assembly, now in the Adjutant-Generals possession be disposed of as follows:

Fifty copies to be retained by the Adjutant General for distribution to Grand Army Posts as the same may be hereafter established and the remainder to be equally distributed among the members of this General Assembly.



**JOINT RESOLUTION AND MEMORIAL** Relative to Protecting the Lives of Miners in the Territories of the United States.

**WHEREAS**, there is no law giving protection to the many miners now engaged in the precarious occupation of mining in the territories of the United States; and

**WHEREAS**, The Hon J. F. Lacey Member of Congress from the Sixth District of Iowa has introduced a Bill to protect the lives of miners known as H. R. 3839 which provides for mine inspectors, and prescribes appliances for the safety of the miners: therefore,

*Be it resolved by the General Assembly of the State of Iowa:*

That our Senators and Representatives in Congress be and are respectfully requested to use their influence to procure the passage of H. F. 3839 introduced by Mr. Lacey of Iowa to provide for safety of miners in the territories and the appointment of Mine Inspectors.

Approved April 9th, 1890.

**A MEMORIAL AND CONCURRENT RESOLUTION.**

Instructing and requesting Iowa Senators and Representatives in Congress to ask for an Appropriation to pay the claim of Captain Washington Galland for expenditures in raising, organizing, and subsisting recruits for the Army of the United States.

**WHEREAS**—It appears by duly authenticated vouchers, by proper record evidence and other proof herewith submitted, that in the year 1861, Captain Washington Galland, of Lee County, Iowa, by virtue of a commission from the Governor of Iowa, and under other and proper authority, and for the good of the service, expended and disbursed, from his own private funds and fortune, a sum aggregating Fifteen Hundred and Forty Six Dollars and Twenty One Cents—(\$1,546.21)—in recruiting, enlisting, organizing and subsisting men for the protection of the State, and for the volunteer service in the Armies of the United States, in the War of the Rebellion: and Whereas, himself and the men so recruited, enlisted and subsisted, were enrolled mustered and served in the armies of the United States:

And whereas it appears from satisfactory evidence, that the said Captain Washington Galland has never received any reimbursement or repayment for such expenditures, either from the State of Iowa, or from the General Government; therefore

*Be it resolved by the Senate of the General Assembly of the State of Iowa,—The House concurring:*

That we endorse and recommend to the General Government, that said sum of Fifteen Hundred and Forty Six Dollars and Twenty One cents—(\$1,546.21)—expended as claimed aforesaid, with interest thereon from July first 1861, at five percentum per annum, to the date of the payment to him thereof, be allowed and paid; and that our Senators in Congress are hereby instructed, and our Representatives requested, to introduce and support, in the Congress of the United States, a Bill or Resolution making appropriation for the payment of this the aforesaid equitable claim.

Resolved further that the Secretary of State is hereby authorized to furnish to each of our Senators and representatives in Congress a copy of these Resolutions.

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*Be it, Resolved by the Senate of the Twenty third General Assembly of the State of Iowa,*

That the recent afflictions of Hon. James G. Blaine, Secretary of State in the death of a beloved son and daughter; and the sad and tragic bereavement of Hon. B. F. Tracy, Secretary of the Navy in the death of his wife and daughter profoundly move the members of this body, and we hereby tender our deepest sympathy to the families thus doubly bereaved. Be it further

*Resolved,* That these resolutions be spread upon the Senate Journal; and that copies thereof be sent by the Secretary of State to the Hons. James G. Blaine and Benj. F. Tracy.

Passed Feb. 5 1890.

## CERTIFICATE.

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STATE OF IOWA,        }  
OFFICE OF SECRETARY OF STATE, }

I, FRANK D. JACKSON, Secretary of State of the State of Iowa, hereby certify that the acts and resolutions herein contained, are copied from the original rolls on file in this office, and that the same are true and correct copies thereof, except that the words enclosed by brackets [thus] have been inserted where it was evident that an omission had occurred. Words in *italics* (excepting the enacting clause, and the word *provided*, etc.,) indicate that such words are either superfluous or erroneous, in the latter case the word or words supposed to be correct follow in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the seal of the State Department at Des Moines, this first day of June, A. D., 1890.

[SEAL]

FRANK D. JACKSON, *Secretary of State.*



## FINANCIAL STATEMENT.

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STATE OF IOWA, }  
OFFICE OF AUDITOR OF STATE, }  
DES MOINES, June 1, 1890. }

HON. FRANK D. JACKSON, *Secretary of State*:

SIR:—In pursuance of the requirements of section 18, Article III, of the Constitution of Iowa, I have the honor to submit for publication with the laws of the Twenty Third General Assembly, the following statement of the receipts and expenditures of the public money for the biennial fiscal term commencing July 1, 1887, and ending June 30, 1889.

J. A. LYONS, *Auditor of State*.

By D. F. McCARTHY, *Deputy*.



## AUDITOR'S STATEMENT.

### CONDITION OF THE TREASURY.

The amount of funds in the treasury at the close of the last fiscal period, June 30, 1887, including Agricultural College mortgage bonds, was \$269,109.01, and was distributed among the several funds as follows:

General revenue .....	\$ 20,393.95
Agricultural College endowment fund .....	247,175.00
Swamp land indemnity fund.....	963.52
Permanent school fund.....	475.00
Temporary school fund.....	45.00
* Pharmacy enforcement fund .....	53.54
Total .....	\$ 269,109.01

The amount received from all sources during the fiscal period ended June 30, 1889, was \$3,450,811.00, which was distributed as follows to the several funds:

General revenue .....	\$ 3,293,579.86
Agricultural College endowment fund.....	91,196.90
Swamp land indemnity fund.....	12,763.83
Permanent school fund.....	1,016.00
Temporary school fund.....	51,929.41
Pharmacy enforcement fund .....	325.00
Total receipts.....	\$ 3,450,811.00

The receipts being added to the above balance on hand June 30, 1887, makes the amount \$3,719,920.01 to be accounted for. The disbursements during the fiscal period just ended were as follows:

General revenue .....	\$ 3,308,792.14
Agricultural College endowment fund.....	47,206.67
Swamp land indemnity fund.....	12,560.98
Permanent school fund.....	1,491.00
Temporary school fund .....	51,977.41
Pharmacy enforcement fund .....	378.54
Total disbursements.....	\$ 3,422,406.74

Leaving a balance in the treasury, June 30, 1889, of \$297,513.27, belonging to the several funds, as follows:

General revenue.....	\$ 5,181.67
Agricultural College endowment fund.....	291,165.23
Swamp land indemnity fund.....	1,166.37
Total .....	\$ 297,513.27

\* This item was erroneously reported as \$53.34 on page 8 of my last report, making the total 20 cents less than it should have been.

# STATEMENT No. I.

## OF RECEIPTS AND DISBURSEMENTS.

### RECEIPTS.

#### GENERAL REVENUE—

From State tax, 2½ mills.....	\$ 2,346,543.71
From interest on delinquent taxes.....	28,724.15
From insane dues from counties.....	471,852.25
From College for the Blind dues from counties.....	1,322.92
From Deaf and Dumb Institution dues from counties.....	1,225.49
From Feeble-Minded Children Institution dues from counties.....	9,875.80
From Orphans' Home dues from counties.....	53,145.05
From Warden of the Ft. Madison Penitentiary.....	14,013.34
From peddlers' licenses from counties.....	1,917.81
From sale of laws from counties.....	506.25
From insurance companies, for taxes.....	149,288.48
From Auditor of State, for fees.....	53,325.75
From Secretary of State, for fees.....	12,601.00
From Clerk of the Supreme Court, for fees.....	7,239.41
From Superintendent of Public Instruction, for fees.....	766.00
From Western Union Telegraph Co., for taxes.....	25,530.38
From Central Union Telephone Co., for taxes.....	4,900.00
From Iowa & Minnesota Telephone Co., for taxes.....	480.00
From Iowa Union Telephone Co., for taxes.....	7,219.59
From Nebraska Telephone Co., for taxes.....	630.00
From railroad companies, Commissioners' tax.....	13,578.00
From sundry insurance companies, insurance on Orphans' Home.....	14,966.67
From Gov. Larrabee, aid for Soldiers' Home from U. S. Government.....	13,984.40
From Gen. Belknap, on war claims.....	3,071.41
From C. Orcutt, Treasurer Orphans' Home, refund of building fund.....	879.15
From sale of Mississippi Island at Davenport.....	1,005.00
From sale of old furniture, etc., by custodian.....	549.31
From Secretary of State, for sale of laws.....	135.51
From Secretary of State, for sale of supplies.....	18.90
From J. C. Painter, on Shaw note, Dyer defalcation.....	450.92
From Chas. Ofe, on Rankin defalcation.....	921.00
From Gov. Wm. Larrabee, for fees.....	1.00
From unknown person, for conscience sake.....	20.00
From temporary school fund.....	51,834.41
From D. S. Sigler, financial agent, refund expense money.....	9.21
From A. J. Baker, Attorney-general, refund clerk's fund.....	17.00
From A. J. Baker, Attorney-general, refund Board of Health mileage.....	4.50
From G. L. Dobson, refund of pay for services as Chaplain Twenty-second General Assembly.....	12.60
From G. D. Darnall, refund of mileage as member Twenty-second General Assembly.....	5.00
From United States Express Co., refund overcharge of Railroad Commissioners.....	5.30
From State Librarian, refund of overcharge on supplies.....	8.00
From E. R. Hutchins, Labor Commissioner, refund of clerk's fund.....	37.01



From E. D. Carlton, Fish Commissioner, refund of expense money .....	\$ 7.50
From Thos. E. Corkhill, refund of per diem as Trustee Industrial School ..	5.00
From Mrs. Marion Loomis, refund of per diem as Trustee Industrial School .....	4.00
From Fouke & Lyon, attorneys, refund of Governor's contingent to pay counsel .....	200.00
From Capital City Gas Light Co., refund of overcharge on gas bill .....	7.68
From balance in treasury June 30, 1887 .....	20,363.95
<b>Total .....</b>	<b>\$ 3,313,973.81</b>

## DISBURSEMENTS.

## GENERAL REVENUE—

By redemption of Auditor's warrants .....	\$ 3,241,603.56
By interest paid on the same .....	66,273.91
By refund of double payment of taxes to Etna Life Insurance Co .....	914.67
By balance in Treasury June 30, 1889 .....	5,181.67
<b>Total .....</b>	<b>\$ 3,313,973.81</b>

## AGRICULTURAL COLLEGE ENDOWMENT FUND.

## RECEIPTS.

Amount received from sale of lands, etc .....	\$ 91,196.90
Amount of bonds in treasury June 30, 1887 .....	6,000.00
Amount of mortgage bonds in treasury June 30, 1887 .....	241,175.00
<b>Total .....</b>	<b>\$ 338,371.90</b>

## DISBURSEMENTS.

Amount paid D. S. Sigler, financial agent, for investment in mortgage bonds ..	\$ 47,206.67
Amount of bonds in treasury June 30, 1889 .....	5,500.00
Amount of mortgage bonds in treasury June 30, 1889 .....	285,665.23
<b>Total .....</b>	<b>\$ 338,371.90</b>

## SWAMP LAND INDEMNITY FUND.

Balance in treasury June 30, 1887 .....	\$ 963.52
Amount received from United States Government .....	12,763.83
<b>Total .....</b>	<b>\$ 13,727.35</b>

## DISBURSEMENTS.

Amount paid Wapello county .....	\$ 443.36
Amount paid Jones county .....	1,825.35
Amount paid Cedar county .....	3,751.36
Amount paid Bremer county .....	520.16
Amount paid Boone county .....	50.00
Amount paid Hamilton county .....	1,537.40
Amount paid Dallas county .....	1,735.79
Amount paid Webster county .....	1,265.74
Amount paid Harrison county .....	300.00
Amount paid Montgomery county .....	1,131.82
Balance in treasury June 30, 1889 .....	1,166.37
<b>Total .....</b>	<b>\$ 13,727.35</b>

## PERMANENT SCHOOL FUND.

Balance in treasury June 30, 1887.....	\$	475.00
Amount received on contracts, etc.....		1,016.00
Total.....	\$	1,491.00

## DISBURSEMENTS.

Amount transferred to Audubon county.....	\$	571.00
Amount transferred to Winnebago county.....		120.00
Amount transferred to Revenue to correct error made September 12, 1881, in carrying payment of Chas. Ofe note to school fund.....		800.00
Total.....	\$	1,491.00

## TEMPORARY SCHOOL FUND.

Balance in treasury June 30, 1887.....	\$	48.00
Amount received from interest on State bonds and Eads' loans.....		51,929.41
Total.....	\$	51,977.41

## DISBURSEMENTS.

Amount apportioned to counties.....	\$	51,854.41
Amount transferred to revenue to correct error made September 12, 1881, in carrying interest on Ofe note to temporary school fund.....		123.00
Total.....	\$	51,977.41

## PHARMACY ENFORCEMENT FUND.

Balance in treasury June 30, 1887.....	\$	53.54
Amount received in fines from Commissioners.....		325.00
Total.....	\$	378.54

## DISBURSEMENTS.

Amount paid Commissioners for enforcement of law.....	\$	378.54
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## RECAPITULATION OF BALANCES IN TREASURY JUNE 30, 1887.

General revenue.....	\$	5,181.67
Agricultural College endowment fund.....		291,165.23
Swamp land indemnity fund.....		1,100.37
Total.....	\$	297,513.27

NOTE.—Chap. 71, laws of 1888, amends the law so that there are now no more fines paid into the State treasury for the enforcement of the same, but go directly into the school fund in the counties where collected.

## STATEMENT No. II.

*Of the amount of warrants issued and to what charged, during the fiscal period ended June 30, 1889.*

Adjutant-general's salary .....	\$ 2,875.00
Attorney-general's salary .....	3,000.00
Attorney-general's per diem and expenses .....	3,497.44
Attorney-general's clerks' fund .....	1,136.80
Auditor of State's salary .....	4,216.65
Auditor of State's Deputy's salary .....	2,035.00
Auditor of State's clerks' fund .....	9,057.15
Auditor of State's Executive Council service .....	958.34
Board of Educational Examiners .....	530.50
Board of Examiners of Candidates for Mine Inspectors .....	351.68
Board of Health .....	9,367.63
Clerk of the Supreme Court's salary .....	4,216.65
Clerk of the Supreme Court's Deputy's salary .....	2,875.00
Clerk of the Supreme Court's clerks' fund .....	2,257.00
Commissioner of Labor Statistics, salary .....	2,960.00
Commissioner of Lal or Statistics, expenses .....	627.73
Commissioners of Pharmacy, enforcement of law .....	1,172.40
Custodian of Public Property, salary .....	3,000.00
Custodian of Public Property, expenses .....	44,478.67
Dairy Commissioner's salary .....	3,000.00
Dairy Commissioner's expenses .....	2,516.89
District Judge, 1st District, J. M. Casey, salary .....	4,999.99
District Judge, 1st District, C. H. Phelps, salary .....	4,999.99
District Judge, 2d District, H. C. Traverse, salary .....	4,999.99
District Judge, 2d District, Dell Stuart, salary .....	4,999.99
District Judge, 2d District, Chas. D. Leggett, salary .....	4,999.99
District Judge, 3d District, John W. Harvey, salary .....	4,999.99
District Judge, 3d District, R. C. Henry, salary .....	4,999.99
District Judge, 4th District, Chas. H. Lewis, salary .....	4,999.99
District Judge, 4th District, Geo. W. Wakefield, salary .....	4,999.99
District Judge, 4th District, Scott M. Ladd, salary .....	4,999.99
District Judge, 5th District, J. H. Henderson, salary .....	4,999.99
District Judge, 5th District, O. B. Ayres, salary .....	4,999.99
District Judge, 5th District, A. W. Wilkinson, salary .....	4,999.99
District Judge, 6th District, J. Kelley Johnson, salary .....	4,999.99
District Judge, 6th District, David Ryan, salary .....	4,999.99
District Judge, 6th District, W. R. Lewis, salary .....	4,999.99
District Judge, 7th District, A. J. Leffingwell, salary .....	1,458.34
District Judge, 7th District, Andrew Howatt, salary .....	3,175.25
District Judge, 7th District, C. M. Waterman, salary .....	4,999.99
District Judge, 7th District, W. F. Brannan, salary .....	4,999.99
District Judge, 8th District, S. H. Fairall, salary .....	4,999.99
District Judge, 9th District, Josiah Given, salary .....	4,451.88
District Judge, 9th District, Chas. A. Bishop, salary .....	520.82
District Judge, 9th District, W. F. Conrad, salary .....	5,208.32
District Judge, 9th District, Marous Kavanagh, salary .....	4,999.99
District Judge, 10th District, C. F. Couch, salary .....	4,999.99
District Judge, 10th District, J. J. Ney, salary .....	4,999.99
District Judge, 10th District, D. J. Lenehan, salary .....	4,999.99

District Judge, 11th District, D. D. Miracle, salary .....	\$ 2,916.65
District Judge, 11th District, D. R. Hindman, salary .....	1,900.71
District Judge, 11th District, John L. Stevens, salary .....	4,000.00
District Judge, 11th District, S. M. Weaver, salary .....	4,701.65
District Judge, 12th District, John B. Cleland, salary .....	3,124.98
District Judge, 12th District, John C. Sherwin, salary .....	1,636.66
District Judge, 12th District, Geo. W. Ruddick, salary .....	4,524.00
District Judge, 13th District, L. O. Hatch, salary .....	4,000.00
District Judge, 13th District, O. T. Granger, salary .....	3,968.34
District Judge, 13th District, L. E. Fellows, salary .....	1,041.65
District Judge, 14th District, Geo. H. Carr, salary .....	4,900.00
District Judge, 14th District, Lot Thomas, salary .....	4,524.00
District Judge, 15th District, A. B. Thornell, salary .....	4,000.00
District Judge, 15th District, Geo. Carson, salary .....	4,900.00
District Judge, 15th District, H. E. Deemer, salary .....	4,900.00
District Judge, 15th District, C. F. Loofbourow, salary .....	2,483.24
District Judge, 15th District, N. W. Macy, salary .....	1,041.65
District Judge, 16th District, J. P. Connor, salary .....	4,900.00
District Judge, 16th District, J. H. Macomber, salary .....	4,000.50
District Judge, 17th District, Geo. M. Gilchrist, salary .....	1,041.65
District Judge, 18th District, J. D. Giffin, salary .....	4,000.00
District Judge, 18th District, J. H. Preston, salary .....	4,000.00
Executive Council contingent fund .....	507.02
Fish Commissioner's salary .....	2,400.00
Fish Commissioner's expenses .....	2,520.31
Governor's salary and "room rent" .....	6,900.00
Governor's Private Secretary's salary .....	2,875.00
Governor's contingent fund .....	5,851.83
Governor's contingent fund to pay counsel .....	3,240.76
Governor's Executive Council service .....	958.33
Janitors' salaries .....	12,180.00
Librarian's and Assistant Librarian's salaries .....	4,983.26
Mine Inspectors' salaries .....	6,800.00
Mine Inspectors' expenses .....	2,753.38
Railroad Commissioners' and Secretary's salaries .....	20,187.50
Railroad Commissioners' expenses .....	13,258.65
Secretary of State's salary .....	4,316.65
Secretary of State's Deputy's salary .....	2,875.00
Secretary of State's clerks' fund .....	4,304.79
Secretary of State's Executive Council service .....	958.37
Secretary of State's Land Office clerk's salary .....	2,450.00
Superintendent of Public Instruction's salary .....	4,216.65
Superintendent of Public Instruction's Deputy's salary .....	2,875.00
Superintendent of Public Instruction's clerks' fund .....	2,378.16
Superintendent of Public Instruction's traveling expenses .....	365.58
Superintendent of Public Weights and Measures .....	60.50
Supreme Judge, Austin Adams, salary .....	2,000.00
Supreme Judge, J. M. Beck, salary .....	7,066.65
Supreme Judge, Josiah Given, salary .....	1,190.00
Supreme Judge, O. T. Granger, salary .....	1,880.65
Supreme Judge, J. R. Reed, salary .....	6,006.65
Supreme Judge, G. S. Robinson, salary .....	5,006.65
Supreme Judge, J. H. Rothrock, salary .....	7,690.65
Supreme Judge, W. H. SeEVERS, salary .....	6,000.00
Supreme Court contingent fund .....	1,736.28
Supreme Court Reporter's salary .....	4,000.00
Treasurer of State's salary .....	4,216.65
Treasurer of State's Deputy's salary .....	2,915.00
Treasurer of State's clerks' fund .....	2,235.00
Treasurer of State's Executive Council service .....	958.36
Veterinary Surgeon's per diem and expenses .....	5,882.18
Agricultural College, improvements and repairs .....	9,000.00

Agricultural College, Trustees' per diem and expenses.....	\$ 2,719.43
Agricultural College, experimentation in agriculture and horticulture.....	3,000.00
Agricultural College, Financial Agent's salary and expenses.....	2,682.52
Agricultural Society, State Society improvements.....	9,500.00
Agricultural Societies; County Societies, State aid.....	38,427.95
Arrest of fugitives.....	9,036.52
Blind College, improvements and repairs.....	10,609.20
Blind College, support and current expenses.....	52,919.67
Blind College, clothing.....	1,021.28
Blind Industrial School Commission.....	767.71
Benedict Home, support.....	2,700.00
Capitol Building Improvements, steps, etc.....	7,191.07
Deaf and Dumb Institution, improvements and repairs.....	13,350.00
Deaf and Dumb Institution, support and current expenses.....	115,110.00
Deaf and Dumb Institution, clothing.....	1,821.07
Deaf and Dumb Institution, Trustees' per diem and expenses.....	2,130.83
Des Moines River Lands, refund to purchasers.....	100.48
Feeble-Minded Children Institution, improvements and repairs.....	33,000.00
Feeble-Minded Children Institution, ordinary expenses.....	22,000.00
Feeble-Minded Children Institution, support.....	84,956.00
Feeble-Minded Children Institution, clothing.....	11,067.01
Feeble-Minded Children Institution, Trustees' per diem and expenses.....	1,070.50
Historical Society, expenses.....	2,000.00
Horticultural Society, expenses.....	2,500.00
Insane Hospital at Clarinda, improvements.....	117,608.06
Insane Hospital at Clarinda, support.....	20,511.98
Insane Hospital at Clarinda, Trustees' per diem and expenses.....	2,856.53
Insane Hospital at Independence, improvements and repairs.....	27,235.75
Insane Hospital at Independence, support and current expenses.....	260,862.00
Insane Hospital at Independence, contingent fund.....	3,000.00
Insane Hospital at Independence, Trustees' per diem and expenses.....	2,036.81
Insane Hospital at Mt. Pleasant, improvements and repairs.....	55,000.00
Insane Hospital at Mt. Pleasant, support and current expenses.....	253,286.00
Insane Hospital at Mt. Pleasant, contingent fund.....	0,250.00
Insane Hospital at Mt. Pleasant, Trustees' per diem and expenses.....	1,261.40
Insane illegally confined.....	145.14
Insane, non-resident, removal of,.....	908.37
Interest on school fund loans.....	51,357.12
Industrial School, Boys', improvements and repairs.....	10,299.50
Industrial School, Girls', improvements and repairs.....	12,875.00
Industrial School, support.....	94,589.00
Industrial School, Trustees' per diem and expenses.....	1,120.90
Iowa Weather Service.....	1,018.22
Library, improvements.....	478.18
Library, books, etc.....	8,450.00
Militia.....	68,121.55
Miscellaneous expenditures.....	44,050.30
Normal School, improvements and repairs.....	14,300.00
Normal School, Teachers' salaries.....	26,250.00
Normal School, Directors' per diem and expenses.....	2,086.75
Orphans' Home, improvements and repairs.....	25,136.24
Orphans' Home, support of soldiers' orphans.....	14,658.65
Orphans' Home, support of indigent children.....	62,462.51
Orphans' Home, Trustees' per diem and expenses.....	1,141.19
Penitentiary at Anamosa, improvements and repairs.....	30,274.31
Penitentiary at Anamosa, officers and guards.....	54,607.92
Penitentiary at Anamosa, support and current expenses.....	51,884.00
Penitentiary at Anamosa, transportation of discharged convicts.....	1,136.05
Penitentiary at Fort Madison, improvements and repairs.....	0,500.00
Penitentiary at Fort Madison, officers and guards.....	55,360.08
Penitentiary at Fort Madison, transportation of discharged convicts.....	2,000.00
Penitentiaries, inspection of.....	207.18
Presidential electors.....	324.45

Prisoners' Aid Association.....	\$ 1,002.50
Providential contingencies.....	5,506.72
Railroad prosecution by State.....	2,285.08
Refund of insane account, overpaid, to Adams county.....	1,011.78
Refund of Orphans' Home account, overpaid, to Allamakee county.....	1,406.99
Refund of Feeble-Minded Children account, overpaid, to Buena Vista county.....	22.95
Refund of Orphans' Home account, overpaid, to Floyd county.....	4.36
Refund of Deaf and Dumb account, overpaid, to Keokuk county.....	7.84
Refund of Orphans' Home account, overpaid, to Keokuk county.....	8.33
Refund of Feeble-Minded Children account, overpaid, to Lyon county.....	78.49
Refund of Feeble-Minded Children account, overpaid, to Muscatine county.....	15.85
Refund of Deaf and Dumb account, overpaid, to Polk county.....	30.80
Relief of Metz.....	480.00
School Journal subscriptions.....	235.13
Soldiers' Home, improvements.....	61,108.83
Soldiers' Home, officers' salaries.....	8,500.00
Soldiers' Home, support.....	59,070.00
Soldiers' monument, expenses of commission.....	105.35
State binding.....	44,225.76
State printing.....	63,491.89
Stationery contracts.....	23,493.55
Teachers' Institutes.....	9,250.00
Twenty-second General Assembly, members' salaries.....	82,500.00
Twenty-second General Assembly, officers' salaries.....	36,900.50
Twenty-second General Assembly, members' mileage.....	2,091.30
Twenty-second General Assembly, visiting committees.....	899.03
Twenty-second General Assembly, special appropriations.....	5,703.90
Twentieth General Assembly, special appropriations.....	14.15
University (Iowa City), endowment fund.....	40,000.00
University (Iowa City), support.....	42,000.00
University (Iowa City), Board of Regents' per diem and expenses.....	3,931.99
War and defense fund.....	0.10
Total.....	\$2,825,004.74

# TIMES OF HOLDING TERMS OF THE DISTRICT COURT, 1890-1891.

*As filed by the Judges in office of Secretary of State.*

COUNTIES.	TOWNS.	DATE, 1890.	DATE, 1890.	DATE, 1890.	DATE, 1890.	DATE, 1891.	DATE, 1891.	DATE, 1891.	DATE, 1891.
Adair.....	Greenfield.....	January	7 April	1 September	2 November	5 January	6 March	31 September	1 November
Adams.....	Corning.....	January	6 March	17 June	2 October	13 January	5 March	16 June	1 October
Allamakee.....	Waukon.....	January	20 April	21 September	8 October	27 January	19 April	20 September	7 October
Appanoose.....	Centerville.....	January	27 March	31 September	8 November	17 January	28 March	30 September	7 November
Audubon.....	Audubon.....	February	25 May	13 October	14 December	16 February	24 May	12 October	13 December
Benton.....	Vinton.....	January	6 March	31 September	1 October	27 January	5 March	30 August	31 October
Black Hawk.....	Waterloo.....	January	6 March	3 May	12 September	1 January	5 March	2 May	11 September
Boone.....	Boone.....	January	13 March	24 September	1 October	27 January	12 March	23 August	31 October
Bremer.....	Waverly.....	February	3 April	14 September	15 November	17 February	2 April	13 September	21 November
Buchanan.....	Independence.....	January	27 March	31 May	26 October	6 January	26 March	30 May	26 October
Buena Vista.....	Storm Lake.....	January	13 March	3 August	19 October	27 January	12 March	9 August	18 October
Butler.....	Allison.....	February	17 April	28 October	6 December	8 February	18 April	27 October	5 December
Calhoun.....	Rockwell City.....	February	18 April	20 October	14 December	16 February	17 April	28 October	13 December
Carroll.....	Carroll.....	January	27 April	7 September	22 November	24 January	28 April	6 September	21 November
Cass.....	Atlantic.....	January	14 April	8 September	2 November	4 January	13 April	7 September	1 November
Cedar.....	Tipton.....	February	10 April	28 September	1 November	17 February	9 April	27 August	31 November
Cerro Gordo.....	Mason City.....	January	13 March	10 May	19 October	20 January	12 March	9 May	18 October
Cherokee.....	Cherokee.....	February	24 April	28 October	6 December	1 February	23 April	27 October	5 November
Chickasaw.....	New Hampton.....	March	3 June	2 September	29 December	8 March	2 June	1 September	28 December
Clarke.....	Osceola.....	February	10 April	28 October	6 December	1 February	9 April	27 October	5 November
Clay.....	Spencer.....	February	11 April	22 September	29 December	2 February	10 April	21 September	28 December
Clayton.....	Elkader.....	January	6 April	7 September	1 October	20 January	5 April	6 August	31 October
Clinton.....	Clinton.....	January	14 April	8 September	9 November	18 January	13 April	7 September	8 November
Crawford.....	Denison.....	January	6 March	17 September	1 November	3 January	5 March	16 August	31 November
Dallas.....	Adel.....	January	7 April	1 September	2 November	5 January	6 March	31 September	1 November
Davis.....	Bloomfield.....	February	24 April	28 October	13 December	1 February	23 April	27 October	12 November
Decatur.....	Leon.....	January	20 March	31 June	9 November	10 January	19 March	30 June	8 November
Delaware.....	Manchester.....	January	6 March	3 May	5 September	1 January	5 March	2 May	4 September
Des Moines.....	Burlington.....	January	6 April	7 September	8 November	3 January	5 April	6 September	7 November
Dickinson.....	Spirit Lake.....	February	3 May	20 October	13 December	1 February	2 May	19 October	12 November
Dubuque.....	Dubuque.....	January	6 March	17 May	12 September	1 January	5 March	16 May	11 September
Emmet.....	Estherville.....	January	20 April	7 August	26 November	3 January	19 April	6 August	25 November
Fayette.....	West Union.....	February	3 May	12 September	15 November	17 February	2 May	11 September	14 November
Floyd.....	Charles City.....	January	20 March	17 September	1 November	3 January	19 March	16 September	7 November
Franklin.....	Hampton.....	March	17 June	2 October	13 December	8 March	16 June	1 October	12 December
Fremont.....	Sidney.....	February	4 April	22 September	23 November	25 February	3 April	21 September	22 November
Greene.....	Jefferson.....	February	17 April	28 October	13 December	15 February	16 April	27 October	12 December
Grundy.....	Grundy Center.....	February	10 April	7 May	26 October	6 February	9 April	6 May	25 October

## TIMES OF HOLDING TERMS OF THE DISTRICT COURT, 1890-1891—CONTINUED.

COUNTIES.	TOWNS.	DATE, 1890.	DATE, 1890.	DATE, 1890.	DATE, 1890.	DATE, 1891.	DATE, 1891.	DATE, 1891.	DATE, 1891.
Grundy.....	Grundy Center	February 11	May 6	September 30	December 1	February 10	May 5	September 29	December 7
Guthrie.....	Guthrie Center	February 11	May 6	September 30	December 1	February 10	May 5	September 29	December 7
Hamilton.....	Webster City	February 3	April 14	September 22	November 24	February 2	April 13	September 21	November 28
Hancock.....	Concord	February 24	May 12	October 6	December 1	February 23	May 11	October 5	December 7
Hardin.....	Eldora	February 24	May 12	October 13	December 15	February 23	May 11	October 12	December 14
Harrison.....	Logan	January 6	March 17	August 25	October 20	January 5	March 16	August 24	October 19
Henry.....	Mt. Pleasant	January 6	March 17	August 25	November 3	January 5	March 16	August 24	November 2
Howard.....	Cresco	March 17	June 16	October 6	December 15	March 16	June 15	October 5	December 14
Humboldt.....	Dakota City	January 28	March 31	September 15	November 18	January 27	April 6	September 14	November 17
Ida.....	Ida Grove	January 6	March 17	September 1	November 3	January 5	March 16	August 31	November 2
Iowa.....	Marengo	February 3	May 5	June 23	October 13	February 2	May 4	June 22	October 12
Jackson.....	Maquoketa	February 24	May 22	October 7	December 9	February 23	May 21	October 6	December 8
Jasper.....	Newton	January 14	March 25	September 2	November 4	January 13	March 24	September 1	November 3
Jefferson.....	Fairfield	February 3	April 7	September 22	November 17	February 2	April 6	September 21	November 16
Johnson.....	Iowa City	January 6	April 7	June 2	September 8	January 5	April 6	June 1	September 14
Jones.....	Anamosa	March 3	May 19	September 22	December 8	March 2	May 18	September 21	December 7
Keokuk.....	Sioux City	January 14	March 25	September 2	November 4	January 13	March 24	September 1	November 3
Kossuth.....	Algona	March 3	May 12	October 14	December 8	March 2	May 11	October 13	December 7
Lee.....	Keokuk	March 3	May 5	October 6	December 1	March 2	May 4	October 5	December 7
Linn.....	Fort Madison	January 6	April 7	September 8	November 3	January 5	April 6	September 7	November 2
Louis.....	Marion	January 6	March 24	June 2	October 13	January 5	March 23	June 1	October 12
Lucas.....	Wapello	January 14	March 25	September 2	November 4	January 13	March 24	September 1	November 3
Lyon.....	Chariton	January 6	March 17	August 25	November 3	January 5	March 16	August 24	November 2
Madison.....	Rock Rapids	March 3	June 9	October 13	December 8	March 2	June 8	October 12	December 7
Mahaska.....	Winterset	February 11	May 6	September 30	December 2	February 10	May 5	September 29	December 1
Marion.....	Oskaloosa	February 18	April 22	September 30	December 2	February 17	April 21	September 29	December 1
Marshall.....	Knoxville	February 11	May 6	September 30	December 2	February 10	May 5	September 29	December 1
Mills.....	Marshalltown	January 13	April 7	September 1	October 27	January 12	April 6	August 31	October 26
Mitchell.....	Glenwood	February 25	May 13	October 14	December 16	February 24	May 12	October 13	December 15
Monona.....	Osage	February 3	April 7	September 15	November 10	February 2	April 6	September 21	November 9
Monroe.....	Onawa	February 3	April 14	September 22	November 17	February 2	April 13	September 21	November 16
Montgomery.....	Albia	February 17	April 21	October 6	December 1	February 16	April 20	October 5	November 8
Muscatine.....	Red Oak	February 25	May 13	October 7	December 9	February 24	May 12	October 6	December 8
O'Brien.....	Muscatine	January 14	April 8	September 9	November 18	January 13	April 7	September 8	November 17
Osceola.....	Primghar	March 10	May 26	September 15	November 17	March 9	May 25	September 21	November 23
Page.....	Sibley	January 6	March 31	August 25	October 20	January 5	March 30	August 24	October 19
Palo Alto.....	Clarinda	January 14	April 1	September 2	November 4	January 13	March 31	September 1	November 3
Plymouth.....	Emmetsburg	February 17	April 28	September 23	November 17	February 16	April 27	September 22	November 16
Pocahontas.....	Le Mars	January 27	April 28	September 29	December 1	February 26	April 27	October 5	December 7
Polk.....	Pocahontas	January 6	March 17	September 8	November 10	January 5	March 23	September 7	November 9
Pottawattamie.....	Des Moines	January 6	April 7	September 8	November 10	January 5	April 6	September 14	November 9
Poweshiek.....	Council Bluffs	January 14	April 1	September 2	November 4	January 13	March 31	September 1	November 3
Ringgold.....	Avoca	February 4	April 22	September 23	November 25	February 3	April 21	September 22	November 24
	Montezuma	February 18	April 21	September 15	November 24	February 17	April 20	September 14	November 23
	Mount Ayr	February 10	April 21	September 15	November 24	February 9	April 20	September 14	November 23



Sac.....	Sac City.....	January	27 April	7 September	22 November	24 January	26 April	8 September	21 November	23
Scott.....	Davenport.....	January	14 April	15 September	9 November	18 January	13 April	14 September	8 November	17
Shelby.....	Harlan.....	January	14 April	1 September	2 November	4 January	13 March	31 September	1 November	3
Sioux.....	Orange City.....	January	13 April	14 September	1 November	3 January	12 April	13 September	7 November	9
Story.....	Nevada.....	February	24 May	19 September	29 November	24 February	23 May	18 September	28 November	23
Tama.....	Toledo.....	February	17 May	5 September	29 November	24 February	16 May	11 September	28 November	23
Taylor.....	Bedford.....	February	24 May	12 September	29 December	8 February	23 May	11 September	28 December	7
Union.....	Afton.....	January	20 April	7 September	15 November	10 January	19 April	6 September	14 November	9
Van Buren.....	Keosauqua.....	February	17 April	28 October	6 December	1 February	16 April	27 October	5 November	30
Wapello.....	Ottumwa.....	January	6 March	17 August	25 November	3 January	5 March	16 August	24 November	2
Warren.....	Indianola.....	January	7 April	1 September	2 November	5 January	6 March	31 September	1 November	4
Washington.....	Washington.....	February	18 April	22 September	30 December	2 February	17 April	21 September	29 December	1
Wayne.....	Corydon.....	January	6 March	10 May	19 October	27 January	5 March	9 May	18 October	26
Webster.....	Fort Dodge.....	February	17 April	28 September	29 November	24 February	16 April	27 September	28 November	23
Winnebago.....	Forest City.....	March	3 May	12 September	8 December	1 March	2 May	11 September	14 December	7
Winneshiek.....	Decorah.....	February	17 May	26 September	22 November	24 February	16 May	25 September	21 November	23
Woodbury.....	Sioux City.....	January	6 March	17 May	19 August	25 January	5 March	16 May	18 August	24
					October	27			October	26
Worth.....	Northwood.....	February	17 April	28 October	20 December	15 February	16 April	27 October	19 December	21
Wright.....	Clarion.....	January	13 March	24 September	1 November	10 January	12 March	23 August	31 November	9

## STATE OF IOWA—ss:

I HEREBY CERTIFY that the foregoing is a full, true and complete list of the times of holding the District Courts in the State of Iowa for the years 1890 and 1891, as shown by the orders of the Judges of said Courts; or, as shown by the order of the Chief Justice of the Supreme Court, now on file in my office, as required by section 6, chapter 134, Laws of the Twenty-first General Assembly, and section 165, Code of 1873.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Seal of the Secretary of State of the State of

[SEAL.]

Iowa, at Des Moines, this 16th day of November, A. D. 1890.

FRANK D. JACKSON,

*Secretary of State.*



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